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

WHEN: Tuesday, January 22, 2008
9:00 a.m.–Noon

WHERE: Office of the Federal Register
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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Federal Register

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28730; Directorate Identifier 2007–CE–063–AD; Amendment 39–15336; AD 2008–02–06]

RIN 2120–AA64

Airworthiness Directives; GARMIN International GSM 85 Servo Gearbox Units

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for certain GARMIN International (GARMIN) GSM 85 servo gearbox units that are installed on airplanes. This AD requires you to inspect the GSM 85 servo gearbox for foreign object debris and return the unit to the manufacturer for replacement if you find debris. This AD results from reports of certain GARMIN GSM 85 servo gearbox units that have foreign object debris inside the assembly. We are issuing this AD to detect and correct defective GARMIN GSM 85 servo gearbox units, which could result in jamming of the gearbox. Jamming of the gearbox could lead to the pilot having to apply sufficient control force to override the servo gearbox slip clutch in order to control the airplane. In certain situations, this could compromise the safety of the airplane if the pilot was not able to focus on critical duties due to having to tend to the servo gearbox.

DATES: This AD becomes effective on February 26, 2008.

On February 26, 2008, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: To get the service information identified in this AD, contact GARMIN International Inc., 1200 East 151st Street, Olathe, KS 66062; telephone: 913–397–8200; fax: 913–397–8282.

To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://www.regulations.gov.* The docket number is FAA–2007–28730; Directorate Identifier 2007–CE–063–AD.

FOR FURTHER INFORMATION CONTACT: Roger A. Souter, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: 316–946–4134; fax: 316–946–4107; e-mail address: *roger.souter@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On August 14, 2007, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain GARMIN International (GARMIN) GSM 85 servo gearbox units that are installed on airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 21, 2007 (72 FR 46582). The NPRM proposed to require you to inspect the GSM 85 servo gearbox for foreign object debris and return the unit to the manufacturer for replacement if you find debris.

Comments

We provided the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Replace the Phrase ''Excessive Manual Force''

GARMIN states that using the phrase ''excessive manual force'' in the NPRM implies that the flight crew may not be able to control the airplane if the servo gearbox jams because of loose foreign object debris inside the gear-assembly housing.

GARMIN agrees that more than typical or usual force may be necessary to overcome the slip clutch in the servo, but it is within the capability of the pilot to control the airplane.

GARMIN requests that the phrase ''excessive manual force'' be replaced with ''sufficient control force to override the servo gearbox slip clutch.''

We partially agree with GARMIN. We will change the final rule AD action to reflect that jamming could lead to the pilot having to apply sufficient control force to override the servo gearbox slip clutch in order to control the airplane.

Comment Issue No. 2: Incorporate Cessna Service Bulletin

Cessna Aircraft Company (Cessna) has issued Service Bulletin SB07–22–01, dated June 4, 2007, to transmit GARMIN International, Inc. Service Bulletin No. 0713, Revision C, dated May 29, 2007.

Cessna requests that their service bulletin be incorporated as a means for complying with this AD.

We agree with Cessna and will change the final rule AD action to incorporate this change.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for the changes previously discussed and minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 900 airplanes in the U.S. registry.

We estimate the following costs to do the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
7 work-hours × $80 per hour = $560	Not applicable	$560	$504,000

For airplanes that will need to replace the GSM 85 servo gearbox based on the results of the inspection, we estimate the following costs to set the torque value of the slip-clutch breakaway required for installation. We have no way of determining the number of airplanes that will need this replacement:

Labor cost per GSM 85 servo gearbox	Parts cost	Total cost per GSM 85 servo gearbox
.5 work-hour × $80 per hour = $40	Not applicable	$40

Warranty credit will be given to the extent specified in the service information.

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 AD.

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''Docket No. FAA–2007–28730; Directorate Identifier 2007–CE–063–AD'' in your request.

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 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. FAA amends § 39.13 by adding a new AD to read as follows:

2008–02–06 GARMIN International: Amendment 39–15336; Docket No. FAA–2007–28730; Directorate Identifier 2007–CE–063–AD.

Effective Date

(a) This AD becomes effective on February 26, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the GSM 85 servo gearbox units that are specified in paragraph (c)(1) of this AD and are installed on airplanes. These GSM 85 servo gearbox units are installed in, but not limited to, airplanes that are certificated in any category and presented in paragraph (c)(2) of this AD:

(1) *GSM 85 servo gearbox units, part numbers (P/Ns):* 011–00894–00, 011–00894–02, 011–00894–04, 011–00894–06, 011–00894–07, 011–00894–08, 011–00894–09, 011–00894–10, 011–00894–11, and 011–00894–14.

(2) *Airplanes with the GSM 85 servo gearbox units installed (other aircraft could have installations through other methods such as field approval):*

Type certificate holder	Models
(i) Cessna Aircraft Company	182T, T182T, 206H, and T206H.
(ii) Hawker Beechcraft Corporation	G36 and G58.
(iii) Diamond Aircraft Industries GmbH	DA40 and DA40F.
(iv) Columbia Aircraft Manufacturing	350 and 400.
(v) Mooney Airplane Company, Inc	M20M and M20R.

Unsafe Condition

(d) This AD results from reports of certain GARMIN GSM 85 servo gearbox units that have foreign object debris inside the assembly. We are issuing this AD to detect and correct defective GARMIN GSM 85 servo gearbox units, which could result in jamming of the servo gearbox. This jamming could lead to the pilot having to apply sufficient control force to override the servo gearbox slip clutch in order to control the airplane. In certain situations, this could compromise the safety of the airplane if the pilot was not able to focus on critical duties due to having to tend to the servo gearbox.

Compliance

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

Actions	Compliance	Procedures
(1) Check the serial tag of the installed GSM 85 servo gearbox unit to determine the mod level. The mod level marked on the serial tag indicates if the GSM 85 servo gearbox unit is already in compliance with this AD. (i) If the serial tag on the installed GSM 85 servo gearbox unit for P/Ns 011–00894–00 or 011–00894–10 is marked at mod level 3, no further action is required. (ii) If the serial tag on the installed GSM 85 servo gearbox unit for P/Ns 011–00894–02, 011–00894–04, 011–00894–06, 011–00894–07, 011–00894–08, 011–00894–09, 011–00894–11, or 011–00894–14 is marked at mod level 1, no further action is required. (iii) If the serial tag on the above GSM servo gearbox unit is not at mod level 1 or 3 as specified in paragraphs (e)(1)(i) and (e)(1)(ii) of this AD, then go to paragraph (e)(2) of this AD.	Check within the next 100 hours time-in-service (TIS) after February 26, 2008 (the effective date of this AD) or within the next 3 months after February 26, 2008 (the effective date of this AD), whichever occurs first.	Check following GARMIN International, Inc. Service Bulletin No. 0713, Revision A, dated May 7, 2007; Service Bulletin No. 0713, Revision B, dated May 18, 2007; Service Bulletin No. 0713, Revision C, dated May 29, 2007; Service Bulletin No. 0713, Revision D, dated June 13, 2007; or Cessna Aircraft Company Single Engine Service Bulletin SB07–22–01, dated June 4, 2007, as applicable. If the Mod Level of the P/Ns specified in paragraph (e)(1)(i) and (e)(1)(ii) are at mod level 1 and mod level 3, as applicable, make an entry into the aircraft logbook showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). 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.
(2) If the serial tag on the GSM 85 servo gearbox for P/Ns specified in paragraph (e)(1) of this AD is not marked at mod level 1 or mod level 3 as specified in paragraphs (e)(1)(i) and (e)(1)(ii) of this AD, inspect the servo gearbox for foreign object debris.	Within the next 100 hours TIS after February 26, 2008 (the effective date of this AD) or within the next 3 calendar months after February 26, 2008 (the effective date of this AD), whichever occurs first.	Follow the Modification Instructions in GARMIN International, Inc. Service Bulletin No. 0713, Revision A, dated May 7, 2007; Service Bulletin No. 0713, Revision B, dated May 18, 2007; Service Bulletin No. 0713, Revision C, dated May 29, 2007; Service Bulletin No. 0713, Revision D, dated June 13, 2007; or Cessna Aircraft Company Single Engine Service Bulletin SB07–22–01, dated June 4, 2007, as applicable.
(3) If foreign object debris is found during the inspection required in paragraph (e)(2) of this AD, remove and return the GSM 85 servo gearbox to the manufacturer for replacement.	Before further flight after the inspection required in paragraph (e)(2) of this AD.	Follow the Modification Instructions in GARMIN International, Inc. Service Bulletin No. 0713, Revision A, dated May 7, 2007; Service Bulletin No. 0713, Revision B, dated May 18, 2007; Service Bulletin No. 0713, Revision C, dated May 29, 2007; Service Bulletin No. 0713, Revision D, dated June 13, 2007; or Cessna Aircraft Company Single Engine Service Bulletin SB07–22–01, dated June 4, 2007, as applicable.

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: Roger A. Souter, Aerospace Engineer, FAA, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4134; fax: (316) 946–4107; e-mail address: *roger.souter@faa.gov*. 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 GARMIN International, Inc. Service Bulletin No. 0713, Revision A, dated May 7, 2007; GARMIN International, Inc. Service Bulletin No. 0713, Revision B, dated May 18, 2007; GARMIN International, Inc. Service Bulletin No. 0713, Revision C, dated May 29, 2007; GARMIN International, Inc. Service Bulletin No. 0713, Revision D, dated June 13, 2007; and Cessna Aircraft Company Single Engine Service Bulletin SB07–22–01, dated June 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 GARMIN International, Inc., 1200 East 151st Street, Olathe, KS 66062; telephone: (913) 397–8200; fax: (913) 397–8282.

(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 January 11, 2008.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–828 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29316; Directorate Identifier 2007–CE–078–AD; Amendment 39–15334; AD 2008–02–04]

RIN 2120–AA64

Airworthiness Directives; Eclipse Aviation Corporation Model EA500 Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) that supersedes AD 2007–13–11, which applies to all Eclipse Aviation Corporation (Eclipse) Model EA500 airplanes. AD 2007–13–11 was prompted by reports of loss of primary airspeed indication due to freezing condensation within the pitot system. AD 2007–13–11 requires operational limitations consisting of operation only in day visual flight rules (VFR), allowing only a VFR flight plan, and maintaining operation with two pilots. Since we issued AD 2007–13–11, Eclipse developed a design modification to the pitot/angle-of-attack (AOA) system to eliminate the possibility of freezing condensation within the pitot/AOA system. Eclipse is incorporating this modification during production on Model EA500 airplanes starting with serial number (S/N) 000065. Consequently, this AD limits the applicability to airplanes under S/N 000065 and requires incorporating the modification. This AD also retains the operating limitations in AD 2007–13–11 until the modification is incorporated. We are issuing this AD to prevent long-term reliance on special operating limitations when a design change exists that will eliminate the need for the operating limitations. Incorporating the modification will prevent loss of air pressure in the pitot system, which could cause erroneous AOA and airspeed information with consequent loss of control.

DATES: This AD becomes effective on February 26, 2008.

On February 26, 2008, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: For service information identified in this AD, contact Eclipse Aviation Corporation, 2503 Clark Carr Loop, SE., Albuquerque, NM 87105, fax: 505–241–8802; e-mail: *customercare@eclipseaviation.com*.

To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://www.regulations.gov*. The docket number is FAA–2007–29316; Directorate Identifier 2007–CE–078–AD.

FOR FURTHER INFORMATION CONTACT: Al Wilson, Flight Test Pilot, Airplane Certification Office, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298; telephone: (817) 222–5146; fax: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

On October 15, 2007, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Eclipse Aviation Corporation (Eclipse) Model EA500 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 19, 2007 (72 FR 59225). The NPRM proposed to supersede AD 2007–13–11 with a new AD that would change the Applicability section and would require you to incorporate the design modification of the pitot/angle-of-attack (AOA) system. The NPRM also proposed to retain the operating limitations in AD 2007–13–11 until the modification is incorporated.

Comments

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

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 64 airplanes in the U.S. registry.

We estimate the following costs to do the modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
30 work-hours × $80 per hour = $2,400	$7,000	$9,400	$601,600

Warranty credit will be given to the extent specified in the service bulletin.

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 AD.

Regulatory Findings

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

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

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''Docket No. FAA–2007–29316; Directorate Identifier 2007–CE–078–AD'' in your request.

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 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. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2007–13–11, Amendment 39–15115 (72 FR 34363, June 22, 2007), and adding the following new AD:

2008–02–04 Eclipse Aviation Corporation: Amendment 39–15334; Docket No. FAA–2007–29316; Directorate Identifier 2007–CE–078–AD.

Effective Date

(a) This AD becomes effective on February 26, 2008.

Affected ADs

(b) This AD supersedes AD 2007–13–11, Amendment 39–15115.

Applicability

(c) This AD applies to Model EA500 airplanes, serial numbers 000001 through 000064, that are certificated in any category.

Unsafe Condition

(d) Reports of three instances of loss of primary airspeed indication due to freezing condensation within the pitot system prompted us to issue AD 2007–13–11. This AD results from Eclipse developing a design modification to the pitot/angle-of-attack (AOA) system that eliminates the possibility of freezing condensation within the pitot/AOA system. Eclipse is incorporating this modification during production on Model EA500 airplanes starting with serial number 000065. We are issuing this AD to prevent long-term reliance on special operating limitations when a design change exists that would eliminate the need for the operating limitations. Incorporating the modification would prevent loss of air pressure in the pitot system, which could cause erroneous AOA and airspeed information with consequent loss of control.

Compliance

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

Actions	Compliance	Procedures
(1) Incorporate the following into the Limitations section of the airplane flight manual (AFM): (i) ''Operate Only in Day Visual Flight Rules (VFR);'' (ii) ''File Only a VFR Flight Plan;'' and (iii) ''Operate with Two Pilots at All Times.''	Before further flight after June 27, 2007 (the effective date of AD 2007–13–11).	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 insert the information into the AFM as specified in paragraph (e)(1) of this AD. You may insert a copy of this AD into the Limitations section of the AFM to comply with this action. Make an entry into the aircraft records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(2) Incorporate the design modification to the pitot/AOA system. When incorporated, this design modification terminates the AFM operational limitations required in paragraph (e)(1) of this AD.	Within the next 60 days after February 26, 2008 (the effective date of this AD).	Following Eclipse Aviation Alert Service Bulletin Number SB 500–34–005, Rev B, issued July 10, 2007.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Fort Worth Airplane Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Al Wilson, Flight Test Pilot, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298; telephone: (817) 222–5146; fax: (817) 222–5960.

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.

(g) AMOCs approved for AD 2007–13–11 are approved for this AD.

Material Incorporated by Reference

(h) You must use Eclipse Aviation Alert Service Bulletin Number SB 500–34–005, Rev B, issued July 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 Eclipse Aviation Corporation, 2503 Clark Carr Loop, SE., Albuquerque, NM 87105, fax: 505–241–8802; e-mail: *customercare@eclipseaviation.com.*

(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 January 9, 2007.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–751 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29330; Directorate Identifier 2007–NM–199–AD; Amendment 39–15338; AD 2008–02–08]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model 717–200 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain McDonnell Douglas Model 717–200 airplanes. This AD requires electrical bonding of the fill valves for the right and left main fuel tanks, the fill valve and pipe assembly for the center wing fuel tank, and the defuel shutoff valve. This AD results from a fuel system review conducted by the manufacturer. We are issuing this AD to prevent improper bonding of the fill valves and defuel shutoff valve for the main fuel tanks and center wing tank, which, in combination with a lightning strike, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: This AD is effective February 26, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 26, 2008.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Samuel S. Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain McDonnell Douglas Model 717–200 airplanes. That NPRM was published in the **Federal Register** on October 11, 2007 (72 FR 57894). That NPRM proposed to require electrical bonding of the fill valves for the right and left main fuel tanks, the fill valve and pipe assembly for the center wing fuel tank, and the defuel shutoff valve.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the single comment received. AirTran Airways supports the NPRM.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

There are about 134 airplanes of the affected design in the worldwide fleet. This AD affects about 104 airplanes of U.S. registry. The required actions take about 4 work hours per airplane, at an average labor rate of $80 per work hour. Required parts cost about $9 per airplane. Based on these figures, the estimated cost of the AD for U.S. operators is $34,216, or $329 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

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:

2008–02–08 McDonnell Douglas: Amendment 39–15338. Docket No. FAA–2007–29330; Directorate Identifier 2007–NM–199–AD.

Effective Date

(a) This airworthiness directive (AD) is effective February 26, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McDonnell Douglas Model 717–200 airplanes, certificated in any category, as identified in Boeing Service Bulletin 717–28–0012, Revision 1, dated June 7, 2006.

Unsafe Condition

(d) This AD results from a fuel system review conducted by the manufacturer. We are issuing this AD to prevent improper bonding of the fill valves and defuel shutoff valve for the main fuel tanks and center wing tank, which, in combination with a lightning strike, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

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

Electrical Bonding

(f) Within 60 months after the effective date of this AD, accomplish the electrical bonding of the fill valves for the right and left main fuel tanks, the fill valve and pipe assembly for the center wing fuel tank, and the defuel shutoff valve, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 717–28–0012, Revision 1, dated June 7, 2006.

Credit for Actions Done Using the Previous Service Information

(g) Actions accomplished before the effective date of this AD in accordance with Boeing Service Bulletin 717–28–0012, dated April 16, 2004, are considered acceptable for compliance with the corresponding actions specified in paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Material Incorporated by Reference

(i) You must use Boeing Service Bulletin 717–28–0012, Revision 1, dated June 7, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

(3) You may review copies of the service information incorporated by reference at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on January 11, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–926 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0185; Directorate Identifier 2007–NM–246–AD; Amendment 39–15337; AD 2008–02–07]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

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

ACTION: Final rule.

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

Bombardier Aerospace has completed a system safety review of the CL–600–2B19 aircraft fuel system * * *.

The assessment showed that if the fuel boost pump reducer coupling is anodized, insufficient electrical bonding between the boost pump canister and the pressure pick-up line could occur. Insufficient electrical bonding between the boost pump canister and the pressure pick-up line, if not corrected, could result in arcing and potential ignition source inside the fuel tank during lightning strikes and consequent fuel tank explosion. * * *

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

DATES: This AD becomes effective February 26, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 26, 2008.

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

FOR FURTHER INFORMATION CONTACT: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7331; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 13, 2007 (72 FR 63834). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Bombardier Aerospace has completed a system safety review of the CL–600–2B19 aircraft fuel system against new fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were assessed using Transport Canada Policy Letter No. 525–001 to determine if mandatory corrective action is required.

The assessment showed that if the fuel boost pump reducer coupling is anodized, insufficient electrical bonding between the boost pump canister and the pressure pick-up line could occur. Insufficient electrical bonding between the boost pump canister and the pressure pick-up line, if not corrected, could result in arcing and potential ignition source inside the fuel tank during lightning strikes and consequent fuel tank explosion. To correct the unsafe condition, this directive mandates a detailed visual inspection of the fuel boost pump for the presence of anodized reducer couplings. All anodized couplings found are to be replaced with couplings having ion vapor deposition (IVD) coating.

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

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But

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

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

Costs of Compliance

We estimate that this AD will affect about 509 products of U.S. registry. We also estimate that it will take about 11 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $508 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $706,492, or $1,388 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–02–07 Bombardier, Inc. (Formerly Canadair): Amendment 39–15337. Docket No. FAA–2007–0185; Directorate Identifier 2007–NM–246–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 26, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certified in any category, serial numbers 7003 through 7067 and 7069 through 7797.

Subject

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

Reason

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

Bombardier Aerospace has completed a system safety review of the CL–600–2B19 aircraft fuel system against new fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were assessed using Transport Canada Policy Letter No. 525–001 to determine if mandatory corrective action is required.

The assessment showed that if the fuel boost pump reducer coupling is anodized, insufficient electrical bonding between the boost pump canister and the pressure pick-up line could occur. Insufficient electrical bonding between the boost pump canister and the pressure pick-up line, if not corrected, could result in arcing and potential ignition source inside the fuel tank during lightning strikes and consequent fuel tank explosion. To correct the unsafe condition, this directive mandates a detailed visual inspection of the fuel boost pump for the presence of anodized reducer couplings. All anodized couplings found are to be replaced with couplings having ion vapor deposition (IVD) coating.

Actions and Compliance

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

(1) Within 5,000 flight hours after the effective date of this AD, carry out a detailed inspection for the presence of an anodized (blue color) fuel boost pump reducer coupling according to the Accomplishment Instructions of Bombardier Service Bulletin 601R–28–057, dated December 4, 2003.

(2) If the results of the inspection required by paragraph (f)(1) of this AD reveal that none of the fuel boost pump reducer couplings are anodized, no further action is required.

(3) If the results of the inspection required by paragraph (f)(1) of this AD reveal the presence of any anodized fuel boost pump reducer coupling, prior to further flight, replace the anodized coupling with a coupling having ion vapor deposition coating according to the Accomplishment Instructions of Bombardier Service Bulletin 601R–28–057, dated December 4, 2003.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New

York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7331; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF–2007–18, dated September 4, 2007; and Bombardier Service Bulletin 601R–28–057, dated December 4, 2003; for related information.

Material Incorporated by Reference

(i) You must use Bombardier Service Bulletin 601R–28–057, dated December 4, 2003, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada.

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

Issued in Renton, Washington, on January 11, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–922 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0045; Directorate Identifier 2007–CE–100–AD; Amendment 39–15339; AD 2008–02–09]

RIN 2120–AA64

Airworthiness Directives; Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL–Bielsko'' Model SZD–50–3 ''Puchacz'' Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

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 the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

On the pre-flight check of a SZD–50–3 glider, the Right Hand (RH) wing airbrake was found impossible to retract. Investigation revealed that the occurrence was caused by a loose bolt of the ''V'' shape airbrake bellcrank, named hereafter intermediate control lever. The Left Hand (LH) wing lever also presented, to a lesser extent, a loose bolt.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective February 1, 2008.

On February 1, 2008, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive comments on this AD by February 21, 2008.

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket 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: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Emergency AD No. 2007–0275–E, dated October 24, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

On the pre-flight check of a SZD–50–3 glider, the Right Hand (RH) wing airbrake was found impossible to retract. Investigation revealed that the occurrence was caused by a loose bolt of the ''V'' shape airbrake bellcrank, named hereafter intermediate control lever. The Left Hand (LH) wing lever also presented, to a lesser extent, a loose bolt.

This Airworthiness Directive (AD) requires inspection of the LH & RH wing airbrake intermediate control levers for loose attaching bolts and subsequent repetitive inspections and corrective actions, as necessary. As a terminating action, replacement of the bolts and their associated washers is required.

These actions are intended to address the identified unsafe condition so as to prevent loss of the airbrake control system which could result in an inadvertent forced landing with consequent sailplane damage and/or passenger injury.

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

Relevant Service Information

Allstar PZL Glider Sp. z o. o. has issued Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the AD

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

This AD is considered an interim action because we are not including a repetitive inspection requirement in this AD. The Administrative Procedure Act does not permit the FAA to ''bootstrap'' a long-term requirement into an urgent safety of flight action where the rule becomes effective at the same time the public has the opportunity to comment. The short-term action and the long-term action are analyzed separately for justification to bypass prior public notice.

After issuing this AD, we may initiate further AD action (notice of proposed rulemaking followed by a final rule) to require the inspection to be repetitive and to require a terminating action. Credit will be given in any subsequent action for the initial inspection done under this AD.

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 have also required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over those copied from the MCAI.

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 the inability to retract the wing airbrake could cause asymmetrical operation of the airbrake system and result in an unintentional roll. 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 opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0045; Directorate Identifier 2007–CE–100–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because 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 about 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.

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:

2008–02–09 Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL–Bielsko'': Amendment 39–15339; Docket No. FAA–2008–0045; Directorate Identifier 2007–CE–100–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 1, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model SZD–50–3 ''Puchacz'' gliders, all serial numbers up to and including B–2207, 503199327, 503A04001, 503A05002, and 503A05003, certificated in any category.

Subject

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

Reason

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

On the pre-flight check of a SZD–50–3 glider, the Right Hand (RH) wing airbrake was found impossible to retract. Investigation revealed that the occurrence was caused by

a loose bolt of the ''V'' shape airbrake bellcrank, named hereafter intermediate control lever. The Left Hand (LH) wing lever also presented, to a lesser extent, a loose bolt.

This AD requires inspection of the LH and RH wing airbrake intermediate control levers for loose attaching bolts and subsequent repetitive inspections and corrective actions, as necessary. As a terminating action, replacement of the bolts and their associated washers is required.

These actions are intended to address the identified unsafe condition so as to prevent loss of the airbrake control system which could result in an inadvertent forced landing with consequent sailplane damage and/or passenger injury.

Actions and Compliance

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

(1) Within 10 days after February 1, 2008 (the effective date of this AD), inspect the left-hand (LH) and the right-hand (RH) wing airbrake intermediate control levers for loose attaching bolts following Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 2007.

(2) Before further flight after the inspection required in paragraph (f)(1) of this AD if any loose bolt is found, on both wings replace the split helical spring lock washers with tab washers and replace the M8x34 bolts with M8x32 bolts following Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 2007.

(3) No further action is required at this time if no loose bolts were found during the inspection required in paragraph (f)(1) of this AD.

FAA AD Differences

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

(1) The MCAI and the service information require repetitive inspections if no loose bolts are found during the initial required inspection until the next 1,000-hour time-in-service (TIS) overhaul after the effective date of the AD, at which time replacing the split helical spring lock washers with tab washers and replacing the M8x34 bolts with M8x32 bolts is required.

(2) This AD is considered an interim action because we are not including a repetitive inspection requirement in this AD. The Administrative Procedure Act does not permit the FAA to ''bootstrap'' a long-term requirement into an urgent safety of flight action where the rule becomes effective at the same time the public has the opportunity to comment. The short-term action and the long-term action are analyzed separately for justification to bypass prior public notice.

(3) After issuing this AD, we may initiate further AD action (notice of proposed rulemaking followed by a final rule) to require the inspection to be repetitive and to require a terminating action. Credit will be given in any subsequent action for the initial inspection done under this AD.

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, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–409. Before using any approved AMOC on any glider 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) Emergency AD No. 2007–0275–E, dated October 24, 2007; and Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 2007, for related information.

Material Incorporated by Reference

(i) You must use Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE–059/SZD–50–3/2007 ''PUCHACZ,'' dated October 15, 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 ALLSTAR PZL GLIDER Sp. z o. o., ul. Cieszynska 325, 453–300 Bielsko-Biala.

(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 January 14, 2008.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–870 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–027; Airspace Docket No. 08–ASW–3]

Proposed Establishment of Class E5 Airspace; Eagle Pass, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule request for comments.

SUMMARY: This action proposes to establish Class E5 airspace at Eagle Pass, TX. Additional controlled airspace is necessary to accommodate aircraft using new RNAV Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAP). The FAA is proposing this action to enhance the safety and management of Instrument Flight Rules (IFR) aircraft operations at Eagle Pass, TX, Maverick County Memorial International Airport.

DATES: *Effective Dates:* 0901 UTC April 10, 2008. Comments for inclusion in the rules Docket must be received on or before February 25, 2008. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2008–0027/Airspace Docket No. 08–ASW–3, at the beginning of your comments. You may also submit comments through the Internet at *http://regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Joe Yadouga, Central Service Center, System Support Group, Federal Aviation Administration, Southwest Region, Ft. Worth, Texas 76193–0530; telephone (817) 222–5597.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or

negative comments, and, therefore, issues it as a direct final rule. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date of the rule. If the FAA receives, within the comment period, an adverse or negative comment, or written comment notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. An electronic copy of this document may be downloaded from *http://www.regulations.gov.* Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or through the Web site. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

The Rule

This amendment to Title 14, Federal Regulations (14 CFR) part 71 establishes Class E5 airspace at Eagle Pass, TX providing the airspace required to support the new RNAV (GPS) RWY 13/31 approach developed for IFR landings at Maverick County Memorial International Airport. Controlled airspace extending upward from 700 feet above the surface is required to encompass all SIAPs and for the safety of IFR operations at Maverick County Memorial International Airport. Designations for Class E5 airspace areas extending upward from 700 feet above the surface of the earth are published in the FAA Order 7400.9R, signed August 15, 2007 and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. Class E5 designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, it is determined that this final rule does not have federalism implication under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49, of the United States Code. 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.

This rulemaking is promulgated under the authority described in subtitle VII, Part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E5 airspace near Eagle Pass, TX.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designation and Reporting Points, signed August 15, 2007, and effective September 15, 2007, is amended as follows:

Paragraph 6002 Class E5 airspace areas extending upward from 700 feet above the surface of the earth

* * * * *

ASW TX Class E5 Eagle Pass, TX [New]

Maverick County Memorial International Airport
(lat. 28° 51.43′N., long. 100°30.81′W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Maverick County Memorial International Airport to exclude the international boundaries of Mexican airspace. This Class E5 airspace is effective during specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Fort Worth, TX, on January 9, 2008.

Donald R. Smith,

Manager, System Support Group, ATO Central Service Center.

[FR Doc. 08–164 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 11

[RM08–6–000]

Update of the Federal Energy Regulatory Commission's Fees Schedule for Annual Charges for the Use of Government Lands

January 15, 2008.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; update of Federal land use fees.

SUMMARY: In accordance with the Commission's regulations, the

Commission by its designee, the Executive Director, is updating its schedule of fees for the use of government lands. The yearly update is based on the most recent schedule of fees for the use of linear rights-of-way prepared by the United States Forest Service. Since the next fiscal year will cover the period from October 1, 2007 through September 30, 2008 the fees in this notice will become effective October 1, 2007. The fees will apply to fiscal year 2008 annual charges for the use of government lands.

The Commission has concluded, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB that this rule is not a ''major rule'' as defined in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804(2).

DATES: Effective January 22, 2008. These fees apply for the fiscal year period from October 1, 2007 through September 30, 2008.

FOR FURTHER INFORMATION CONTACT: Fannie Kingsberry, Division of Financial Services, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6108.

SUPPLEMENTARY INFORMATION:

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

From FERC's Home Page on the Internet, this information is available in the eLibrary (formerly FERRIS). The full text of this document is available on eLibrary in PDF and MSWord format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the FERC's Web site during normal business hours by contacting FERC Online Support by telephone at (866) 208–3676 (toll free) or for TTY, (202) 502–8659, or by e-mail at *FERCOnlineSupport@ferc.gov.*

List of Subjects in 18 CFR Part 11

Electric power, Reporting and recordkeeping requirements.

Thomas R. Herlihy,

Executive Director, Office of the Executive Director.

■ Accordingly, the Commission amends part 11 of Chapter I, Title 18 of the Code of Federal Regulations, as follows:

PART 11—[AMENDED]

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

Authority: 16 U.S.C. 791a–825r; 42 U.S.C. 7101–7352.

■ 2. In part 11, Appendix A is revised to read as follows:

Appendix A to Part II.—Fee Schedule for FY 2008

State	County	(Fee/acre/yr)
ALABAMA	ALL COUNTIES	$30.11
ARKANSAS	ALL COUNTIES	22.58
ARIZONA	COCHISE	7.51
	GILA	
	GRAHAM	
	LA PAZ	
	MOHAVE	
	NAVAJO	
	PIMA	
	YAVAPAI	
	YUMA	
	COCONINO (NORTH OF COLORADO R.)	
	COCONINO (SOUTH OF COLORADO R.)	30.11
	GREENLEE	
	MARICOPA	
	PINAL	
	SANTA CRUZ	
CALIFORNIA	IMPERIAL	15.05
	INYO	
	LASSEN	
	MODOC	
	RIVERSIDE	
	SAN BERNARDINO	
	SISKIYOU	22.58
	ALAMEDA	37.62
	ALPINE	
	AMADOR	
	BUTTE	
	CALAVERAS	
	COLUSA	
	CONTRA COSTA	
	DEL NORTE	
	EL DORADO	37.62
	FRESNO	
	GLENN	
	HUMBOLDT	
	KERN	
	KINGS	
	LAKE	

State	County	(Fee/acre/yr)
	MADERA	
	MARIPOSA	
	MENDOCINO	
	MERCED	
	MONO	
	NAPA	
	NEVADA	
	PLACER	
	PLUMAS	
	SACRAMENTO	
	SAN BENITO	
	SAN JOAQUIN	
	SANTA CLARA	
	SHASTA	
	SIERRA	
	SOLANO	
	SONOMA	
	STANISLAUS	
	SUTTER	
	TEHAMA	
	TRINITY	
	TULARE KINGS	
	TUOLUMNE	
	YOLO	
	YUBA	
	LOS ANGELES	45.17
	MARIN	
	MONTEREY	
	ORANGE	
	SAN DIEGO	
	SAN FRANCISCO	
	SAN LUIS OBISPO	
	SAN MATEO	
	SANTA BARBARA	
	SANTA CRUZ	
	VENTURA	
COLORADO	ADAMS	7.51
	ARAPAHOE	
	BENT	
	CHEYENNE	
	CROWLEY	
	ELBERT	
	EL PASO	
	HUERFANO	
	KIOWA	
	KIT CARSON	
	LINCOLN	
	LOGAN	
	MOFFAT	
	MONTEZUMA	
	MORGAN	
	PUEBLO	
	SEDGWICK	
	WASHINGTON	
	WELD	
	YUMA	
	BACA	15.05
	BROOMFIELD	
	DOLORES	
	GARFIELD	
	LAS ANIMAS	
	MESA	
	MONTROSE	
	OTERO	
	PROWERS	
	RIO BLANCO	
	ROUTT	
	SAN MIGUEL	
	ALAMOSA	30.11
	ARCHULETA	
	BOULDER	
	CHAFFEE	
	CLEAR CREEK	
	CONEJOS	

State	County	(Fee/acre/yr)
	COSTILLA	
	CUSTER	
	DENVER	
	DELTA	
	DOUGLAS	
	EAGLE	30.11
	FREMONT	
	GILPIN	
	GRAND	
	GUNNISON	
	HINSDALE	
	JACKSON	
	JEFFERSON	
	LAKE	
	LA PLATA	
	LARIMER	
	MINERAL	
	OURAY	
	PARK	
	PITKIN	
	RIO GRANDE	
	SAGUACHE	
	SAN JUAN	
	SUMMIT	
	TELLER	
CONNECTICUT	ALL COUNTIES	7.51
DELAWARE	ALL COUNTIES	7.51
FLORIDA	BAKER	45.17
	BAY	
	BRADFORD	
	CALHOUN	
	CLAY	
	COLUMBIA	
	DIXIE	
	DUVAL	
	ESCAMBIA	
	FRANKLIN	
	GADSDEN	
	GILCHRIST	
	GULF	
	HAMILTON	
	HOLMES	
	JACKSON	
	JEFFERSON	
	LAFAYETTE	
	LEON	
	LIBERTY	
	MADISON	
	NASSAU	
	OKALOOSA	45.17
	SANTA ROSA	
	SUWANNEE	
	TAYLOR	
	UNION	
	WAKULLA	
	WALTON	
	WASHINGTON	
	ALL OTHER COUNTIES	75.23
GEORGIA	ALL COUNTIES	45.17
IDAHO	CASSIA	7.51
	GOODING	
	JEROME	
	LINCOLN	
	MINIDOKA	
	ONEIDA	
	OWYHEE	
	POWER	
	TWIN FALLS	
	ADA	22.58
	ADAMS	
	BANNOCK	
	BEAR LAKE	
	BENEWAH	
	BINGHAM	

State	County	(Fee/acre/yr)
	BLAINE	
	BOISE	
	BONNER	
	BONNEVILLE	
	BOUNDARY	
	BUTTE	
	CAMAS	
	CANYON	
	CARIBOU	
	CLARK	
	CLEARWATER	
	CUSTER	
	ELMORE	
	FRANKLIN	
	FREMONT	
	GEM	
	IDAHO	22.58
	JEFFERSON	
	KOOTENAI	
	LATAH	
	LEMHI	
	LEWIS	
	MADISON	
	NEZ PERCE	
	PAYETTE	
	SHOSHONE	
	TETON	
	VALLEY	
	WASHINGTON	
ILLINOIS	ALL COUNTIES	22.58
INDIANA	ALL COUNTIES	37.62
IOWA	ALL COUNTIES	22.58
KANSAS	MORTON	15.05
	ALL OTHER COUNTIES	7.51
KENTUCKY	ALL COUNTIES	22.58
LOUISIANA	ALL COUNTIES	45.17
MAINE	ALL COUNTIES	22.58
MARYLAND	ALL COUNTIES	7.51
MASSACHUSETTS	ALL COUNTIES	7.51
MICHIGAN	ALGER	22.58
	BARAGA	
	CHIPPEWA	
	DELTA	
	DICKINSON	
	GOGEBIC	
	HOUGHTON	
	IRON	
	KEWEENAW	
	LUCE	
	MACKING	
	MARQUETTE	
	MENOMINEE	
	ONTONAGON	
	SCHOOLCRAFT	
	ALL OTHER COUNTIES	30.11
MINNESOTA	ALL COUNTIES	22.58
MISSISSIPPI	ALL COUNTIES	30.11
MISSOURI	ALL COUNTIES	22.58
MONTANA	BIG HORN	7.51
	BLAINE	
	CARTER	
	CASCADE	
	UTEAU	
	CUSTER	
	DANIELS	
	MCCONE	
	MEAGHER	
	DAWSON	
	FALLON	
	FERGUS	
	GARFIELD	
	GLACIER	
	GOLDEN VALLEY	
	HILL	

State	County	(Fee/acre/yr)
	JUDITH BASIN	
	LIBERTY	
	MUSSELSHELL	
	PETROLEUM	
	PHILLIPS	
	PONDERA	
	POWDER RIVER	
	PRAIRIE	
	RICHLAND	
	ROOSEVELT	
	ROSEBUD	
	SHERIDAN	
	TETON	
	TOOLE	
	TREASURE	
	VALLEY	
	WHEATLAND	
	WIBAUX	
	YELLOWSTONE	
	BEAVERHEAD	22.58
	BROADWATER	
	CARBON	
	DEER LODGE	22.58
	FLATHEAD	
	GALLATIN	
	GRANITE	
	JEFFERSON	
	LAKE	
	LEWIS & CLARK	
	LINCOLN	
	MADISON	
	MINERAL	
	MISSOULA	
	PARK	
	POWELL	
	RAVALLI	
	SANDERS	
	SILVER BOW	
	STILLWATER	
	SWEET GRASS	
NEBRASKA	ALL COUNTIES	7.51
NEVADA	CHURCHILL	3.76
	CLARK	
	ELKO	
	ESMERALDA	
	EUREKA	
	HUMBOLDT	
	LANDER	
	LINCOLN	
	LYON	
	MINERAL	
	NYE	
	PERSHING	
	WASHOE	
	WHITE PINE	
	CARSON CITY	37.62
	DOUGLAS	
	STOREY	
NEW HAMPSHIRE	ALL COUNTIES	22.58
NEW JERSEY	ALL COUNTIES	7.51
NEW MEXICO	CHAVES	7.51
	CURRY	
	DE BACA	
	DONA ANA	7.51
	EDDY	
	GRANT	
	GUADALUPE	
	HARDING	
	HIDALGO	
	LEA	
	LUNA	
	MCKINLEY	
	OTERO	
	QUAY	

State	County	(Fee/acre/yr)
	ROOSEVELT	
	SAN JUAN	
	SOCORRO	
	TORRANCE	
	RIO ARRIBA	15.05
	SANDOVAL	
	UNION	
	BERNALILLO	30.11
	CATRON	
	CIBOLA	
	COLFAX	
	LINCOLN	
	LOS ALAMOS	
	MORA	
	SAN MIGUEL	
	SANTA FE	
	SIERRA	
	TAOS	
	VALENCIA	
NEW YORK	ALL COUNTIES	30.11
NORTH CAROLINA	ALL COUNTIES	45.17
NORTH DAKOTA	ALL COUNTIES	7.51
OHIO	ALL COUNTIES	30.11
OKLAHOMA	BEAVER	15.05
	CIMARRON	
	ROGER MILLS	
	TEXAS	
	LE FLORE	22.58
	MCCURTAIN	
	ALL OTHER COUNTIES	7.51
OREGON	HARNEY	7.51
	LAKE	
	MALHEUR	
	BAKER	15.05
	CROOK	
	DESCHUTES	
	GILLIAM	
	GRANT	
	JEFFERSON	
	KLAMATH	
	MORROW	
	SHERMAN	
	UMATILLA	
	UNION	
	WALLOWA	
	WASCO	
	WHEELER	
	COOS	22.58
	CURRY	
	DOUGLAS	
	JACKSON	
	JOSEPHINE	
	BENTON	30.11
	CLACKAMAS	
	CLATSOP	
	COLUMBIA	
	HOOD RIVER	
	LANE	
	LINCOLN	
	LINN	
	MARION	
	MULTNOMAH	
	POLK	
	TILLAMOOK	
	WASHINGTON	
	YAMHILL	
PENNSYLVANIA	ALL COUNTIES	30.11
PUERTO RICO	ALL	45.17
RHODE ISLAND	ALL COUNTIES	7.51
SOUTH CAROLINA	ALL COUNTIES	45.17
SOUTH DAKOTA	BUTTE	22.58
	CUSTER	
	FALL RIVER	
	LAWRENCE	

State	County	(Fee/acre/yr)
	MEADE	
	PENNINGTON	
	ALL OTHER COUNTIES	7.51
TENNESSEE	ALL COUNTIES	30.11
TEXAS	CULBERSON	7.51
	EL PASO	
	HUDSPETH	
	ALL OTHER COUNTIES	45.17
UTAH	BEAVER	7.51
	BOX ELDER	
	CARBON	
	DUCHESNE	
	EMERY	
	GARFIELD	
	GRAND	
	IRON	
	JUAB	
	KANE	
	MILLARD	
	SAN JUAN	
	TOOELE	
	UINTAH	
	WAYNE	
	WASHINGTON	15.05
	CACHE	22.58
	DAGGETT	
	DAVIS	
	MORGAN	
	PIUTE	
	RICH	22.58
	SALT LAKE	
	SANPETE	
	SEVIER	
	SUMMIT	
	UTAH	
	WASATCH	
	WEBER	
VERMONT	ALL COUNTIES	30.11
VIRGINIA	ALL COUNTIES	30.11
WASHINGTON	ADAMS	15.05
	ASOTIN	
	BENTON	
	CHELAN	
	COLUMBIA	
	DOUGLAS	
	FRANKLIN	
	GARFIELD	
	GRANT	
	KITTITAS	
	KLICKITAT	
	LINCOLN	
	OKANOGAN	
	SPOKANE	
	WALLA WALLA	
	WHITMAN	
	YAKIMA	
	FERRY	22.58
	PEND OREILLE	
	STEVENS	
	CLALLAM	30.11
	CLARK	
	COWLITZ	
	GRAYS HARBOR	
	ISLAND	
	JEFFERSON	
	KING	
	KITSAP	
	LEWIS	
	MASON	
	PACIFIC	30.11
	PIERCE	
	SAN JUAN	
	SKAGIT	
	SKAMANIA	

State	County	(Fee/acre/yr)
	SNOHOMISH	
	THURSTON	
	WAHKIAKUM	
	WHATCOM	
WEST VIRGINIA	ALL COUNTIES	30.11
WISCONSIN	ALL COUNTIES	22.58
WYOMING	ALBANY	7.51
	CAMPBELL	
	CARBON	
	CONVERSE	
	GOSHEN	
	HOT SPRINGS	
	JOHNSON	
	LARAMIE	
	LINCOLN	
	NATRONA	
	NIOBRARA	
	PLATTE	
	SHERIDAN	
	SWEETWATER	
	FREMONT	
	SUBLETTE	
	UINTA	
	WASHAKIE	
	BIG HORN	22.58
	CROOK	
	PARK	
	TETON	
	WESTON	
ALL OTHER ZONES		5.74

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DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

[Docket No. 0612243018–8043–01]

RIN 0625–AA73

Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce (''the Department'') is amending its regulations in antidumping (''AD'') and countervailing duty (''CVD'') proceedings governing information submitted to the Department and administrative protective orders in order to improve the Department's procedures and provide clarification to some aspects of the Department's regulations. Specifically, the Department is amending its regulations as follows: To reflect a transfer in the function of receiving submissions filed in AD/CVD proceedings from the Central Records Unit to the Administrative Protective Order (''APO'') Unit, and to change the name of the APO Unit to APO/Dockets Unit; to reflect the fact that the Central Records Unit has moved to Room 1117 of the Herbert C. Hoover Building; to reflect a transfer in the function of maintaining public service lists from the Central Records Unit to the APO/Dockets Unit; to update the definition of ''Customs Service'' to reflect the reorganization of the Executive Branch; to clarify that documents filed with the Department will only be time stamped when appropriate, for example, when an interested party submits a request for treatment as a voluntary respondent; to clarify when an APO will be placed on the record with respect to new shipper reviews, applications for scope rulings and changed circumstances reviews; to clarify when a party must serve business proprietary information already on the administrative record to new authorized applicants to the APO; to require parties to file a formal letter of appearance to request placement on the public service list of any segment of an AD/CVD proceeding, either as a cover letter to the APO application or as a separate document; and to clarify when a party is to be considered an ''interested party'' for the purposes of the APO. Finally, the Department is amending its short form application for access under an APO (Form ITA–367).

DATES: *Effective Date:* The effective date of this final rule is February 21, 2008. The amended regulations will apply to all investigations initiated on the basis of petitions filed on or after February 21, 2008, and other segments of proceedings requested or initiated after this date. The amended APO application form will be effective for all ongoing segments pending before the Department as of the effective date or initiated on or after the effective date, except those segments initiated before June 3, 1998.

FOR FURTHER INFORMATION CONTACT: Ann Sebastian at (202) 482–3354, William Kovatch at (202) 482–5052 or Carrie Owens at (202) 482–1353.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 777(c)(1)(A) of the Tariff Act of 1930, as amended (''the Act'') (19 U.S.C. 1677f(c)(1)(A)), the Department must make available to interested parties, under an APO, business proprietary information submitted to it during the course of an antidumping or countervailing duty proceeding. Section 777(c)(1)(B) of the Act authorizes the Department to issue regulations governing the APO process. The Department's current regulations are codified at 19 CFR part 351.

On January 8, 2007, the Department published proposed amendments to the rules governing procedures for providing access to business proprietary information submitted to the

Department by other parties in U.S. antidumping (''AD'') and countervailing duty (''CVD'') proceedings, and requested comments from the public. *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures; Proposed Rule,* 72 FR 680 (''January Notice'').

After analyzing and carefully considering all of the comments that the Department received in response to the January Notice and after further review of the provisions of the proposed rule, the Department is publishing final regulations. In an effort to continue to protect business proprietary information from unauthorized disclosure while permitting authorized applicants access to needed information, these regulations improve the Department's APO process, and clarify some prior regulatory provisions as they relate to that process.

Effective Date

The new APO procedures, including the use of the revised application for an APO, form ITA–367 (2.08), will become effective February 21, 2008. The amended regulations will apply to all investigations initiated on the basis of petitions filed on or after February 21, 2008, and other segments of proceedings requested or initiated after this same date. Segments of proceedings to which these regulations do not apply will continue to be governed by the regulations in effect on the date the petitions were filed or other segments were initiated. The amended Form ITA–367 will apply to all ongoing segments pending before the Department as of the effective date and all segments initiated on or after the effective date, unless the segment was initiated before June 3, 1998.

Explanation of Particular Provisions

Section 351.102(b). Definitions. Definition of ''Customs Service'' and ''Interested Party''

Section 351.102(b) is definitional. Substantively, most of the definitions in this section remain unchanged from the prior regulation. The prior regulation, however, listed the terms in alphabetical order, without sequentially numbering the terms. The new regulation sets forth the terms defined in section 351.102(b) in sequentially numbered paragraphs, which will allow the Department to administer the APO function in a more precise manner.

The Department has changed the definition of one of the terms listed in section 351.102(b), and added another. Specifically, in light of the recent reorganization of the Executive Branch, the Department has changed the definition of the term ''Customs Service'' to mean United States Customs and Border Protection of the United States Department of Homeland Security.

The Department has also added a definition of the term ''interested party'' to section 351.105(b) for the purpose of submitting an APO application. Under the prior regulation, ''interested party'' was not defined, which created some confusion and difficulty in processing APO applications. Specifically, under section 351.305(b)(2), only the representatives of interested parties who are parties to the proceeding may apply for APO access. The Department takes seriously its responsibility to ensure that only persons authorized to have access to the business proprietary information submitted in any segment of a proceeding are granted such access under the APO. The APO application was designed to permit the Department to determine whether the applicant does indeed represent an interested party, and thus qualifies for access under the APO. To that end, Form ITA–367 requires the applicant to identify the interested party status of the party represented by checking ''petitioner,'' ''respondent,'' or ''other.'' If the applicant checks ''other,'' the form requires the applicant to identify the section of the Department's regulations that defines the party's interested party status. Under the prior regulations, this was not possible because the regulations did not provide a definition of the term ''interested party.''

This situation caused a problem for the Department in identifying and verifying the interested party status of the party represented by the applicant, when the applicant did not represent a petitioner or a respondent. Specifically, the Department has experienced some problems in verifying when a party who is participating independently from any other party is an importer, as defined by the Act. For this reason, the Department has amended section 351.105(b) to include the definition of ''interested party,'' and require applicants to indicate the specific section of the regulations that is the basis of the party's status as an interested party.

This definition does not differ from the definition of ''interested party'' provided in section 771(9) of the Act, except that an importer of subject merchandise is defined in a different subparagraph from a manufacturer, producer and exporter of the subject merchandise. Defining ''importer'' in its own subparagraph is necessary to permit Department officials to readily identify when an applicant for APO access represents an importer.

One commentor has expressed concerns that requiring a party to be more precise in identifying its status as an interested party may prove problematic. Specifically, the commentor considered that such a requirement could lead to the filing of a separate APO application for all of a respondent's affiliates who are interested parties. Often a respondent and its affiliated importer or importers are represented by the same firm, because their interests are aligned. In the commentor's view, requiring separate APO applications for each of the interested parties in such a situation could become unwieldy and burdensome. This commentor notes that the purpose of the APO application is to permit the representative of an interested party to see the business proprietary information of other parties to the proceeding in order to adequately represent the client's interest. When one firm already has access to the information under APO, no additional purpose is served by filing an additional APO application for each of the respondent's affiliates.

In response to this commentor's concerns, it is not the Department's intention to alter its practice with respect to the APO application of a respondent and its affiliates who are all represented by the same firm. The commentor is correct that one purpose of the APO application is to permit the representative of a party to the proceeding to see the business proprietary information on the record of that segment of the proceeding to advocate for that party's interests. Another purpose of the application is to allow the parties submitting business proprietary information to the Department to know who is applying for access to that information, and what parties they represent. Where the same firm represents an interested party and the interested party's affiliates, there is no need to file separate APO applications for each of the affiliates. An applicant who represents an interested party and the interested party's affiliates may still file a single APO application, however, the applicant must identify in the application each of the affiliates he or she is representing. If an applicant represents multiple non-affiliated interested parties, the applicant may also include all of the interested parties on the same application. Any necessary clarifications with respect to the interested parties should be provided in the cover letter to the application, or as an attachment to the application.

This amendment to the regulations is aimed at identifying when an applicant represents an importer participating

independently from any other respondent. When the representative of such an importer has applied for APO access, the Department has experienced some difficulty in confirming that the importer imports the subject merchandise from the county that is covered by the specific proceeding in question. Identifying when such an importer is participating in a segment of a proceeding is the first step needed to ensure that there is sufficient evidence to demonstrate that the importer is indeed an interested party, and its representative entitled to access to other parties' business proprietary information under APO. This is necessary for the Department to ensure that it is protecting the business proprietary information submitted to it during any segment from disclosure to any person not authorized to see the information.

Sections 351.103(a), 351.103(b), 351.103(c), 351.103(d) and 351.303(b). Location and Functions of the Central Records Unit and the APO Unit, Filing Documents, and Service Lists

The Department is amending section 351.103(a) to reflect that fact that the Central Records Unit has moved to a new location within the Herbert C. Hoover Building. The Central Records Unit is now located in Room 1117.

The Department is further amending sections 351.103(a), 351.103(b), 351.103(c), and 351.103(d) of the regulations to reflect the transfer of the function of receiving submissions in antidumping and countervailing duty proceedings (*i.e.* the docket function) from the Central Records Unit to the APO Unit, and to change the name of the APO Unit formally to the APO/Dockets Unit.

The Department is also amending section 351.103(c) to provide that a document will only be required to be stamped with the time of receipt in order to be considered timely filed, where necessary. Documents submitted to the Department will still be required to be stamped with the date of receipt. However, the Department no longer believes that it is necessary to time stamp every document submitted.

There are a few instances where it will continue to be necessary to time stamp a document to establish timeliness. These instances include when the Department establishes a time other than the close of business as the deadline for the submission, and when the Department exercises its discretion to accept voluntary respondents. With respect to requests to be treated as a voluntary respondent, the time stamp is necessary to establish the order in which the Department receives such requests. Department officials and the APO/Dockets Unit will continue to coordinate with each other to determine whether it is necessary for a document to be time stamped, and to communicate such necessity with interested parties.

The Department is amending section 351.103(d) to require interested parties who wish to be placed on the public service list to file a letter of appearance to make its request. The letter of appearance should identify the name of the interested party, how that party qualifies as an interested party, and the name of the firm representing that interested party, if appropriate. If an interested party is participating in conjunction with affiliated parties, the letter of appearance must list all of the affiliates. If a single firm is representing multiple interested parties, affiliated or unaffiliated, a single letter of appearance may be filed to cover all of the parties so represented. If the interested party is a coalition or association as defined in sections 771(9)(A), (E), (F) or (G) of the Act, the letter of appearance must identify all members of the coalition or association. Because the letter of appearance includes factual information (*i.e.* the name of the interested party, how the party qualifies as an interested party), the certification requirements of section 351.303(g) apply.

One commentor expressed its support of this requirement. However, the commentor stated that the Department should clarify that this requirement does not apply to petitioners. The commentor contends that the petition already contains the information that would appear on the letter of appearance, which would make the additional formal letter of appearance unnecessary.

Another commentor stated that while it has no objection to formalizing the requirement that a party file an entry of appearance, the Department should not require that this be a separate filing. The commentor contended that this requirement of a separate filing would be inefficient and burdensome on the parties. Specifically, the commentor noted that many parties file their APO applications with a cover letter which also serves as an entry of appearance on behalf of the interested party. Requiring two separate filings would waste resources and increase administrative burdens on the parties unnecessarily. This commentor suggested that the requirement of a separate filing would be more appropriately aimed at parties who do not seek access to business proprietary information under the APO, but who wish to monitor the proceedings.

This commentor noted that under the Department's amended regulations and the revised Form ITA–367, interested parties will be required to categorize how they qualify as interested parties in the APO application without the requirement of a certification. Requiring a separate entry of appearance, with a certification from the party, would treat identical information inconsistently. It would also be burdensome to require parties to make multiple filings of similar information. Accordingly, this commentor suggested that the Department should simply require parties to file an entry of appearance and APO application together with a single certification of the entire submission.

In response to these comments, the Department's purpose in proposing a requirement to file a letter of appearance as a separate document was to ensure that Department officials update the public service list when a party begins participating in an administrative proceeding. It is also the Department's desire, where possible, to minimize the burden on the parties when submitting documents during any proceeding.

The Department agrees with the point made by both commentors that sometimes it is not necessary to require the letter of appearance to be an entirely new and separate submission. For example, in an investigation, the Department's regulations already require the petition to contain detailed information concerning the petitioner and the domestic industry. *See* 19 CFR 351.202(b). This information in the petition is already subject to certification requirements. *See* 19 CFR 351.202(c).

Similarly, when applying for APO access, Form ITA–367 requires the representatives of an interested party to disclose how the party qualifies as an interested party, and the contact information of the firm representing the interested party. Currently, the APO application requires a certification from the applicant, but not from the party itself. Nonetheless, as one commentor noted, many parties currently do file an entry of appearance as the cover letter to the APO application.

In this regard, the Department agrees with the commentor that it is sufficient to require a party requesting APO access to submit a letter of appearance as a cover letter to the APO application, and thus the Department has revised section 351.305(b)(2) to provide for this clarification. The interested party would be required to certify as to the accuracy

of the information contained in the letter of appearance.

It should be noted, however, that the APO application is not a submission made by the party itself. Rather it is a submission made by the representative of the party to request access to the business proprietary information submitted in that segment. Accordingly, the Department does not believe that it is necessary for the party to certify to the contents of the APO application. Rather, it is sufficient for the representative applying for access under APO to certify to the accuracy of the information contained in the APO application. Such certification is already included in Form ITA–367.

Nonetheless, interested parties are not required to apply for APO access in order to participate in a segment before the Department. Many parties choose not to apply for access to the business proprietary information submitted by other parties, yet still participate by submitting factual information or written argument.[1] The Department considers that it is appropriate to require these parties to submit a separate letter of appearance as a request to be placed on the public service list of the particular segment in which it is participating, and thus the Department has revised section 351.103(d)(1) to include language for this provision.

Section 351.204(d). Requests for Treatment as a Voluntary Respondent

As provided in section 351.204(d) of the Department's regulations, if the Department limits the number of exporters or producers individually examined under section 777A(c)(2) or section 777A(e)(2)(A) of the Act, the Department will examine voluntary respondents in accordance with section 782(a) of the Act. In order to be able to clearly identify voluntary respondents, and discern the order in which requests for voluntary respondent treatment have been submitted, the Department is amending section 351.204(d) to require an interested party seeking voluntary respondent treatment to indicate its request clearly on the first page of the first submission. This will alert the APO/Dockets Unit to the fact that the submission should be time stamped. This amendment is made in conjunction with the amendment to section 351.103(c) of the regulations. The Department received no comments on this amendment.

Section 351.305(a). Placing APOs on the Record in New Shipper Reviews, Applications for Scope Rulings, and Changed Circumstances Reviews

The Department is amending section 351.305(a) of the regulations to place an APO on the record within five business days of the filing of a request for new shipper review, an application for a scope ruling, a request for a changed circumstances review or the self-initiation of a changed circumstances review by the Department. The Department is also clarifying that the reference to ''days'' in this section of the regulations refers to business days.

Under the prior regulations, the Department would place an APO on the record within two days of the filing of a petition, or five days of initiating any other segment of a proceeding. At times, however, when determining whether to initiate a new shipper review, a scope inquiry or a changed circumstances review, the Department is required to consider business proprietary information. Accordingly, the Department finds it appropriate to permit representatives of interested parties to have access under APO to any business proprietary information submitted to the Department initiates these segments.

One commentor expressed support for this change, noting that the change recognizes the problem created when the Department denies access to business proprietary information before these segments are initiated, and attempts to address it.

Section 351.305(b). Service Requirement of Documents Already on the Administrative Record to New Authorized Applicants

The Department is amending section 351.305(b) of its regulations to require the service of all business proprietary information on the record on the representative of a party filing a timely application for APO access within two business days of the approval of the application. A timely application is one filed before the first questionnaire response has been submitted.

When an application is filed after the day on which the first questionnaire response is submitted, the parties will have five business days from the approval of the application to serve all business proprietary information on the record to the new authorized applicant. When the representative of a party files an application after the submission of the first questionnaire response, that representative is liable for costs associated with the additional production and service of business proprietary information already on the record.

One commentor proposed that the five day period should continue to apply in all circumstances. According to this commentor, the five day period has not caused any undue delays. Moreover, this commentor noted that imposing a more demanding requirement before responses have been filed would disproportionately affect petitioners. This commentor contends that the two-day requirement is intended to conform with the International Trade Commission's requirement that the petition be served within two days of the establishment of the Commission's APO service list. However, the commentor noted that the Commission issues its preliminary determination within 45 days of the filing of the petition, whereas the Department issues its preliminary determination 140 days after initiation of the investigation.

We have not adopted the commentor's suggestion. The requirement to serve all business proprietary information on the record within two days of the approval of a timely APO application existed prior to the adoption of the 1998 regulations. This requirement was inadvertently deleted from the regulations adopted in 1998.

As the commentor noted, the Commission's regulations already require the petitioner to serve the petition on all parties who apply for APO access within two days of receiving notification of the Commission's approval of an APO application. 19 CFR 207.10(b)(1)(i). Thus, adopting a two-day requirement in the Department's regulations will not be unduly burdensome.

Section 351.305(d). Additional Documentation Required for Importers

The Department is adding section 351.305(d) to its regulations, requiring the representatives of importers to provide documentary evidence confirming the interested party's status as an importer of the subject merchandise from the country subject to the proceeding. This requirement is necessary to permit the Department to ensure that only those who are authorized to receive access to the business proprietary information submitted to the record (that is, the representatives of interested parties who are also parties to the proceeding) gain access to that information.

One commentor objected to this new requirement. This commentor contends

[1] Under the Department's regulations, an interested party may not apply for access under APO if that party only intends to ''monitor'' the proceeding. Rather, only a representative of a party to the proceeding can apply for APO access. 19 CFR 351.305(b)(2). The regulations define a party to the proceeding as ''any interested party that actively participates through written submissions of factual information or written argument, in a segment of a proceeding.'' 19 CFR 351.102.

that there can be no justification for imposing this burden on importers, which it argues is discriminatory. The commentor argues that the statute makes no distinctions among the interested parties when it comes to granting access to business proprietary information. Accordingly, all interested parties must be treated the same way. The commentor argues that the Government may not discriminate against similarly situated persons without a rational basis for the differential treatment. The commentor does not believe that the Department has given sufficient justification for imposing this new burden on importers alone. Rather, the commentor contends that the Department could just as easily have a concern with whether a party claiming to be a domestic manufacturer, a union or an association is a bona fide interested party. The commentor urges the Department to drop its proposal.

We disagree that importers are in a similar situation as other interested parties and that there is no rational reason for this requirement. Therefore, we have not adopted the commentor's suggestion. Specifically, as a matter of evidence, it is often easier for the Department to confirm whether a party claiming to be a domestic interested party or a respondent is in fact an interested party than it is to confirm whether a party is an importer of subject merchandise. That is, evidence demonstrating the interested party status of the domestic interested parties and the respondent is often already on the record in AD and CVD proceedings when such parties apply for APO access. By contrast, when an importer is participating independently from an exporter or manufacturer of subject merchandise, the Department requires evidence to confirm that the party is indeed an importer of subject merchandise before granting APO access.

Given the serious task that has been assigned to the Department, namely the protection of business proprietary information submitted to it during an AD or CVD proceeding (*see* section 777(b)(1)(A) of the Act), the Department must proceed carefully to ensure that the parties whose representatives are applying for APO access do indeed qualify for such access. That is, the Department must be sure that the business proprietary information is not disclosed to those who are not authorized to see it.

Such evidentiary problems generally do not exist in identifying when the representative seeking APO access represents a petitioner or other domestic producer or a union or an association of domestic producers. In an investigation, the petitioner must submit its petition, and include detailed information regarding itself and the domestic industry. *See* 19 CFR 351.202(b). This includes the names, addresses and telephone numbers of all known persons in the industry. 19 CFR 351.202(b)(2). In this regard, section 732(c)(4) of the Act charges the Department with determining whether the petition has sufficient support from the domestic industry. To do this, the Department must be apprised of the identity of those who are members of the domestic industry and examine production data for those members identified. Because this information is placed on the administrative record before the initiation of any AD or CVD investigation, the Department normally does not require additional information to confirm the identity of petitioners in an investigation.

Similarly, in an AD investigation, the petition must identify the names and addresses of all of the persons whom the petitioner believes are selling the subject merchandise at less than fair value. 19 CFR 351.202(b)(7)(i)(A). In a CVD investigation, the petitioner must identify the names and addresses of all of the persons whom the petitioner believes are benefitting from a countervailable subsidy and are exporting to the United States. 19 CFR 351.202(b)(7)(ii)(A). Indeed, as a general rule, the Department calculates an individual weighted-average dumping margin or an individual countervailable subsidy rate for each known exporter or producer. *See* sections 777a(c)(1) and 777A(e)(1) of the Act; 19 CFR 351.204(b).[2] Thus, as a general matter, AD and CVD investigations are specific to identified exporters and producers. For the Department to accomplish its task, it must have on the administrative record information identifying who the exporters or producers are. Indeed, the Department generally only receives APO applications from representatives of foreign producers and exporters who are asked to provide information pertaining to their sales and production of subject merchandise, or who wish to become voluntary respondents and thus likewise provide the Department with their sales and production information. That information confirms the status of such foreign producers and exporters as interested parties. Thus, when the representative of a foreign producer or exporter applies for APO access, generally the evidence confirming that the respondent is an interested party is already on the administrative record.

While it is true that the petition must also contain information regarding the known importers or likely importers of the subject merchandise (*see* 19 CFR 351.202(b)(9)), the Department may not have the same amount of evidence on the administrative record identifying all of the importers of the subject merchandise. Moreover, it is possible that there are other importers, who are not known to the petitioner, who import the subject merchandise and desire to participate as a party to the proceeding.

Moreover, as evidenced by section 351.213(b) of the Act, when the Department conducts an administrative review of an AD or CVD order, as a general matter the Department will review specific exporters or producers. The Department generally only receives APO applications from representatives of foreign producers or exporters in administrative reviews when those parties have requested a review for themselves, or have otherwise been identified in a request for review as producers or exporters of the subject merchandise. Thus, again, the identity of the exporter or producer of the subject merchandise in an administrative review is often not in question.

With regard to coalitions or associations as defined in subparagraph (A), (E), (F) or (G) of section 771(9) of the Act, section 351.103(d)(1) of these amended regulations clearly require that the letter of appearance identify all of the members of the coalition or association. This is meant to permit the Department to confirm that the coalition or association qualifies as an interested party under the Act, and thus qualifies to be a party to the proceeding.

When it is appropriate, such as when there is a new party to the proceeding that has not participated in the investigation, the Department's practice is to request further information from the party to confirm that the party is in fact an interested party. This practice applies not only with respect to coalitions and associations, but also with respect to trade unions and other parties claiming to be domestic interested parties who have not previously participated in any segment of the proceeding.

By contrast, the Department does not always have on the administrative record evidence identifying all of the importers of the subject merchandise when the representatives of such importers apply for access under the

[2] Some alternatives exist to calculating individual margins and subsidization rates for each known exporter or producer. They include using statistically valid samples and limiting the number of exporters or producers examined due to practicality. *See* sections 777A(a)(1), 777A(c)(2) and 777A(e)(2).

APO. One context in which this problem often arises is where there are companion AD or CVD investigations involving the same merchandise, but exported from different countries. Sometimes, an importer will import the subject merchandise from one of the countries which are the subject of the investigations, but not others. The requirement to provide documentary evidence of the importer's interested party status is meant to ensure that the representatives of such importers are applying for APO access only in those particular proceedings in which the importer qualifies as an interested party.

The burden that the Department is placing on the importer is not great. In most instances, a copy of Customs Forms 7501 will suffice. Indeed, the Department prefers that the Custom Form 7501 serve as the documentary evidence. This is a document that is likely already in the possession of the importer, and not difficult to produce when the representative is applying for APO access. In other instances, the interested party may be able to satisfy the requirement by submitting any other credible documentary evidence demonstrating that it either imports or intends to import the subject merchandise. When it is not practical for an importer to submit a copy of Customs Form 7501, the Department will work with the importer to determine if other documentary evidence exists that will be sufficient to confirm the importer's status as an interested party.

The Department is also correcting the language of section 351.305(d) as published in the January Notice concerning the required documentary evidence demonstrating that a party imports merchandise subject to the antidumping or countervailing duty proceeding. The correction is to clarify that this evidentiary requirement applies with respect to each segment of an antidumping or countervailing duty proceeding, and is not limited to certain specific segments of the proceeding. The language as published in the January Notice does not clearly state that this documentary evidence is required from importers in the investigation stage of a proceeding as well as in subsequent segments of the proceeding as was the Department's intent. Thus the Department has revised section 351.305(d) to require, from a party claiming to be an interested party by virtue of being an importer, documentary evidence demonstrating that the party imports merchandise either subject to the antidumping or countervailing duty proceeding, or subject to a scope inquiry.

One commentor expressed confusion with the Department's explanation of its proposed amendment, specifically as it applies to parties who intend to import a product that is subject to a scope inquiry. This commentor argues that the Department regularly declines to initiate scope inquiries where the product is yet to be imported, and that the Department should not alter this practice.

In response to this comment, the Department's practice is to issue a scope ruling or conduct a scope inquiry when the party requesting the ruling can show that the specific product in question is actually in production. The product need not be imported into the United States so long as the requestor can show evidence that the product is in production. The Department will not issue a scope ruling or conduct a scope inquiry on a purely hypothetical product. In line with this practice, the Department believes that it is appropriate to permit a party who is a potential importer of the product subject to the scope inquiry access to proprietary information under APO.

The Department has clarified section 351.305(d) to conform to its practice. Where the segment in question concerns a specific time period, such as an investigation or an administrative review, the party claiming to be an importer must show documentary evidence, preferably Customs Form 7501, that it imported subject merchandise during the applicable period of investigation or period of review. For a scope inquiry, however, any interested party may participate in the scope inquiry. Thus, an importer may be given APO access during a scope inquiry, provided it can provide documentary evidence, again preferably a Customs Form 7501, that it imported subject merchandise. For those situations where the product subject to the scope inquiry is in production, but has not yet been imported into the United States, a potential importer of such product may be permitted to participate as a party to the proceeding, and be given access to the proprietary information under the APO, provided that the party can demonstrate that it has taken steps towards importing the merchandise in question. Such evidence, for example, can consist of preliminary communications concerning the product between the importer and the manufacturer or supplier.

Form ITA–367, Short Form Application for APO

The Department is amending Form ITA–367 to require APO applicants in new shipper reviews to specifically identify the name of the exporter(s)/producer(s) that is/are covered by the new shipper review. This is necessary because the Department can initiate multiple new shipper reviews on the same date covering different manufacturers or exporters. While it is the Department's practice to issue a single APO for multiple new shipper reviews involving the same subject merchandise if initiated on the same date, the periods of review in question may not always be congruent. That is, the Department at times may exercise its discretion to expand the period of review for one new shipper, but not for another, depending on the circumstances. To accurately identify the APO governing new shipper reviews and to help identify the APO and public service lists for these segments, it is the Department's practice to individually name all of the parties being reviewed within the heading of these documents.

Because the Department may conduct several scope inquiries during the existence of an AD or CVD order, to provide further clarity the Department is amending Form ITA–367 to specifically identify the product in question that is covered by the scope review.

To identify with more clarity when an applicant is applying for APO access in a changed circumstances review, the Department is amending Form ITA–367 to allow applicants to check ''changed circumstances review'' and identify the date on which the request for a changed circumstances review was filed.

To ensure timely distribution of the APO service list and any amendments thereto, the Department is amending Form ITA–367 to require the identification of the ''Lead Applicant,'' and to request an email address for the receipt of service lists.

The Department is issuing a clarification regarding the effective date of the amended Form ITA–367. The effective date for the amended Form ITA–367 is February 21, 2008. It is the Department's intention to use only this new version of Form ITA–367, in all segments pending before the Department as of the effective date, except those initiated before June 3, 1998. The Department will post this version of Form ITA–367 and remove any prior versions of the form from the Import Administration's Web site. Parties who practice before the Department are advised to update any word processing file they may use to prepare Form ITA–367, to reflect the amendments made to the current version of the form.

To ensure that parties who practice before the Department need not keep track of multiple versions of Form ITA–

367, the Department is amending section 351.305(b)(2) of its regulations, by inserting the words ''the current version of'' before the word ''Form ITA–367'' in the first sentence of the regulation. By doing so, the Department is clarifying that should it amend Form ITA–367 again in the future, the new version of the form shall be used in all segments pending before the Department as of the effective date of the new form, and not only in those segments initiated on or after the effective date.

There are currently a few segments of proceedings initiated before June 3, 1998 still pending before the Department, all of which concern suspension agreements. Due to the fact that the rules concerning the authorized use of the business proprietary information submitted in those segments differ from segments initiated under the current version of the Department's APO regulations, the Department believes that it is appropriate for parties who wish to apply for access under APO in segments concerning those suspension agreements to use the version of Form ITA–367 that was in effect before June 3, 1998. However, the Department reserves the right to permit parties to use the current version of Form ITA–367 by including express language in the terms of the suspension agreements, should it renegotiate those terms in the future.

The Department would like to take this opportunity to remind those who practice before it that the entire Form ITA–367 (2.08) must be submitted to the Department in order to gain access to business proprietary information under the APO. If any portion of the form is not applicable, the applicant should so indicate on the form itself, and submit the entire application form to the Department. Form ITA–367 is available on the Department's Web site at *http://ia.ita.doc.gov/apo/index.html* and may be reproduced using the applicant's word processor. The format of the application must be exactly as provided in the printed form, with no deviation. With respect to item 5 of the APO application, when identifying non-attorney applicants, any clarification as to the identity of those applicants must be explained in the cover letter, or as an attachment to the application. Such clarifications should not be added into Form ITA–367 itself.

With respect to items 8 and 9, the exact format may be repeated to include additional applicants, as required (e.g., (2), (3), (4), etc.). Each applicant must *sign and date* the application in their own hand.

The Department would also like to remind authorized applicants that an acknowledgment for support staff is a requirement under item 2 of the APO. Failure by a firm to maintain an acknowledgment for support staff for each segment of each proceeding when APO access has been granted would be a violation of the APO. Support staff do not apply separately for APO access, but they are required to sign the acknowledgment maintained by the firm.

Classification

E.O. 12866

It has been determined that this notice is not significant for purposes of E.O. 12866.

Regulatory Flexibility Act

The Chief Counsel for Regulation at the Department certified to the Chief Counsel for Advocacy, Small Business Administration that this rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received regarding the economic impact of this rule. As a result, no final regulatory flexibility analysis is required and none has been prepared.

Paperwork Reduction Act

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 et seq.).

E.O. 12612

This proposed rule does not contain federalism implications warranting the preparation of a Federalism Assessment.

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping, Business and industry, Cheese, Confidential business information, Countervailing duties, Freedom of information, Investigations, Reporting and recordkeeping requirements.

Dated: January 14, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

■ For the reasons stated, 19 CFR Ch. III is amended as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

■ 1. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 et seq.; and 19 U.S.C. 3538.

■ 2. Section 351.102 is revised as follows:

§ 351.102 Definitions.

(a) *Introduction.* The Act contains many technical terms applicable to antidumping and countervailing duty proceedings. In the case of terms that are not defined in this section or other sections of this part, readers should refer to the relevant provisions of the Act. This section:

(1) Defines terms that appear in the Act but are not defined in the Act;

(2) Defines terms that appear in this Part but do not appear in the Act; and

(3) Elaborates on the meaning of certain terms that are defined in the Act.

(b) *Definitions.*

(1) *Act.* ''Act'' means the Tariff Act of 1930, as amended.

(2) *Administrative review.* ''Administrative review'' means a review under section 751(a)(1) of the Act.

(3) *Affiliated persons; affiliated parties.* ''Affiliated persons'' and ''affiliated parties'' have the same meaning as in section 771(33) of the Act. In determining whether control over another person exists, within the meaning of section 771(33) of the Act, the Secretary will consider the following factors, among others: Corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier relationships. The Secretary will not find that control exists on the basis of these factors unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product. The Secretary will consider the temporal aspect of a relationship in determining whether control exists; normally, temporary circumstances will not suffice as evidence of control.

(4) *Aggregate basis.* ''Aggregate basis'' means the calculation of a country-wide subsidy rate based principally on information provided by the foreign government.

(5) *Anniversary month.* ''Anniversary month'' means the calendar month in which the anniversary of the date of publication of an order or suspension of investigation occurs.

(6) *APO.* ''APO'' means an administrative protective order described in section 777(c)(1) of the Act.

(7) *Applicant.* ''Applicant'' means a representative of an interested party that has applied for access to business proprietary information under an administrative protective order.

(8) *Article 4/Article 7 review.* ''Article 4/Article 7 review'' means a review under section 751(g)(2) of the Act.

(9) *Article 8 violation review.* ''Article 8 violation review'' means a review under section 751(g)(1) of the Act.

(10) *Authorized applicant.* ''Authorized applicant'' means an applicant that the Secretary has authorized to receive business proprietary information under an APO under section 777(c)(1) of the Act.

(11) *Changed circumstances review.* ''Changed circumstances review'' means a review under section 751(b) of the Act.

(12) *Consumed in the production process.* Inputs ''consumed in the production process'' are inputs physically incorporated, energy, fuels and oil used in the production process and catalysts which are consumed in the course of their use to obtain the product.

(13) *Cumulative indirect tax.* ''Cumulative indirect tax'' means a multi-staged tax levied where there is no mechanism for subsequent crediting of the tax if the goods or services subject to tax at one stage of production are used in a succeeding stage of production.

(14) *Customs Service.* ''Customs Service'' means United States Customs and Border Protection of the United States Department of Homeland Security.

(15) *Department.* ''Department'' means the United States Department of Commerce.

(16) *Direct tax.* ''Direct tax'' means a tax on wages, profits, interests, rents, royalties, and all other forms of income, a tax on the ownership of real property, or a social welfare charge.

(17) *Domestic interested party.* ''Domestic interested party'' means an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) of the Act.

(18) *Expedited antidumping review.* ''Expedited antidumping review'' means a review under section 736(c) of the Act.

(19) *Expedited sunset review.* ''Expedited sunset review'' means an expedited sunset review conducted by the Department where respondent interested parties provide inadequate responses to a notice of initiation under section 751(c)(3)(B) of the Act and § 351.218(e)(1)(ii).

(20) *Export insurance.* ''Export insurance'' includes, but is not limited to, insurance against increases in the cost of exported products, nonpayment by the customer, inflation, or exchange rate risks.

(21) *Factual information.* ''Factual information'' means:

(i) Initial and supplemental questionnaire responses;

(ii) Data or statements of fact in support of allegations;

(iii) Other data or statements of facts; and

(iv) Documentary evidence.

(22) *Fair value.* ''Fair value'' is a term used during an antidumping investigation, and is an estimate of normal value.

(23) *Firm.* For purposes of subpart E (Identification and Measurement of Countervailable Subsidies), ''firm'' is used to refer to the recipient of an alleged countervailable subsidy, including any individual, company, partnership, corporation, joint venture, association, organization, or other entity.

(24) *Full sunset review.* ''Full sunset review'' means a full sunset review conducted by the Department under section 751(c)(5) of the Act where both domestic interested parties and respondent interested parties provide adequate response to a notice of initiation under section 751(c)(3)(B) of the Act and §§ 351.218(e)(1)(i) and 351.218(e)(1)(ii).

(25) *Government-provided.* ''Government-provided'' is a shorthand expression for an act or practice that is alleged to be a countervailable subsidy. The use of the term ''government-provided'' is not intended to preclude the possibility that a government may provide a countervailable subsidy indirectly in a manner described in section 771(5)(B)(iii) of the Act (indirect financial contribution).

(26) *Import charge.* ''Import charge'' means a tariff, duty, or other fiscal charge that is levied on imports, other than an indirect tax.

(27) *Importer.* ''Importer'' means the person by whom, or for whose account, subject merchandise is imported.

(28) *Indirect tax.* ''Indirect tax'' means a sales, excise, turnover, value added, franchise, stamp, transfer, inventory, or equipment tax, a border tax, or any other tax other than a direct tax or an import charge.

(29) *Interested party.* For the purpose of submitting an application for APO access (Form ITA–367), ''Interested Party'' means:

(i) A foreign manufacturer, producer, or exporter of subject merchandise,

(ii) The United States importer of subject merchandise,

(iii) A trade or business association a majority of the members of which are producers, exporters, or importers of subject merchandise,

(iv) The government of a country in which subject merchandise is produced or manufactured or from which such merchandise is exported,

(v) A manufacturer, producer, or wholesaler in the United States of a domestic like product,

(vi) A certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a domestic like product,

(vii) A trade or business association a majority of whose members manufacture, produce, or wholesale a domestic like product in the United States,

(viii) An association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) of section 771(9) of the Act with respect to a domestic like product, and

(ix) A coalition or trade association as described in section 771(9)(G) of the Act.

(30) *Investigation.* Under the Act and this Part, there is a distinction between an antidumping or countervailing duty investigation and a proceeding. An ''investigation'' is that segment of a proceeding that begins on the date of publication of notice of initiation of investigation and ends on the date of publication of the earliest of:

(i) Notice of termination of investigation,

(ii) Notice of rescission of investigation,

(iii) Notice of a negative determination that has the effect of terminating the proceeding, or

(iv) An order.

(31) *Loan.* ''Loan'' means a loan or other form of debt financing, such as a bond.

(32) *Long-term loan.* ''Long-term loan'' means a loan, the terms of repayment for which are greater than one year.

(33) *New shipper review.* ''New shipper review'' means a review under section 751(a)(2) of the Act.

(34) *Order.* An ''order'' is an order issued by the Secretary under section 303, section 706, or section 736 of the Act or a finding under the Antidumping Act, 1921.

(35) *Ordinary course of trade.* ''Ordinary course of trade'' has the same meaning as in section 771(15) of the Act. The Secretary may consider sales or transactions to be outside the ordinary course of trade if the Secretary determines, based on an evaluation of all of the circumstances particular to the sales in question, that such sales or transactions have characteristics that are extraordinary for the market in question. Examples of sales that the Secretary

might consider as being outside the ordinary course of trade are sales or transactions involving off-quality merchandise or merchandise produced according to unusual product specifications, merchandise sold at aberrational prices or with abnormally high profits, merchandise sold pursuant to unusual terms of sale, or merchandise sold to an affiliated party at a non-arm's length price.

(36) *Party to the proceeding.* ''Party to the proceeding'' means any interested party that actively participates, through written submissions of factual information or written argument, in a segment of a proceeding. Participation in a prior segment of a proceeding will not confer on any interested party ''party to the proceeding'' status in a subsequent segment.

(37) *Person.* ''Person'' includes any interested party as well as any other individual, enterprise, or entity, as appropriate.

(38) *Price adjustment.* ''Price adjustment'' means any change in the price charged for subject merchandise or the foreign like product, such as discounts, rebates and post-sale price adjustments, that are reflected in the purchaser's net outlay.

(39) *Prior-stage indirect tax.* ''Prior-stage indirect tax'' means an indirect tax levied on goods or services used directly or indirectly in making a product.

(40) *Proceeding.* A ''proceeding'' begins on the date of the filing of a petition under section 702(b) or section 732(b) of the Act or the publication of a notice of initiation in a self-initiated investigation under section 702(a) or section 732(a) of the Act, and ends on the date of publication of the earliest notice of:

(i) Dismissal of petition,

(ii) Rescission of initiation,

(iii) Termination of investigation,

(iv) A negative determination that has the effect of terminating the proceeding,

(v) Revocation of an order, or

(vi) Termination of a suspended investigation.

(41) *Rates.* ''Rates'' means the individual weighted-average dumping margins, the individual countervailable subsidy rates, the country-wide subsidy rate, or the all-others rate, as applicable.

(42) *Respondent interested party.* ''Respondent interested party'' means an interested party described in subparagraph (A) or (B) of section 771(9) of the Act.

(43) *Sale.* A ''sale'' includes a contract to sell and a lease that is equivalent to a sale.

(44) *Secretary.* ''Secretary'' means the Secretary of Commerce or a designee. The Secretary has delegated to the Assistant Secretary for Import Administration the authority to make determinations under title VII of the Act and this Part.

(45) *Section 753 review.* ''Section 753 review'' means a review under section 753 of the Act.

(46) *Section 762 review.* ''Section 762 review'' means a review under section 762 of the Act.

(47) *Segment of proceeding*—(i) *In general.* An antidumping or countervailing duty proceeding consists of one or more segments. ''Segment of a proceeding'' or ''segment of the proceeding'' refers to a portion of the proceeding that is reviewable under section 516A of the Act.

(ii) *Examples.* An antidumping or countervailing duty investigation or a review of an order or suspended investigation, or a scope inquiry under § 351.225, each would constitute a segment of a proceeding.

(48) *Short-term loan.* ''Short-term loan'' means a loan, the terms of repayment for which are one year or less.

(49) *Sunset review.* ''Sunset review'' means a review under section 751(c) of the Act.

(50) *Suspension of liquidation.* ''Suspension of liquidation'' refers to a suspension of liquidation ordered by the Secretary under the authority of title VII of the Act, the provisions of this Part, or section 516a(g)(5)(C) of the Act, or by a court of the United States in a lawsuit involving action taken, or not taken, by the Secretary under title VII of the Act or the provisions of this Part.

(51) *Third country.* For purposes of subpart D, ''third country'' means a country other than the exporting country and the United States. Under section 773(a) of the Act and subpart D, in certain circumstances the Secretary may determine normal value on the basis of sales to a third country.

(52) *URAA.* ''URAA'' means the Uruguay Round Agreements Act.

■ 3. Section 351.103 is revised as follows:

§ 351.103 Central Records Unit and Administrative Protective Order and Dockets Unit.

(a) Import Administration's Central Records Unit maintains a Public File Room in Room 1117, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. The office hours of the Public File Room are between 8:30 a.m. and 5 p.m. on business days. Among other things, the Central Records Unit is responsible for maintaining an official and public record for each antidumping and countervailing duty proceeding (see § 351.104), and the Subsidies Library (see section 775(2) and section 777(a)(1) of the Act).

(b) Import Administration's Administrative Protective Order and Dockets Unit (APO/Dockets Unit) is located in Room 1870, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. The office hours of the APO/Dockets Unit are between 8:30 a.m. and 5 p.m. on business days. Among other things, the APO/Dockets Unit is responsible for receiving submissions from interested parties, issuing administrative protective orders (APOs), maintaining the APO service list and the public service list as provided for in paragraph (d) of this section, releasing business proprietary information under APO, and conducting APO violation investigations. The APO/Dockets Unit also is the contact point for questions and concerns regarding claims for business proprietary treatment of information and proper public versions of submissions under § 351.105 and § 351.304.

(c) *Filing of documents with the Department.* While persons are free to provide Department officials with courtesy copies of documents, no document will be considered as having been received by the Secretary unless it is submitted to the Import Administration's APO/Dockets Unit in Room 1870 and is stamped with the date, and, where necessary, the time, of receipt.

(d) *Service list.* The APO/Dockets Unit will maintain and make available a public service list for each segment of a proceeding. The service list for an application for a scope ruling is described in § 351.225(n).

(1) With the exception of a petitioner filing a petition in an investigation, to be included on the public service list for a particular segment, each interested party must file a letter of appearance. The letter of appearance must identify the name of the interested party, how that party qualifies as an interested party, and the name of the firm, if any, representing the interested party in this segment of the proceeding. The letter of appearance may be filed as a cover letter to an application for APO access. If the representative of the party is not requesting access to business proprietary information under APO, the letter of appearance must be filed separately from any other document filed with the Department. If the interested party is a coalition or association as defined in subparagraph (A), (E), (F) or (G) of section 771(9) of the Act, the letter of appearance must

identify all of the members of the coalition or association.

(2) Each interested party that asks to be included on the public service list for a segment of a proceeding must designate a person to receive service of documents filed in that segment.

■ 4. Add paragraph (d)(4) of § 351.204 to read as follows:

§ 351.204 Time periods and persons examined; voluntary respondents; exclusions.

* * * * *

(d) * * *

(4) *Requests for voluntary respondent treatment.* An interested party seeking treatment as a voluntary respondent must so indicate by including as a title on the first page of the first submission, ''Request for Voluntary Respondent Treatment.''

* * * * *

■ 5. Revise paragraph (b) of § 351.303 to read as follows:

§ 351.303 Filing, format, translation, service, and certification of documents.

* * * * *

(b) *Where to file; time of filing.* Persons must address and submit all documents to the Secretary of Commerce, Attention: Import Administration, APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, between the hours of 8:30 a.m. and 5 p.m. on business days (see § 351.103(b)). If the applicable time limit expires on a non-business day, the Secretary will accept documents that are filed on the next business day.

* * * * *

■ 6. Section 351.305 is amended by revising paragraph (a) introductory text, paragraphs (b)(2) through (b)(4), and adding a new paragraph (d) to read as follows:

§ 351.305 Access to business proprietary information.

(a) *The administrative protective order.* The Secretary will place an administrative protective order on the record within two business days after the day on which a petition is filed or an investigation is self-initiated, within five business days after the day on which a request for a new shipper review is properly filed in accordance with § 351.214 and § 351.303 or an application for a scope ruling is properly filed in accordance with § 351.225 and § 351.303, within five business days after the day on which a request for a changed circumstances review is properly filed in accordance with § 351.216 and § 351.303 or a changed circumstances review is self-initiated, or five business days after initiating any other segment of a proceeding. The administrative protective order will require the authorized applicant to:

* * * * *

(b) * * *

(2) A representative of a party to the proceeding may apply for access to business proprietary information under the administrative protective order by submitting the current version of Form ITA–367 to the Secretary.

Form ITA–367 must identify the applicant and the segment of the proceeding involved, state the basis for eligibility of the applicant for access to business proprietary information, and state the agreement of the applicant to be bound by the administrative protective order. Form ITA–367 may be prepared on the applicant's own wordprocessing system, and must be accompanied by a certification that the application is consistent with Form ITA–367 and an acknowledgment that any discrepancies will be interpreted in a manner consistent with Form ITA–367. An applicant must apply to receive all business proprietary information on the record of the segment of a proceeding in question, but may waive service of business proprietary information it does not wish to receive from other parties to the proceeding. An applicant must serve an APO application on the other parties in the same manner and at the same time as it serves the application on the Department.

(3) With respect to proprietary information submitted to the Secretary on or before the date on which the Secretary grants access to a qualified applicant, except as provided in paragraph (b)(4) of this section, within two business days the submitting party shall serve the party which has been granted access, in accordance with paragraph (c) of this section.

(4) To minimize the disruption caused by late applications, an application should be filed before the first questionnaire response has been submitted. Where justified, however, applications may be filed up to the date on which the case briefs are due, but any applicant filing after the first questionnaire response is submitted will be liable for costs associated with the additional production and service of business proprietary information already on the record. Parties have five business days to serve their business proprietary information already on the record to a party who has filed an application after the submission of the first questionnaire response and is authorized to receive such information after such information has been placed on the record.

* * * * *

(d) *Additional filing requirements for importers.* If an applicant represents a party claiming to be an interested party by virtue of being an importer, then the applicant shall submit, along with the Form ITA–367, documentary evidence demonstrating that during the applicable period of investigation or period of review the party imported subject merchandise. For a scope inquiry, the applicant must present documentary evidence that it imported subject merchandise, or that it has taken steps towards importing the merchandise subject to the scope inquiry.

Note: The following appendix will not appear in the Code of Federal Regulations: Application for Administrative Protective Order in Antidumping or Countervailing Duty Proceeding.

Appendix—Application for Administrative Protective Order in Antidumping or Countervailing Duty Proceeding

BILLING CODE 3510–05–P

Case Number
Segment of Proceeding
(Period of Review)
Number of Pages
Public Document

United States Department of Commerce
International Trade Administration

APPLICATION FOR ADMINISTRATIVE PROTECTIVE ORDER
in
ANTIDUMPING OR COUNTERVAILING DUTY PROCEEDING

In the Matter of the
Antidumping/Countervailing Duty (indicate one)
Proceeding on

_____
_____ from_____
_____ (Country)
_____
(Product)

ACCEPTED _____
REJECTED_____
DATE_____

This application covers business proprietary information in the following segment of the proceeding:

[ ] Investigation - petition filed on :_____

[ ] Administrative Review initiated on : _____ (_____ FR _____)

for period : _____ to _____

[ ] New Shipper Review, request filed on : _____

for period : _____ to _____

covering the following exporter/producer :_____

[ ] Changed Circumstances Review, request filed on : _____

[ ] Scope Inquiry, request filed on :_____

product :_____

[ ] Other_____ : _____ (_____ FR _____)
(specify)

FORM ITA-367 (2.08)

This application is:

[ ] the initial firm application to be placed on the APO service list; or

[ ] a request to amend the firm's list of authorized applicants.

REPRESENTATION

1. I am an applicant for:_____ who is an interested party/parties as follows:

   1. [ ] petitioner; [ ] respondent; [ ] other interested party, as defined in 19 C.F.R. §351.102(b)(29)(____) of the Department's regulations.

2. If the interested party/parties I represent have another authorized applicant or representative,_____ _____ is the lead firm.

REQUEST FOR INFORMATION

3. I request disclosure of all business proprietary information under administrative protective order ("APO") which will be or has been placed on the record of this segment of this proceeding that is releasable under 19 C.F.R. § 351.305 for the purpose of fully representing the interests of my client:

   [ ] all business proprietary information, including hard copy and electronic data; or

   [ ] all business proprietary information in hard copy form only.

INDIVIDUAL STATEMENTS

4. TO BE COMPLETED BY ATTORNEY APPLICANTS

   A. I **am/am not** (indicate one) an officer of the interested party or parties listed in paragraph 1, or of other competitors of the person submitting the business proprietary information requested in this application.

   B. I **do/do not** (indicate one) participate in the competitive decision-making activity of the interested party or parties listed in paragraph 1, or of other competitors of the person submitting the business proprietary information requested in this application. I understand that competitive decision-making activity includes advice on production, sales, operations, or investments, but does not include legal advice.

   C. I **do/do not** (indicate one) have an official position or other business relationship other than providing advice for the purpose of this segment of the proceeding with the interested party or parties listed in paragraph 1, or with other competitors of the person submitting the business proprietary information requested in this application.

D. I **do/do not** (indicate one) currently intend within 12 months after the date upon which the final determination/results is/are published to enter into any of the relationships described in paragraphs 4A, B and C.

E. Explain for each applicant any affirmative response to paragraph 4A, B, C or D:

_____

_____

_____.

5. TO BE COMPLETED BY NON-ATTORNEY APPLICANTS

A. I **am/am not** (indicate one) **employed by/retained by** (indicate one) a law firm representing the interested party or parties listed in paragraph 1.

B. If I am retained by an attorney, the name of the lawyer and law firm are:

_____

_____.

C. If I am not an employee of a law firm and have not been retained by the attorney for the interested party or parties listed in paragraph 1, in a separate attachment to this application I am providing information concerning my practice before the International Trade Administration ("ITA").

D. I **am/am not** (indicate one) an officer or employee of a interested party or parties listed in paragraph 1, or of other competitors of the submitter of the business proprietary information requested in this application.

E. I **do/do not** (indicate one) participate in the competitive decision-making activity of the interested party or parties listed in paragraph 1, or of other competitors of the person submitting the business proprietary information requested in this application. I understand that competitive decision-making activity includes advice on production, sales, operations, or investments, but does not include legal advice.

F. I **do/do not** (indicate one) have an official position or other business relationship other than providing advice for the purpose of this segment of the proceeding with the interested party or parties listed in paragraph 1, or with other competitors of the person submitting the business proprietary information requested in this application.

G. I **do/do not** (indicate one) currently intend within 12 months after the date upon which the final determination/results is/are published to enter into any of the relationships described in paragraphs 5D, E and F.

H. Explain for each applicant any affirmative response paragraph 5D, E, F or G:

_____

_____

_____.

AGREEMENT TO BE BOUND

6. Recognizing the penalties for perjury under the laws of the United States, I affirm that all statements in this application are true, accurate, and complete to the best of my knowledge. I agree, individually and on behalf of my law firm, corporate law office, or company, if any, to be bound by the terms stated in the administrative protective order issued in this segment of the proceeding.

7. I certify that this application is a *true and accurate* copy of the Department's "Application for Administrative Protective Order", FORM ITA-367 (5.98). If there are any discrepancies, I agree to be bound by the Department's standard form.

INDIVIDUAL SIGNATORIES

8. ATTORNEY APPLICANTS (**REQUIRED FORMAT**)

Individual applicants:

(1) _____, _____, _____
(name of applicant) (signature) (date)

of _____
(name and address of law firm)

_____

I am admitted to practice in the following jurisdiction(s) and before the following court(s):

_____.

9. NON-ATTORNEY APPLICANTS (**REQUIRED FORMAT**)

Individual applicants:

(1) _____, _____, _____
(name of applicant) (signature) (date)

of _____
(name and address of firm)

I am a member of the following professional association(s):

_____.

10. The "Lead Applicant" for the purposes of service is:_____.

The email address to be used for service of the APO service list is:

_____.

FORM ITA-367 (2.08)

COURTESY PAGE
FOR
WAIVER OF SERVICE

If my application for administrative protective order ("APO") in this proceeding is granted, I waive service of the following business proprietary information that I would be authorized to receive under the APO:

o

o

o

o

Inadvertent service of a document
containing business proprietary information
on a party that has been granted APO access
and has waived service
IS NOT A VIOLATION OF THE APO.

FORM ITA-367 (2.08)

[FR Doc. 08–172 Filed 1–18–08; 8:45 am]
BILLING CODE 3510–DS–C

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2007–0061, formerly COTP St. Petersburg 07–226]

RIN 1625–AA87

Security Zone; Manbirtee Key, Port of Manatee, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a new security zone in the Manbirtee Key area of Port Manatee, Florida. The purpose of this security zone is to ensure the security of vessels, facilities, and the surrounding area. Entry into the security zone is prohibited without the permission of the Captain of the Port.

DATES: This rule is effective February 21, 2008.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket number USCG–2007–0061 (formerly COTP St. Petersburg 07–226) and are available for inspection or copying at Coast Guard Sector St. Petersburg, Prevention Department, 155 Columbia Drive, Tampa, FL 33606–3598 between 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. The rulemaking documents and comment received online are also available at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Lieutenant Jessica Crandell at the Waterways Management Division, Sector St. Petersburg, FL (813) 228–2191 Ext. 8146.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On November 6, 2007, we published a notice of proposed rulemaking (NPRM) entitled Security Zone; Manbirtee Key, Port of Manatee, FL in the **Federal Register** (72 FR 62613). We received no letters in the mail commenting on the proposed rule and one comment in the *www.regulations.gov* electronic docket. A public meeting was held on November 13, 2007, at 10 a.m. and no comments were made. A copy of the transcript is available through the *http://www.regulations.gov* Web site.

Background and Purpose

The Maritime Transportation Security Act authorized the establishment of Area Maritime Security Committees (AMSC) that ''advise, consult with, report to, and make recommendations'' on matters relating to maritime security in an AMSC's port area. See 46 U.S.C. 70112(a)(2) and 33 CFR 103.205. One topic the Tampa AMSC discussed is the existing security zones that were established following the terrorist attacks of September 11, 2001. These existing security zones, created to address identified security issues, were established September 3, 2003, codified in 33 CFR 165.760 (68 FR 52340, September 3, 2003), and September 1, 2003, codified in § 165.764 (68 FR 47852, August 12, 2003), after a number of temporary security zones.

In July 2007, using the newly-developed Maritime Security Risk Analysis tool, the AMSC working group evaluated risk to the maritime transportation system (MTS) within Tampa Bay, and assessed various risk mitigation options. The results of the risk assessment indicated the need to establish a new security zone in the vicinity of Manbirtee Key, FL.

Discussion of Comments

The Coast Guard received one question during the comment period: ''What infrastructure are you [Coast Guard] protecting?'' The purpose of the security zone is to protect pipeline infrastructures within 500 yards of the shore of Manbirtee Key. No changes from the proposed rule were made in response to this comment.

Discussion of Rule

This final rule creates a security zone in the following area: All waters of Tampa Bay, from surface to bottom, surrounding Manbirtee Key, Tampa Bay, FL extending 500 yards from the island's shoreline, in all directions, with the exception of the Port Manatee Channel.

Entry into or remaining on or within this zone would be prohibited unless authorized by the Captain of the Port Sector St. Petersburg or his designated representative. Persons desiring to transit the area of the security zone may contact the Captain of the Port St. Petersburg or his designee on VHF channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

Regulatory Evaluation

This 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 final rule to be so minimal that a full Regulatory Evaluation is unnecessary. This final rule may have some impact on the public, but these potential impacts will be minimized for the following reasons: There is ample room for vessels to navigate around the security zone, and there are several locations for recreational and commercial fishing vessels to fish throughout the Tampa Bay Region. Properly vetted personnel who comply with additional requirements may gain authorization for entry through a port zone watch program. Also, the Captain of the Port may, on a case-by-case basis allow persons or vessels to enter a security zone.

The changes to the regulatory text that incorporate the response to the inquiry received during the comment period do not have any economic impact. The navigational charts of the area already indicate the submerged pipeline. Adding this description to the regulatory text has no impact on commerce.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. No comments were received during the comment period regarding potential impacts on small entities.

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 rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for

compliance, please contact the office listed under **FOR FURTHER INFORMATION CONTACT**, for assistance in understanding this rule. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism. The changes to the regulatory text which address the inquiry made during the comment period do not have an impact on federalism. The navigational charts of the area already indicate the submerged pipeline. Adding this description to the regulatory text has no impact on commerce.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES** during the comment period. No comments were received regarding the impact to the environment in response to the proposed rule or the preliminary environmental analysis checklist for this security zone.

List of Subjects in 33 CFR Part 165

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

Words of Issuance and Regulatory Text

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.767 to read as follows:

§ 165.767 Security Zone; Manbirtee Key, Port of Manatee, Florida.

(a) *Regulated area.* The following area is a security zone: All waters, from surface to bottom, surrounding Manbirtee Key, Tampa Bay, FL extending 500 yards from the island's shoreline, in all directions, not to include the Port Manatee Channel.

(b) *Definitions.* As used in this section, *designated representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and Federal, State, and local officers designated by or assisting the Captain of the Port (COTP), in the enforcement of regulated navigation areas, safety zones, and security zones.

(c) *Regulation.* (1) Entry into or remaining on or within the security zone is prohibited unless authorized by the Captain of the Port Sector St. Petersburg or his designee.

(2) Persons desiring to transit the security zone may contact the Captain of the Port Sector St. Petersburg or his designee on VHF channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or designated representative.

(3) *Enforcement.* Under § 165.33, no person may cause or authorize the operation of a vessel in the security zone contrary to the provisions of this section.

Dated: January 10, 2008.

J.A. Servidio,

Captain, U.S. Coast Guard, Captain of the Port Sector St. Petersburg.

[FR Doc. E8–1013 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 99–325; FCC 07–33]

Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective dates of rules published in the **Federal Register**. The rules relate to Digital Audio Broadcasting Systems, and the notification that those entities must provide the Federal Communications Commission when they commence broadcasting digital signals.

DATES: The final rules published on August 15, 2007 (72 FR 45670), amending 47 CFR 73.404(b), 73.404(e), and 73.1201, are effective January 22, 2008.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Ann Gallagher, *Ann.Gallagher@fcc.gov,* 202–418–2716, of the Media Bureau, Audio Division, or Brendan Murray, *Brendan.Murray@fcc.gov,* (202) 418–2120, of the Media Bureau, Policy Division.

SUPPLEMENTARY INFORMATION: In a Second Report and Order released on May 31, 2007, FCC 07–33, and published in the **Federal Register** on August 15, 2007, 72 FR 45670, the Federal Communications Commission adopted a new rule which contained information collection requirements subject to the Paperwork Reduction Act. The Second Report and Order stated that the rule changes requiring OMB approval would become effective immediately upon announcement in the **Federal Register** of OMB approval. On December 10, 2007, the Office of Management and Budget (OMB) approved the information collection requirements contained in 47 CFR 73.404(b), 73.404(e), and 73.1201. This information collection is assigned OMB Control Nos. 3060–0466 and 3060–1034. This publication satisfies the statement that the Commission would publish a document announcing the effective date of the rule changes requiring OMB approval.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–1008 Filed 1–18–08; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 73, No. 14
Tuesday, January 22, 2008

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 ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EERE–2007–BT–STD–0016]

RIN 1904–AB50

Energy Efficiency Program for Consumer Products: Public Meeting and Availability of the Framework Document for Fluorescent Lamp Ballasts

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of public meeting and availability of the Framework Document.

SUMMARY: The Department of Energy (DOE) is initiating the rulemaking and data collection process to consider establishing amended energy conservation standards for certain fluorescent lamp ballasts and to consider whether energy conservation standards should apply to additional fluorescent lamp ballasts. Accordingly, DOE will hold an informal public meeting to discuss and receive comments on its planned analytical approach and issues it will address in this rulemaking proceeding. DOE welcomes written comments from the public on this rulemaking. To inform stakeholders and to facilitate this process, DOE has prepared a Framework Document which details the analytical approach and identifies several issues on which DOE is particularly interested in receiving comment. A copy of the Framework Document is available at: *http://www.eere.energy.gov/buildings/appliance_standards/residential/fluorescent_lamp_ballasts.html*. In a separate rulemaking proceeding, DOE plans to review and to consider amendments to the test procedures used for determining the performance of fluorescent lamp ballasts. However, DOE is requesting preliminary comments on the fluorescent lamp ballast test procedure in this Framework Document.

DATES: The Department will hold a public meeting on February 6, 2008, from 9 a.m. to 4 p.m. in Washington, DC. Any person requesting to speak at the public meeting should submit such request along with a signed original and an electronic copy of the statement to be given at the public meeting before 4 p.m., January 30, 2008. Written comments on the Framework Document are welcome, especially following the public meeting, and should be submitted by March 7, 2008.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 1E–245, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon a possible by contacting Ms. Brenda Edwards at (202) 586–2945 so that the necessary procedures can be completed.

Stakeholders may submit comments, identified by docket number EERE–2007–BT–STD–0016 and/or Regulation Identifier Number (RIN) 1904–AB50, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: Ballasts.Rulemaking@ee.doe.gov*. Include EERE–2007–BT–STD–0016 and/or RIN 1904–AB50 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Framework Document for Fluorescent Lamp Ballasts, EERE–2007–BT–STD–0016 and/or RIN 1904–AB50, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. Please submit one signed paper original.

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking.

Docket: For access to the docket to read background documents, a copy of the transcript of the public meeting, or comments received, go to the U.S. Department of Energy, Resource Room of the Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards first at the above telephone number for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Graves, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–8654. E-mail: *Linda.Graves@ee.doe.gov*.

Mr. Eric Stas or Ms. Francine Pinto, U.S. Department of Energy, Office of the General Counsel, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–9507. E-mail: *Eric.Stas@hq.doe.gov* or *Francine.Pinto@hq.doe.gov*.

For information on how to submit or review public comments and on how to participate in the public meeting, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone (202) 586–2945. E-mail: *Brenda.Edwards@ee.doe.gov*.

SUPPLEMENTARY INFORMATION: The Energy Policy and Conservation Act (EPCA) of 1975, Pub. L. 94–163 (42 U.S.C. 6291–6309), established an energy conservation program for major household appliances. Additional amendments to EPCA have given DOE the authority to regulate the energy efficiency of several products, including certain fluorescent lamp ballasts—the products that are the focus of this notice. Amendments to EPCA in the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Pub. L. 100–357, established energy conservation

standards for fluorescent lamp ballasts.[1] (42 U.S.C. 6295(g)(5)) A table of the standards promulgated by NAECA 1988 can be found in Appendix A of the Framework Document. These same amendments also required that DOE: (1) Conduct two rulemaking cycles to determine whether these standards should be amended; and (2) for each rulemaking cycle, determine whether the standards in effect for fluorescent lamp ballasts should be amended so that they would be applicable to additional fluorescent lamp ballasts. (42 U.S.C. 6295(g)(7)(A)–(B))

On September 19, 2000, DOE published a final rule in the **Federal Register** which completed its first rulemaking cycle to amend energy conservation standards for fluorescent lamp ballasts. 65 FR 56740. A table of the standards codified by DOE in the Code of Federal Regulations (CFR) can be found in Appendix A of the draft Framework Document under 10 CFR 430.32(m)(3).

On August 8, 2005, the Energy Policy Act of 2005 (EPACT 2005), Pub. L. 109–58, established energy conservation standards for other specified fluorescent lamp ballasts. Specifically, these standards established minimum ballast efficacy requirements for ''energy saver'' versions of full-wattage ballasts, such as the F34T12 ballast. (EPACT section 135(c)(2); codified at 42 U.S.C. 6295(g)(8)(A)) In a final rule published in the **Federal Register** on October 18, 2005, DOE codified those new fluorescent lamp ballast standards into the CFR at 10 CFR 430.32(m). 70 FR 60407. A table of the standards promulgated by EPACT 2005 can be found in Appendix A of the Framework Document under 42 U.S.C. 6295(g)(8)(A) and at 10 CFR 430.32(m)(5).

In summary, fluorescent lamp ballasts that are currently regulated under EPCA, as amended, include fluorescent lamp ballasts that are designed to operate one and two nominally 40 watt (W) and 34W 4-foot T12 medium bipin lamps (F40T12 and F34T12), two nominally 75W and 60W 8-foot T12 single pin slimline lamps (F96T12 and F96T12/ES), and two nominally 110W and 95W 8-foot T12 recessed double contact high output lamps (F96T12 and F96T12/ES) at nominal input voltages of 120 or 277 volts with an input current frequency of 60 hertz. 10 CFR 430.32(m). Ballasts that are excluded from regulation include: (1) Ballasts designed for dimming to 50 percent or less of its maximum output; (2) ballasts designed for use with two F96T12HO lamps at ambient temperatures of −20 degrees Fahrenheit (°F) or less and for use in an outdoor sign, or ballasts designed for use with two F96T12HO/ES lamps at ambient temperatures of 20 °F or less and for use in an outdoor sign;[2] (3) ballasts with a power factor of less than 0.90 and designed and labeled for use only in residential building applications; and (4) replacement ballasts as defined in paragraph (m)(4)(ii).[3] 10 CFR 430.32(m)(2), (m)(4), and (m)(7).

In addition to establishing energy conservation standards for fluorescent lamp ballasts, EPCA established test procedures for fluorescent lamp ballasts which incorporate by reference American National Standards Institute (ANSI) Standard C82.2–1984, ''For Fluorescent Lamp Ballasts—Methods of Measurement'' (42 U.S.C. 6293(b)(5)). DOE notes that the 1984 version of ANSI Standard C82.2 internally references other testing methods for magnetic ballasts (i.e., ANSI Standard C82.1–1977, ''For Lamp Ballast—Line Frequency Fluorescent Lamp Ballast'') but it does not reference testing methods for electronic ballasts, which have subsequently been developed (e.g., ANSI C82.11–2002, ''For Lamp Ballasts—High Frequency Fluorescent Lamp Ballasts''). Because the lighting market is moving towards electronic ballasts, DOE intends to review and possibly amend its test procedures for fluorescent lamp ballasts in a separate (test procedure) rulemaking so as to include test procedures for electronic ballasts. However, DOE is inviting comment on its review of the fluorescent lamp ballast test procedure in the Framework Document for the energy conservation standard rulemaking.

In addition to considering amending the test procedure to include test procedures for electronic ballasts, DOE is directed to amend the fluorescent lamp ballast test procedure by the Energy Independence and Security Act of 2007 (EISA 2007) (Pub. L. 110–140) signed by the President on December 19, 2007. EISA 2007 directs DOE to amend its test procedure for fluorescent lamp ballasts to incorporate a measure of standby mode and off mode energy use by March 31, 2009 (42 U.S.C. 6295(gg)(2)(B)(ii)). In addition, pursuant to 42 U.S.C. 6295(o), DOE is directed to incorporate standby mode and off mode energy use in any amended (or new) standard adopted after July 1, 2010. Because this energy conservation standards rulemaking for fluorescent lamp ballasts will be completed in 2011, the requirement to incorporate standby mode and off mode energy use into the energy conservation standards analysis is applicable. EISA 2007 also contains a definition for ''ballast'' and ''electronic ballast,'' as well as standards for metal halide fixtures, but none of these new definitions or requirements changes the analysis DOE intends to conduct in the energy conservation standards rulemaking for fluorescent lamp ballasts.

To initiate the second rulemaking cycle to consider amended energy conservation standards for fluorescent lamp ballasts, DOE has prepared a Framework Document to explain the issues, analyses, and processes it anticipates using for the development of potential energy efficiency standards for certain fluorescent lamp ballasts. In the Framework Document, DOE also presents its initial approach for determining whether the standards should be made applicable to specific ballast types, when implementing its statutory mandate to consider additional fluorescent lamp ballasts. As noted above, DOE will hold a public meeting on February 6, 2008 in Washington DC, the main focus of which will be to discuss the analyses presented and issues identified in the Framework Document. At the public meeting, the

[1] Although fluorescent lamp ballasts are typically understood to be a product used in the commercial and industrial sectors, it is the ''consumer products'' section of the statute which grants authority to DOE to cover and regulate this product. In the United States Code, Title 42 ''The Public Health and Welfare,'' Chapter 77 ''Energy Conservation,'' Subchapter III ''Improving Energy Efficiency,'' there are two parts which cluster together the group of products which DOE regulates. First, there is ''Part A—Energy Conservation Program for Consumer Products Other than Automobiles'' which includes a range of consumer products, some which may be classified as being used primarily in the residential sector, such as refrigerators, dishwashers and clothes washers. However, Part A also includes consumer products that might also be used primarily in the commercial sector, such as fluorescent lamps, fluorescent lamp ballasts and urinals. Second, Subchapter III has ''Part A–1—Certain Industrial Equipment,'' which includes products that are primarily used in the commercial and industrial sectors, such as electric motors and pumps, and packaged terminal air conditioners and heat pumps.

[2] Note that in 10 CFR 430.32(m)(7), the temperature exemption granted under EPACT 2005 is slightly different than that contained in sections (m)(2) and (m)(4). In subsection (m)(7), ballasts designed for use with two F96T12HO/ES lamps at ambient temperatures ''of 20 degrees F or less'' and designated for use in an outdoor sign are exempt from the standards in paragraph (m)(5). The other sections require the ballast to be for ambient temperatures of negative 20 degrees F or less.

[3] The exclusion provided for replacement ballasts requires that they meet certain criteria in order to be considered a replacement ballast, such as being designed to replace an existing ballast in a previously installed luminaire and being marked ''FOR REPLACEMENT USE ONLY.'' This exclusion only applies to replacement ballasts manufactured on or before June 30, 2010. After that date, replacement ballasts will no longer be excluded. (10 CFR 430.32(m)(4)(ii)(A)) See Appendix A for the exact language of the exclusion for replacement ballasts.

Department will make a number of presentations, invite discussion on the rulemaking process as it applies to certain fluorescent lamp ballasts, and solicit comments, data, and information from participants and other stakeholders. DOE will also invite comment on DOE's preliminary determination regarding the scope of coverage for the fluorescent lamp ballast standard. DOE is considering expanding the scope of coverage to include additional fluorescent lamp ballasts that would be analyzed in the energy conservation standards rulemaking.

The Department encourages those who wish to participate in the public meeting to obtain the Framework Document and to be prepared to discuss its contents. A copy of the draft Framework Document is available at: *http://www.eere.energy.gov/buildings/appliance_standards/residential/fluorescent_lamp_ballasts.html*.

Public meeting participants need not limit their comments to the issues identified in the Framework Document. The Department is also interested in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for these products, applicable test procedures, or the preliminary determination on the scope of coverage for fluorescent lamp ballasts. Furthermore, the Department welcomes all interested parties, whether or not they participate in the public meeting, to submit in writing by March 7, 2008, comments and information on matters addressed in the Framework Document and on other matters relevant to consideration of standards for fluorescent lamps ballasts.

The public meeting will be conducted in an informal, facilitated, conference style. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by U.S. antitrust laws. A court reporter will record the proceedings of the public meeting, after which a transcript will be made available for purchase from the court reporter.

After the public meeting and the close of the comment period on the Framework Document, DOE will begin collecting data, conducting the analyses as discussed in the Framework Document and at the public meeting, and reviewing the comments received.

DOE considers public participation to be a very important part of the process for setting energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Beginning with the Framework Document, and during each subsequent public meeting and comment period, interactions with and between members of the public provide a balanced discussion of the issues to assist DOE with the standards rulemaking process. Accordingly, anyone who would like to participate in the public meeting, receive meeting materials, or be added to the DOE mailing list to receive future notices and information regarding this rulemaking on fluorescent lamp ballasts, should contact Ms. Brenda Edwards at (202) 586–2945, or via e-mail at: *Brenda.Edwards@ee.doe.gov*.

Issued in Washington, DC, on January 14, 2008.

John F. Mizroch,

Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E8–938 Filed 1–18–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

Existence of Proposed Airworthiness Design Standards for Acceptance Under the Primary Category Rule; Cubcrafters, Inc., Model PC18–160

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments.

SUMMARY: This notice announces the existence of and requests comments on proposed airworthiness design standards for acceptance of the Cubcrafters, Inc., Model PC18–160 airplane under the regulations for designation of applicable regulations for primary category aircraft.

DATES: Comments must be received on or before February 21, 2008.

ADDRESSES: Send all comments to the Federal Aviation Administration (FAA), Standards Office, Small Airplane Directorate (ACE–110), Aircraft Certification Service, 901 Locust Street, Room 301, Kansas City, MO 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie B. Taylor, Aerospace Engineer, Standards Office (ACE–111), Small Airplane Directorate, Aircraft Certification Service, FAA; telephone number (816) 329–4134, fax number (816) 329–4090, e-mail at *leslie.b.taylor@faa.gov*.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this information by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**.

Comments Invited

We invite interested parties to submit comments on the proposed airworthiness standards to the address specified above. Commenters must identify the Model PC18–160 and submit comments to the address specified above. The FAA will consider all communications received on or before the closing date before issuing the final acceptance. The proposed airworthiness design standards and comments received may be inspected at the FAA, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE–110), 901 Locust Street, Room 301, Kansas City, MO 64106, between the hours of 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

Background

The ''primary'' category for aircraft was created specifically for the simple, low performance personal aircraft. Section 21.17(f) provides a means for applicants to propose airworthiness standards for their particular primary category aircraft. The FAA procedure establishing appropriate airworthiness standards includes reviewing and possibly revising the applicant's proposal, publication of the submittal in the **Federal Register** for public review and comment, and addressing the comments. After all necessary revisions, the standards are published as approved FAA airworthiness standards.

Accordingly, the applicant, Cubcrafters, Inc., has submitted a request to the FAA to include the following:

Airframe and Systems

ASTM F2245–07, ''Standard Specification for Design and Performance of a Light Sport Airplane,'' modified as follows:

1. Federal Aviation Regulations 23 Loads Report and Test Proposal to be reviewed and approved by ACO. Specifically, Section 5 of ASTM F2245–07 is replaced by Federal Aviation Regulations part 23, §§ 23.301 through 23.561 (latest amendments through Amendment 23–55) as applicable to this airplane.

2. All major structural components will be tested as per the approved Test Proposal (this eliminates ''analysis'' allowed by ASTM).

3. Paragraph 4.2.1 of ASTM F2245–07 is replaced by Federal Aviation Regulations part 23, § 23.25(b) except that the empty weight referred to in Federal Aviation Regulations part 23, § 23.25(b)(1) is replaced by the

maximum empty weight defined in Paragraph 3.1.2 of ASTM F2245–07.

Engine

The engine may not have its own type certificate; in such case it will be included in the airplane type certificate using the following as a proposed certification basis:

1. ASTM F2339–06, ''Standard Practice for Design and Manufacture of Reciprocating Spark Ignition Engines for Light Sport Aircraft,'' modified as follows: Engine parts and assemblies will be manufactured under the purview of a production certificate held by the applicant. Section 7 of ASTM F2339–06 does not apply.

2. Optionally, the applicant may elect to use a type certificated engine up to 180 horsepower.

Propeller

A type certificated propeller will be used.

Proposed Airworthiness Standards for Acceptance Under the Primary Category Rule

The FAA is requiring use of the part 23 rules in addition to the Light Sport Airplane Consensus Standards. The applicant has agreed to this position; therefore, the certification basis for the Cubcrafters, Inc., Model PC18–160 will be the Primary Category Rule (part 21, § 21.24) with Amendment 23–57 for 14 CFR, part 23, §§ 23.853(a); 23.863; 23.1303(a), (b), and (c); 23.1311(a)(1) through (a)(4), and (b); 23.1321; 23.1322; 23.1329 and 23.1359 and:

Airframe and Systems

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2. Optionally, the applicant may elect to use a type certificated engine up to 180 horsepower.

Propeller

A type certificated propeller will be used.

In addition to the applicable airworthiness regulations, the PC18–160 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36; and the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Issued in Kansas City, Missouri on January 11, 2008.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–852 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0048; Directorate Identifier 2007–NM–276–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

Based on some recent in-service findings for fluid ingress and/or inner skin disbond damage on rudders, AIRBUS decided to introduce some further structural inspections to specific rudder areas. This type of damage could result in reduced structural integrity of the rudder.

* * * * *

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

DATES: We must receive comments on this proposed AD by February 21, 2008.

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 W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

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:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0048; Directorate Identifier 2007–NM–276–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory,

economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On March 24, 2006, we issued AD 2006–07–13, Amendment 39–14540 (71 FR 16030, March 30, 2006), to require one-time inspections of the rudder for discrepancies, and corrective action if necessary. That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2006–07–13, the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2007–0266, dated October 8, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Based on some recent in-service findings for fluid ingress and/or inner skin disbond damage on rudders, AIRBUS decided to introduce some further structural inspections to specific rudder areas. This type of damage could result in reduced structural integrity of the rudder.
>
> For the reasons stated above, this AD requires the accomplishment of a thorough inspection program [a one-time inspection and repetitive inspections for damage of the rudder] by ultrasonic and/or t[h]ermographic methods, compared to the inspections already required by Airworthiness Directive (AD) 2006–0066, issued on 24 March 2006 [which corresponds to FAA AD 2006–07–13] as a precautionary measure, in order to verify the structural integrity of the rudder.
>
> * * * * *

The corrective actions include reporting both positive and negative findings to Airbus, doing a temporary repair, and contacting Airbus for repair instructions and doing a permanent repair. The compliance times for doing the repairs range from before further flight to within 4,500 flight cycles after doing the inspection, depending on the inspection type and the configuration of the airplane. The repetitive inspection intervals range from 1,200 flight cycles to 5,000 flight cycles, depending on the inspection type and the configuration of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued the following service bulletins:

- A300–55–6043, Revision 01, dated December 3, 2007
- A300–55–6044, Revision 01, dated December 20, 2007
- A310–55–2044, Revision 01, dated December 3, 2007
- A310–55–2045, Revision 01, dated December 20, 2007

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 123 products of U.S. registry. We also estimate that it would take about 22 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $216,480, or $1,760 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–14540 (71 FR

16030, March 30, 2006) and adding the following new AD:

Airbus: Docket No. FAA–2008–0048; Directorate Identifier 2007–NM–276–AD.

Comments Due Date

(a) We must receive comments by February 21, 2008.

Affected ADs

(b) The proposed AD supersedes AD 2006–07–13, Amendment 39–14540.

Applicability

(c) This AD applies to AIRBUS Model A310 and A300–600 series airplanes, certificated in any category, all certified models, all serial numbers, on which rudder Part Number (P/N) A55471500 series is fitted, except for those airplanes on which AIRBUS modification number 08827 has been incorporated in production.

Subject

(d) Air Transport Association (ATA) of America Code 55: Stabilizers.

Reason

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

Based on some recent in-service findings for fluid ingress and/or inner skin disbond damage on rudders, AIRBUS decided to introduce some further structural inspections to specific rudder areas. This type of damage could result in reduced structural integrity of the rudder.

For the reasons stated above, this AD requires the accomplishment of a thorough inspection program [a one-time inspection and repetitive inspections for damage of the rudder] by ultrasonic and/or t[h]ermographic methods, compared to the inspections already required by Airworthiness Directive (AD) 2006–0066, issued on 24 March 2006 [which corresponds to FAA AD 2006–07–13] as a precautionary measure, in order to verify the structural integrity of the rudder.

* * * * *

The corrective actions include reporting both positive and negative findings to Airbus, doing a temporary repair, and contacting Airbus for repair and doing a permanent repair.

Actions and Compliance

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

(1) Within 500 flight cycles or 6 months after the effective date of this AD, whichever occurs first, perform a special detailed one-time inspection in the areas of rudder hoisting points and trailing edge screws, in accordance with the instructions given in Airbus Service Bulletin A310–55–2045 or A300–55–6044, both Revision 01, both dated December 20, 2007, as applicable.

(i) If no damage is found, within 30 days after the inspection or 30 days after the effective date of this AD, whichever occurs later, report to Airbus using Appendix 1 or 2, as applicable to the airplane configuration, of Airbus Service Bulletin A310–55–2045 or A300–55–6044, both Revision 01, as applicable.

(ii) If any damage is found, within the timescale(s) indicated in Airbus Service Bulletin A310–55–2045 or A300–55–6044, both Revision 01, as applicable, report to Airbus using Appendix 1 or 2, as applicable to the airplane configuration, of Airbus Service Bulletin A310–55–2045 or A300–55–6044, both Revision 01, as applicable, to get further instructions for repair. Accomplish the repair within the timescale(s) indicated in, and in accordance with the instructions given in paragraph 3.B.(1)(a) or 3.B.(2)(a), as applicable to the airplane configuration, of Airbus Service Bulletin A310–55–2045 or A300–55–6044, both Revision 01, as applicable.

(2) Within 500 flight cycles or 6 months after the effective date of this AD, whichever occurs first, perform a special detailed inspection along the rudder Z-profile, in accordance with the instructions given in Airbus Service Bulletin A310–55–2044 or A300–55–6043, both Revision 01, both dated December 3, 2007, as applicable. For airplanes identified as configuration 01 in the service bulletins, repeat the inspection thereafter at intervals not to exceed 1,400 flight cycles. For airplanes identified as Configuration 02 in the service bulletins, repeat the inspection thereafter at intervals not to exceed 5,000 flight cycles. For temporary repair along the rudder Z-profile for both airplanes identified as configuration 01 and 02, refer to paragraph 3.C.(1) of Airbus Service Bulletin A310–55–2044 or A300–55–6043, both Revision 01, as applicable.

(i) If no damage is found, within 30 days after the inspection or 30 days after the effective date of this AD, whichever occurs later, report to AIRBUS using Appendix 1 or 2, as applicable to the airplane configuration, of Airbus Service Bulletin A310–55–2044 or A300–55–6043, both Revision 01, as applicable.

(ii) If any damage is found, verify the findings and apply all applicable corrective actions within the timescale(s) indicated in, and in accordance with instructions given in paragraph 3.B.(1)(a) or 3.B.(2)(a), as applicable to the airplane configuration, of Airbus Service Bulletin A310–55–2044 or A300–55–6043, both Revision 01, as applicable. Within 30 days after the inspection or corrective action or 30 days after the effective date of this AD, whichever occurs later, submit a report to Airbus using Appendix 1 or 2, as applicable to the airplane configuration, of Airbus Service Bulletin A310–55–2044 or A300–55–6043, both Revision 01, as applicable.

Note 1: For rudder configuration identification, refer to Appendices 3 and 4 of Airbus Service Bulletin A310–55–2044, A310–55–2045, A300–55–6043, and A300–55–6044, as applicable to the airplane model and configuration.

(3) As of 30 days after the effective date of this AD: No person shall install a P/N A55471500 series rudder on any airplane as a replacement, unless it has been inspected and repaired, as applicable, in accordance with the instructions of Airbus Service Bulletins A310–55–2045, Revision 01, dated December 20, 2007, and A310–55–2044, Revision 01, dated December 3, 2007; or Airbus Service Bulletins A300–55–6044, Revision 01, dated December 20, 2007, and A300–55–6043, Revision 01, dated December 3, 2007; as applicable.

(4) Actions accomplished before the effective date of this AD in accordance with Airbus Service Bulletin A300–55–6044 or A310–55–2045, both dated July 23, 2007, are considered acceptable for compliance with the corresponding actions specified in paragraph (f)(1) of this AD.

(5) Actions accomplished before the effective date of this AD in accordance with Airbus Service Bulletin A300–55–6043 or A310–55–2044, both dated July 23, 2007, are considered acceptable for compliance with the corresponding actions specified in paragraph (f)(2) of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: 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. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2007–0266, dated October 8, 2007, and the service bulletins listed in Table 1 of this AD, for related information.

TABLE 1.—AIRBUS SERVICE INFORMATION

Airbus Service Bulletin	Revision	Date
A300–55–6043	01	December 3, 2007.
A300–55–6044	01	December 20, 2007.
A310–55–2044	01	December 3, 2007.
A310–55–2045	01	December 20, 2007.

Issued in Renton, Washington, on January 15, 2008.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–977 Filed 1–18–08; 8:45 am]

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Notices

Federal Register

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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.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Funding Opportunity Title: Commodity Partnerships for Risk Management Education (Commodity Partnerships Program)

Announcement Type: Availability of Funds and Request for Applications for Competitive Cooperative Partnership Agreements.

Catalog of Federal Domestic Assistance Number (CFDA): 10.457.

DATES: Applications are due by 5 p.m. EST March 24, 2008.

SUMMARY: The Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of approximately $3.75 million (subject to availability of funds) for Commodity Partnerships for Risk Management Education (the Commodity Partnerships Program). The purpose of this cooperative partnership agreement program is to deliver training and information in the management of production, marketing, and financial risk to U.S. agricultural producers. The program gives priority to educating producers of crops currently not insured under Federal crop insurance, specialty crops, and underserved commodities, including livestock and forage. A maximum of 50 cooperative partnership agreements will be funded, with no more than five in each of the ten designated RMA Regions. The maximum award for any of the 50 cooperative partnership agreements will be $75,000. Applicants must demonstrate non-financial benefits from a cooperative partnership agreement and must agree to the substantial involvement of RMA in the project.

The collections of information in this announcement have been approved by OMB under control number 0563–0067 through January 31, 2009.

This Announcement Consists of Eight Sections:

Section I—Funding Opportunity Description
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B. Background
C. Definition of Priority Commodities
D. Project Goal
E. Purpose
F. Objectives
Section II—Award Information
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B. Funding Availability
C. Location and Target Audience
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I. Funding Opportunity Description

A. Legislative Authority

The Commodity Partnerships Program is authorized under section 522(d)(3)(F) of the Federal Crop Insurance Act (Act) (7 U.S.C. 1522(d)(3)(F).

B. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information. One of RMA's strategic goals is to ensure that its customers are well informed as to the risk management solutions available. This educational goal is supported by section 522(d)(3)(F) of the Act, which authorizes FCIC funding for risk management training and informational efforts for agricultural producers through the formation of partnerships with public and private organizations. With respect to such partnerships, priority is to be given to reaching producers of Priority Commodities, as defined below.

C. Definition of Priority Commodities

For purposes of this program, Priority Commodities are defined as:

- *Agricultural commodities covered by (7 U.S.C. 7333).* Commodities in this group are commercial crops that are not covered by catastrophic risk protection crop insurance, are used for food or fiber (except livestock), and specifically include, but are not limited to, floricultural, ornamental nursery, Christmas trees, turf grass sod, aquaculture (including ornamental fish), and industrial crops.
- *Specialty crops.* Commodities in this group may or may not be covered

under a Federal crop insurance plan and include, but are not limited to, fruits, vegetables, tree nuts, syrups, honey, roots, herbs, and highly specialized varieties of traditional crops.

• *Underserved commodities.* This group includes: (a) Commodities, including livestock and forage, that are covered by a Federal crop insurance plan but for which participation in an area is below the national average; and (b) commodities, including livestock and forage, with inadequate crop insurance coverage.

A project is considered as giving priority to Priority Commodities if the majority (75%) of the educational activities of the project are directed to producers of any of the three classes of commodities listed above or any combination of the three classes.

D. Project Goal

The goal of this program is to ensure that ''* * * producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools.''

E. Purpose

The purpose of the Commodity Partnership Program is to provide U.S. farmers and ranchers with training and informational opportunities to be able to understand:

• The kinds of risks addressed by existing and emerging risk management tools;

• The features and appropriate use of existing and emerging risk management tools; and

• How to make sound risk management decisions.

F. Objectives

For 2008, the FCIC Board of Directors and the FCIC Manager are seeking projects that include the special emphasis topics (topic) listed below which highlight the objectives within each RMA Region. The topics are listed in priority order, with the most important topic designated as 1, the second most important designated as 2, etc. The order of priority will be considered in making awards. Applicants may propose other topics within any project. RMA encourages applications that address multiple topics, but each application must specify a single primary topic for funding purposes in an RMA Region. At least 75 percent of the project must be towards the primary topic. Applications that do not clearly specify a single primary topic for funding purposes in an RMA Region in block 15 of the SF–424 form will be rejected. ''General Agricultural Risk Management Topics'' are topics that address the Commodity Partnership Program purpose as listed above in section I E. In order of priority, the special emphasis topics are:

Billings, MT Region: (MT, ND, SD, and WY)

1. Forage Insurance Tools (MT, ND, SD, and WY).
2. Risks of Growing Crops and Insurance Options for Biodiesel and Ethanol Fuel Purposes (MT, ND, SD, and WY).
3. Livestock Risk Protection (LRP) Lamb Insurance Tools (MT, ND, SD, WY).
4. General Agricultural Risk Management Topics.

Davis, CA Region: (AZ, CA, HI, NV, and UT)

1. Actual Revenue History Insurance Tools for Cherries (CA, UT).
2. AGR (CA) and AGR-Lite Insurance Tools (AZ, HI, NV, UT).
3. LRP Insurance Tools (AZ, CA, NV, UT).
4. General Agricultural Risk Management Topics.

Jackson, MS Region: (AR, KY, LA, MS, and TN)

1. Record Keeping Requirements for AGR-Lite Insurance Tools (TN).
2. LRP Insurance Tools, PRF Rainfall Index and the PRF Vegetation Index Insurance Tools (AR, KY, LA, MS, and TN).
3. Nursery Price Endorsement Crop Insurance Tool (AR, KY, LA, MS, and TN).
4. General Agricultural Risk Management Topics.

Oklahoma City, OK Region: (NM, OK, and TX)

1. Risks of Growing and Insuring Bioethanol crops (OK, TX).
2. Risks of Growing, Marketing, and Insuring Canola (OK).
3. LRP Lamb Insurance Tools (NM, OK, and TX).
4. General Agricultural Risk Management Topics.

Raleigh, NC Region: (CT, DE, MA, MD, ME, NC, NH, NY, NJ, PA, RI, VA, VT, and WV)

1. *Virginia*—Apple, AGR-Lite, LRP for Feeder Cattle, Fed Cattle, Lamb, and Swine Insurance Tools.
2. *North Carolina*—AGR-Lite, and LRP for Feeder Cattle, Fed Cattle, Lamb, and Swine Insurance Tools.
3. *AGR-Lite Insurance Tools*—(CT, DE, MA, ME, MD, NC, NH, NY, NJ, PA, RI, VA, VT, and WV).
4. General Agricultural Risk Management Topics.

Spokane, WA Region: (AK, ID, OR, and WA)

1. AGR-Lite (AGR where applicable) Insurance Tools (Western WA and/or in Western OR).
2. LRP Insurance Tools for Feeder Cattle, Fed Cattle, and Swine (ID, OR, WA) and Lamb (ID, OR).
3. Potato Insurance Tools for Pacific Northwest Potato Growers.
4. General Agricultural Risk Management Topics.

Springfield, IL Region: (IL, IN, MI, and OH)

1. AGR Insurance Tools (MI).
2. Forage Production Insurance Tools (IL and MI) and Forage Seeding Index Insurance Tools (MI).
3. Wheat Insurance Tools (IL, IN, MI, OH).
4. General Agricultural Risk Management Topics.

St. Paul, MN Region: (IA, MN, and WI)

1. Insuring Non-traditional Crops Using Written Agreements and AGR-Lite Insurance Tools (IA, MN and WI).
2. Forage Production Insurance Tools (IA, MN, and WI).
3. Record Keeping for Apples and Grapes Insurance Tools (IA, MN, and WI).
4. General Agricultural Risk Management Topics.

Topeka, KS Region: (CO, KS, MO, and NE)

1. AGR-Lite Insurance Tools (CO, KS).
2. PRF Rainfall Index and PRF Vegetation Index Insurance Tools (CO).
3. Documentation Requirements for Irrigation Availability (CO, KS, NE).
4. General Agricultural Risk Management Topics.

Valdosta, GA Region: (AL, FL, GA, SC, and Puerto Rico)

1. PRF Rainfall Index (AL, SC) and PRF Vegetation Index Insurance Tools (SC).
2. AGR-Lite Insurance Tools (AL, FL, GA and SC).
3. Citrus and Florida Fruit Tree Insurance Tools (FL).
4. General Agricultural Risk Management Topics.

II. Award Information

A. Type of Award

Cooperative Partnership Agreements, which require the substantial involvement of RMA.

B. Funding Availability

Approximately $3,750,000 (subject to availability of funds) is available in fiscal year 2008 to fund up to 50

cooperative partnership agreements. The maximum award will be $75,000. It is anticipated that a maximum of five agreements will be funded for each designated RMA Region. Applicants should apply for funding under that RMA Region where the educational activities will be directed.

In the event that all funds available for this program are not obligated after the maximum number of agreements are awarded or if additional funds become available, these funds may, at the discretion of the Manager of FCIC, be used to award additional applications that score highly by the technical review panel or allocated pro-rata to awardees for use in broadening the size or scope of awarded projects if agreed to by the awardee. In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements than the available funding might otherwise allow. It is expected that the awards will be made approximately 120 days after the application deadline. All awards will be made and agreements finalized no later than September 30, 2008.

C. Location and Target Audience

RMA Regional Offices and the States serviced within each Region are listed below. Staff from the respective RMA Regional Offices will provide substantial involvement for projects conducted within their Region.

Billings, MT Regional Office: (MT, ND, SD, and WY).

Davis, CA Regional Office: (AZ, CA, HI, NV, and UT).

Jackson, MS Regional Office: (AR, KY, LA, MS, and TN).

Oklahoma City, OK Regional Office: (NM, OK, and TX).

Raleigh, NC Regional Office: (CT, DE, MA, MD, ME, NC, NH, NJ, NY, PA, RI, VA, VT, and WV).

Spokane, WA Regional Office: (AK, ID, OR, and WA).

Springfield, IL Regional Office: (IL, IN, MI, and OH).

St. Paul, MN Regional Office: (IA, MN, and WI).

Topeka, KS Regional Office: (CO, KS, MO, and NE).

Valdosta, GA Regional Office: (AL, FL, GA, SC, and Puerto Rico).

Applicants must clearly designate the RMA Region where educational activities will be conducted, and must clearly identify the primary topic listed in section I (F) that the project will address in their application narrative (Form RME–1) and in block 15 of the SF–424 form. Priority will be given to producers of Priority Commodities. Applicants proposing to conduct educational activities in more than one RMA Region must submit a separate application for each RMA Region. Single applications proposing to conduct educational activities in more than one RMA Region will be rejected.

D. Maximum Award

Any application that requests Federal funding of more than $75,000 will be rejected. RMA also reserves the right to fund successful applications at an amount less than requested if it is judged that the application can be implemented at a lower funding level.

E. Project Period

Projects will be funded for a period of up to one year from the project starting date.

F. Awardee Tasks

In conducting activities to achieve the purpose and goal of this program in a designated RMA Region, the awardee will be responsible for performing the following tasks:

- Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other appropriate informational dissemination techniques that are designed to: (a) Raise awareness for risk management; (b) inform producers of the availability of risk management tools; and (c) inform producers and agribusiness leaders in the designated RMA Region of training and informational opportunities.
- Deliver risk management training and informational opportunities to agricultural producers and agribusiness professionals in the designated RMA Region. This will include organizing and delivering educational activities using instructional materials that have been assembled to meet the local needs of agricultural producers. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise producers on risk management tools and decisions.
- Document all educational activities conducted under the partnership agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The awardee may also be required to provide information to an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

G. RMA Activities

FCIC, working through RMA, will be substantially involved during the performance of the funded project through RMA's ten Regional Offices. Potential types of substantial involvement may include, but are not limited to the following activities.

- Collaborate with the awardee in assembling, reviewing, and approving risk management materials for producers in the designated RMA Region.
- Collaborate with the awardee in reviewing and approving a promotional program for raising awareness for risk management and for informing producers of training and informational opportunities in the RMA Region.
- Collaborate with the awardee on the delivery of education to producers and agribusiness leaders in the RMA Region. This will include: (a) Reviewing and approving in advance all producer and agribusiness leader educational activities; (b) advising the project leader on technical issues related to crop insurance education and information; and (c) assisting the project leader in informing crop insurance professionals about educational activity plans and scheduled meetings.
- Conduct an evaluation of the performance of the awardee in meeting the deliverables of the project.
- Assist in the selection of subcontractors and project staff.

Applications that do not contain substantial involvement by RMA will be rejected.

H. Other Tasks

In addition to the specific, required tasks listed above, the applicant may propose additional tasks that would contribute directly to the purpose of this program. For any proposed additional task, the applicant must identify the objective of the task, the specific subtasks required to meet the objective, specific time lines for performing the subtasks, and the specific responsibilities of partners. The applicant must also identify specific ways in which RMA would have substantial involvement in the proposed project task.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants include State departments of agriculture, universities, non-profit agricultural organizations, and other public or private organizations with the capacity to lead a local program of risk management education for farmers and ranchers in an RMA Region. Individuals are not

eligible applicants. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program governed by Federal law and regulations (e.g., debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or partnership; a determination of a violation of applicable ethical standards; a determination of being considered ''high risk''). Applications from ineligible or excluded persons will be rejected in their entirety.

B. Cost Sharing or Matching

Although RMA prefers cost sharing by the applicant, this program has neither a cost sharing nor a matching requirement.

C. Other—Non-Financial Benefits

To be eligible, applicants must also be able to demonstrate that they will receive a non-financial benefit as a result of a partnership agreement. Non-financial benefits must accrue to the applicant and must include more than the ability to provide employment income to the applicant or for the applicant's employees or the community. The applicant must demonstrate that performance under the partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete their educational program). Applicants that do not demonstrate a non-financial benefit will be rejected.

IV. Application and Submission Information

A. Contact to Request Application Package

Program application materials for the Commodity Partnerships Program under this announcement may be downloaded from *http://www.rma.usda.gov/aboutrma/agreements*. Applicants may also request application materials from: Lon Burke, USDA–RMA–RME, phone: (202) 720–5265, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov*.

B. Content and Form of Application Submission

A complete and valid application package must be submitted in one package at the time of initial submission, which must include the following:

1. An original and two copies of the completed and signed application.
2. An electronic copy (Microsoft Word format preferred) of the narrative portion (Forms RME–1 and RME–2) of the application package on a compact disc.
3. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance.''
4. A completed and signed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs.'' Federal funding requested (the total of direct and indirect costs) must not exceed $75,000.
5. A completed and signed OMB Standard Form 424–B, ''Assurances, Non-constructive Programs.''
6. Risk Management Education Project Narrative (Form RME–1). Complete all required parts of Form RME–1:

Part I—Title Page.

Part II—A written narrative of no more than 10 single-sided pages which will provide reviewers with sufficient information to effectively evaluate the merits of the application according to the evaluation criteria listed in this notice. Although a Statement of Work, which is the third evaluation criterion, is to be completed in detail in RME Form-2, applicants may wish to highlight certain unique features of the Statement of Work in Part II for the benefit of the evaluation panel. If your narrative exceeds the page limit, only the first 10 pages will be reviewed.

- No smaller than 12 point font size.
- Use an easily readable font face (e.g., Arial, Geneva, Helvetica, Times Roman).
- 8.5 by 11 inch paper.
- One-inch margins on each page.
- Printed on only one side of paper.
- Held together only by rubber bands or metal clips; not bound or stapled in any other way.

Part III—A Budget Narrative, describing how the categorical costs listed on SF 424–A are derived. The budget narrative should provide enough detail for reviewers to easily understand how costs were determined and how they relate to the goals and objectives of the project.

Part IV—Provide a ''Statement of Non-financial Benefits.'' (Refer to section III, Eligibility Information, C. Other—Non-financial Benefits, above).

7. ''Statement of Work,'' Form RME–2, which identifies tasks and subtasks in detail, expected completion dates and deliverables, and RMA's substantial involvement role for the proposed project.
8. A completed and signed OMB Standard Form LLL, ''Disclosure of Lobbying Activities.''
9. A completed and signed AD–1047, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions.''
10. A completed and signed AD–1049, ''Certification Regarding Drug-Free Workplace.'' Applications that do not include items 1–7 above will be considered incomplete, will not receive further consideration, and will be rejected.

C. Funding Restrictions

Cooperative partnership agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;
b. Purchase, rent, or install fixed equipment;
c. Repair or maintain privately owned vehicles;
d. Pay for the preparation of the cooperative partnership agreement application;
e. Fund political activities;
f. Purchase alcohol, food, beverage, or entertainment;
g. Lend money to support farming or agricultural business operation or expansion;
h. Pay costs incurred prior to receiving a partnership agreement;
i. Fund any activities prohibited in 7 CFR Parts 3015 and 3019, as applicable.

D. Limitation on Use of Project Funds for Salaries and Benefits

Total costs for salary and benefits allowed for projects under this announcement will be limited to not more than 70 percent reimbursement of the funds awarded under the cooperative partnership agreement as indicated in section III. Eligibility Information, C. Other—Non-financial Benefits. One goal of the Commodity Partnerships program is to maximize the use of the limited funding available for risk management education for producers of Priority Commodities. In order to accomplish this goal, RMA needs to ensure that the maximum amount of funds practicable is used for directly providing the educational opportunities. Limiting the amount of funding for salaries and benefits will allow the limited amount of funding to reach the maximum number of farmers and ranchers.

E. Indirect Cost Rates

a. Indirect costs allowed for projects submitted under this announcement will be limited to ten (10) percent of the total direct cost of the cooperative partnership agreement. Therefore, when preparing budgets, applicants should limit their requests for recovery of indirect costs to the lesser of their institution's official negotiated indirect cost rate or 10 percent of the total direct costs.

b. RMA will withhold all indirect cost rate funds for an award to an applicant requesting indirect costs if the applicant has not negotiated an indirect cost rate with its cognizant Federal agency.

c. If an applicant is in the process of negotiating an indirect cost rate with its cognizant Federal agency, RMA will withhold all indirect cost rate funds from that applicant until the indirect cost rate has been established.

d. If an applicant's indirect cost rate has expired or will expire prior to award announcements, a clear statement on renegotiation efforts must be included in the application.

e. It is incumbent on all applicants to have a current indirect cost rate or begin negotiations to establish an indirect cost rate prior to the submission deadline. Because it may take several months to obtain an indirect cost rate, applicants needing an indirect cost rate are encouraged to start work on establishing these rates well in advance of submitting an application. The U.S. Office of Management and Budget (OMB) is responsible for assigning cognizant Federal agencies.

f. Applicants may be asked to provide a copy of their indirect cost rate negotiated with their cognizant agency.

g. RMA reserves the right to negotiate final budgets with successful applicants.

F. Other Submission Requirements

Mailed submissions: Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated below for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. Mailed applications will be considered as meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated below for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants using the U.S. Postal Service (USPS) should allow for the extra time for delivery due to the additional security measures that mail delivered to government offices in the Washington DC area requires. USPS mail sent to Washington DC headquarters is sanitized offsite, which may result in delays, loss, and physical damage to enclosures.

Address when using private delivery services or when hand delivering:

Attention: Risk Management Education Program, USDA/RMA/RME, Room 6625, South Building, 1400 Independence Avenue, SW., Washington, DC 20250.

Address when using U.S. Postal Services: Attention: Risk Management Education Program, USDA/RMA/RME/ Stop 0808, Room 6625, South Building, 1400 Independence Ave., SW., Washington, DC 20250–0808.

Applicants are responsible for ensuring that RMA receives a complete application package by the closing date and time. Regardless of the delivery method you choose, please do so sufficiently in advance of the due date to ensure your application package is received on or before the deadline. It is your responsibility to meet the due date and time. E-mailed and faxed applications will not be accepted. Late application packages will not receive further consideration and will be rejected.

G. Electronic Submissions

Applications transmitted electronically via Grants.gov will be accepted prior to the application date or time deadline. The application package can be accessed via Grants.gov, go to *http://www.grants.gov*, click on ''Find Grant Opportunities,'' click on ''Search Grant Opportunities,'' and enter the CFDA number (located at the beginning of this RFA) to search by CFDA number. From the search results, select the item that correlates to the title of this RFA. If you do not have electronic access to the RFA or have trouble downloading material and you would like a hardcopy, you may contact Lon Burke, USDA–RMA–RME, phone: (202) 720–5265, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov*.

If assistance is needed to access the application package via Grants.gov (e.g., downloading or navigating PureEdge forms, using PureEdge with a Macintosh computer, using Adobe), refer to resources available on the Grants.gov Web site first (*http://www.grants.gov/*). Grants.gov assistance is also available as follows:

- Grants.gov customer support.

Toll Free: 1–800–518–4726.

Business Hours: M–F 7 a.m.–9 p.m. Eastern Standard Time.

E-mail: *support@grants.gov*.

Applicants who submit their applications via the Grants.gov Web site are not required to submit any hard copy documents to RMA.

When using Grants.gov to apply, RMA strongly recommends that you submit the online application at least two weeks prior to the application due date in case there are problems with the Grants.gov Web site and you want to submit your application via a mail delivery service.

H. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until the awards have been made. When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should notify RMA's point of contact indicated in section VII, Agency Contact.

V. Application Review Information

A. Criteria

Applications submitted under the Commodity Partnerships Program will be evaluated within each RMA Region according to the following criteria:

Project Impacts—maximum 30 points.

The applicant must demonstrate that the project benefits to farmers and ranchers warrant the funding requested. Applicants will be scored according to the extent they can: (a) Identify the specific actions producers will likely be able to take as a result of the educational activities described in the Statement of Work; (b) identify the specific measures for evaluating results that will be employed in the project; (c) reasonably estimate the total number of producers reached through the various methods and educational activities described in the Statement of Work; and (d) justify such estimates with clear specifics. Reviewers' scoring will be based on the scope and reasonableness of the applicant's clear descriptions of specific expected actions participants will accomplish, and well-designed methods for measuring the project's results and effectiveness. Applicants using direct contact methods with producers will be scored higher.

Statement of Work—maximum 15 points.

The applicant must produce a clear and specific Statement of Work for the

project. For each of the tasks contained in the Description of Agreement Award (refer to section II Award Information), the applicant must identify and describe specific subtasks, responsible entities, expected completion dates, RMA substantial involvement, and deliverables that will further the purpose of this program. Applicants will be scored higher to the extent that the Statement of Work is specific, measurable, reasonable, has specific deadlines for the completion of subtasks, relates directly to the required activities and the program purpose described in this announcement, which is to provide producers with training and informational opportunities so that the producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools. Applicants are required to submit this Statement of Work on Form RME–2.

Partnering—maximum 15 points.

The applicant must demonstrate experience and capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agricultural leaders to carry out a local program of education and information in a designated RMA Region. The applicant is required to establish a written partnering plan that includes how each partner will aid in carrying out the project goal and purpose stated in this announcement and letters of commitment stating that the partner has agreed to do this work. The applicant must ensure this plan includes a list of all partners working on the project, their titles, and how they will be contributing to the deliverables listed in the agreement. This partnering plan will not count toward the maximum length of the application narrative (Form RME–1). Applicants will receive higher scores to the extent that they can document and demonstrate in the written partnering plan: (a) That partnership commitments are in place for the express purpose of delivering the program in this announcement; (b) that a broad group of farmers and ranchers will be reached within the RMA Region; (c) that partners are contributing to the project and involved in recruiting producers to attend the training; (d) that a substantial effort has been made to partner with organizations that can meet the needs of producers; and (e) statements from each partner regarding the number of producers that partner is committed to recruit for the project that would support the estimates specified under the Project Impacts criterion.

Project Management—maximum 15 points.

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers in the respective RMA Region. The project manager must demonstrate that he/she has the capability to accomplish the project goal and purpose stated in this announcement by (a) having a previous working relationship with the farm community in the designated RMA Region of the application, including being able to recruit approximately the number of producers to be reached in the application and/or (b) having established the capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agribusiness leaders locally to aid in carrying out a program of education and information, including being able to recruit approximately the number of producers to be reached in this application. Applicants that will employ, or have access to, personnel who have experience in directing local educational programs that benefit agricultural producers in the respective RMA Region will receive higher rankings.

Budget Appropriateness and Efficiency—maximum 15 points.

Applicants must provide a detailed budget summary that clearly explains and justifies costs associated with the project. Applicants will receive higher scores to the extent that they can demonstrate a fair and reasonable use of funds appropriate for the project and a budget that contains the estimated cost of reaching each individual producer. The applicant must provide information factors such as:

- The allowability and necessity for individual cost categories;
- The reasonableness of amounts estimated for necessary costs;
- The basis used for allocating indirect or overhead costs;
- The appropriateness of allocating particular overhead costs to the proposed project as direct costs; and
- The percent of time devoted to the project for all key project personnel identified in the application. Salaries of project personnel should be requested in proportion to the percent of time that they would devote to the project—Note: cannot exceed 70% of the total project budget. Applicants must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. An application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. The projects proposed for funding should be included in the pending section. Only items or services that are necessary for the successful completion of the project will be funded as permitted under the Act.

Priority Commodity—maximum 10 points.

The applicant can submit projects that are not related to Priority Commodities. However, priority is given to projects relating to Priority Commodities and the degree in which such projects relate to the Priority Commodities. Projects that relate solely to Priority Commodities will be eligible for the most points.

Past Performance—maximum 10 points.

If the applicant has been an awardee of other Federal or other government grants, cooperative agreements, or contracts, the applicant must provide information relating to their past performance in reporting on outputs and outcomes under past or current federal assistance agreements. The applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. RMA reserves the right to add up to 10 points to applications due to past performance. Applicants with very good past performance will receive a score from 6–10 points. Applicants with acceptable past performance will receive a score from 1–5 points. Applicants with unacceptable past performance will receive a score of minus 5 points for this evaluation factor. Applicants without relevant past performance information will receive a neutral score of the mean number of points of all applicants with past performance. These past performance points will be applied only to applications that the review panel scored above the minimum score. Applications receiving less than the minimum score required to be eligible for potential funding will not receive past performance points. Under this cooperative partnership agreement, RMA will subjectively rate the awardee on project performance as indicated in section II, G.

Projected Audience Description—maximum 5 points.

The applicant must clearly identify and describe the targeted audience for the project. Applicants will receive higher scores to the extent that they can reasonably and clearly describe their target audience and why the audience

would choose to participate in the project. The applicant must describe why the proposed audience wants the information the project will deliver.

B. Review and Selection Process

Applications will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the requirements of this announcement or are incomplete will not receive further consideration during the next process. Applications that meet announcement requirements will be sorted into the RMA Region in which the applicant proposes to conduct the project and then sorted by project objective listed in section I (F). These applications will be presented to a review panel for consideration.

Second, the review panel will meet to consider and discuss the merits of each application. The panel will consist of not less than three independent reviewers. Reviewers will be drawn from USDA, other Federal agencies, and others representing public and private organizations, as needed. After considering the merits of all applications within an RMA Region, panel members will score each application according to the criteria and point values listed above. The panel will then rank each application against others within the RMA Region by educational objective listed in Section I (*F*) according to the scores received. Those applications will be listed in initial rank order by special emphasis topic (topic) within each RMA Region. The highest-ranking application for each topic will be funded in the order of priority (the highest-ranking application in topic 1 will be funded first, the highest-ranking application in topic 2 will be funded second, etc.) in each RMA Region. The highest ranking of all remaining applications regardless of topic will be the fifth project funded. In the event that there are no applications that warrant funding in topics 1–3, those funds may become available to other projects.

A lottery will be used to resolve any instances of a tie score that might have a bearing on funding recommendations. If such a lottery is required, the names of all tied applicants will be entered into a drawing. The first tied applicant drawn will have priority over other tied applicants for funding consideration.

The review panel will report the results of the evaluation to the Manager of FCIC. The panel's report will include the recommended applicants to receive partnership agreements for each RMA Region. Funding will not be provided for an application receiving a score less than 60. Funding will not be provided for an application that is highly similar to a higher-scoring application in the same RMA Region. Highly similar is one that proposes to reach the same producers likely to be reached by another applicant that scored higher by the panel and the same general educational material is proposed to be delivered.

An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the program described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding is sufficiently similar to a project that has been funded or has been recommended to be funded under another RMA or FCIC program, then the Manager may elect to not fund that application in whole or in part. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

VI. Award Administration Information

A. Award Notices

Following approval by the awarding official of RMA of the applications to be selected for funding, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a purpose, the awarding official of RMA shall enter into cooperative partnership agreements with those selected applicants. The agreements provide the amount of Federal funds for use in the project period, the terms and conditions of the award, and the time period for the project. The effective date of the agreement shall be on the date the agreement is executed by both parties and it shall remain in effect for up to one year or through September 30, 2009, whichever is later.

After a cooperative partnership agreement has been signed, RMA will extend to awardees, in writing, the authority to draw down funds for the purpose of conducting the activities listed in the agreement. All funds provided to the awardee by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice.

Notification of denial of funding will be sent to applicants after final funding decisions have been made and the awardees announced publicly. Reasons for denial of funding can include, but are not limited to, incomplete applications, applications with evaluation scores that are lower than other applications in an RMA Region, or applications that propose to deliver education to groups of producers in an RMA Region that are largely similar to groups reached in a higher ranked application.

B. Administrative and National Policy Requirements

1. Requirement To Use Program Logo

Awardees will be required to use a program logo and design provided by RMA for all instructional and promotional materials.

2. Requirement To Provide Project Information to an RMA-Selected Representative

Awardees will be required to assist RMA in evaluating the effectiveness of its educational programs by providing documentation of educational activities and related information to any representative selected by RMA for program evaluation purposes.

3. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply for funding under this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC and the entity. Also, such entities will not be allowed to receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

4. Access to Panel Review Information

Upon written request from the applicant, scores from the evaluation panel, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

5. Confidential Aspects of Applications and Awards

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application. When an application results in a partnership agreement, that agreement becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the basis for such designation. The original copy of an application that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of applications not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to award.

6. Audit Requirements

Awardees are subject to audit.

7. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on awardees of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective awardees and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires awardees and any subcontractors: (1) To certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom awardees of their subcontractors will pay with profits or other non-appropriated funds on or after December 22, 1989; and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application and are available at the address and telephone number listed in section VII. Agency Contact.

8. Applicable OMB Circulars

All cooperative partnership agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

9. Requirement To Assure Compliance With Federal Civil Rights Laws

Project leaders of all cooperative partnership agreements funded as a result of this notice are required to know and abide by Federal civil rights laws and to assure USDA and RMA that the awardee is in compliance with and will continue to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), 7 CFR Part 15, and USDA regulations promulgated thereunder, 7 CFR 1901.202. RMA requires that awardees submit an Assurance Agreement (Civil Rights), assuring RMA of this compliance prior to the beginning of the project period.

10. Requirement To Participate in a Post Award Conference

RMA requires that project leaders attend a post award conference to become fully aware of agreement requirements and for delineating the roles of RMA personnel and the procedures that will be followed in administering the agreement and will afford an opportunity for the orderly transition of agreement duties and obligations if different personnel are to assume post-award responsibility. In their applications, applicants should budget for possible travel costs associated with attending this conference.

11. Requirement To Submit Educational Materials to the National AgRisk Education Library

RMA requires that project leaders upload digital copies of all risk management educational materials developed because of the project to the National AgRisk Education Library (*http://www.agrisk.umn.edu/*) for posting. RMA will be clearly identified as having provided funding for the materials.

12. Requirement To Submit Proposed Results to the National AgRisk Education Library

RMA requires that project leaders submit results of the project to the National AgRisk Education Library (*http://www.agrisk.umn.edu/*) for posting.

13. Requirement To Submit a Project Plan of Operation in the Event of a Human Pandemic Outbreak

RMA requires that project leaders submit a project plan of operation in case of a human pandemic event. The plan should address the concept of continuing operations as they relate to the project. This should include the roles, responsibilities, and contact information for the project team and individuals serving as back-ups in case of a pandemic outbreak.

C. Reporting Requirements

Awardees will be required to submit quarterly progress reports, quarterly financial reports (OMB Standard Form 269), and quarterly Activity Logs (Form RMA–300) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

Awardees will be required to submit prior to the award:

- A completed and signed Assurance Agreement (Civil Rights).
- A completed and signed Faith-Based Survey on EEO.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Applicants and other interested parties are encouraged to contact: Lon Burke, USDA–RMA–RME, phone: 202–720–5265, fax: 202–690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov.* You may also obtain information regarding this announcement from the RMA Web site at: *http://www.rma.usda.gov/aboutrma/agreements.*

VIII. Other Information

A. Dun and Bradstreet Data Universal Numbering System (DUNS)

A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of over 70 million businesses worldwide. The Office of Management and Budget published a notice of final policy issuance in the **Federal Register** June 27, 2003 (68 FR

38402), that requires a DUNS number in every application (i.e., hard copy and electronic) for a grant or cooperative agreement on or after October 1, 2003. Therefore, potential applicants should verify that they have a DUNS number or take the steps needed to obtain one. For information about how to obtain a DUNS number, go to *http://www.grants.gov.* Please note that the registration may take up to 14 business days to complete.

B. Required Registration With the Central Contract Registry for Submission of Proposals

The Central Contract Registry (CCR) is a database that serves as the primary Government repository for contractor information required for the conduct of business with the Government. This database will also be used as a central location for maintaining organizational information for organizations seeking and receiving grants from the Government. Such organizations must register in the CCR prior to the submission of applications. A DUNS number is needed for CCR registration. For information about how to register in the CCR, visit ''Get Started'' at the Web site, *http://www.grants.gov.* Allow a minimum of 5 business days to complete the CCR registration.

C. Related Programs

Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships), CFDA No. 10.458 (Crop Insurance Education in Targeted States), and CFDA No. 10.459 (Commodity Partnerships Small Sessions Program). These programs have some similarities, but also key differences. The differences stem from important features of each program's authorizing legislation and different RMA objectives. Prospective applicants should carefully examine and compare the notices for each program.

Signed in Washington, DC, on January 15, 2008.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E8–943 Filed 1–18–08; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Funding Opportunity Title: Commodity Partnerships for Small Agricultural Risk Management Education Sessions (Commodity Partnerships Small Sessions Program)

Announcement Type: Announcement of Availability of Funds and Request for Application for Competitive Cooperative Partnership Agreements.

Catalog of Federal Domestic Assistance Number (CFDA): 10.459.

DATES: Applications are due 5 p.m. EST March 24, 2008.

SUMMARY: The Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of approximately $500,000 (subject to availability of funds) for Commodity Partnerships for Small Agricultural Risk Management Education Sessions (the Commodity Partnerships Small Sessions Program). The purpose of this cooperative partnership agreement program is to deliver training and information in the management of production, marketing, and financial risk to U.S. agricultural producers. The program gives priority to educating producers of crops currently not insured under Federal crop insurance, specialty crops, and underserved commodities, including livestock and forage. A maximum of 50 cooperative partnership agreements will be funded, with no more than five in each of the ten designated RMA Regions. The maximum award for any cooperative partnership agreement will be $10,000. Awardees must demonstrate non-financial benefits from a cooperative partnership agreement and must agree to the substantial involvement of RMA in the project. Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships), CFDA No. 10.457 (Commodity Partnerships for Risk Management Education), and CFDA No. 10.458 (Crop Insurance Education in Targeted States). Prospective applicants should carefully examine and compare the notices for each program.

The collections of information in this announcement have been approved by OMB under control number 0563–0067 through January 31, 2009.

This Announcement Consists of Eight Sections

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- B. Background
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  - 13. Requirement To Submit a Project Plan of Operation in the Event of a Human Pandemic Outbreak
- C. Reporting Requirements

Section VII—Agency Contact

Section VIII—Other Information
- A. Dun and Bradstreet Data Universal Numbering System (DUNS)
- B. Required Registration With the Central Contract Registry for Submission of Proposals

C. Related Programs

Full Text of Announcement

I. Funding Opportunity Description

A. Legislative Authority

The Commodity Partnerships Small Sessions Program is authorized under section 522(d)(3)(F) of the Federal Crop Insurance Act (Act) (7 U.S.C. 1522(d)(3)(F).

B. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information.

One of RMA's strategic goals is to ensure that its customers are well informed as to the risk management solutions available. This educational goal is supported by section 522(d)(3)(F) of the Act, which authorizes FCIC funding for risk management training and informational efforts for agricultural producers through the formation of partnerships with public and private organizations. With respect to such partnerships, priority is to be given to reaching producers of Priority Commodities, as defined below.

C. Definition of Priority Commodities

For purposes of this program, Priority Commodities are defined as:

- *Agricultural commodities covered by (7 U.S.C. 7333).* Commodities in this group are commercial crops that are not covered by catastrophic risk protection crop insurance, are used for food or fiber (except livestock), and specifically include, but are not limited to, floricultural, ornamental nursery, Christmas trees, turf grass sod, aquaculture (including ornamental fish), and industrial crops.
- *Specialty crops.* Commodities in this group may or may not be covered under a Federal crop insurance plan and include, but are not limited to, fruits, vegetables, tree nuts, syrups, honey, roots, herbs, and highly specialized varieties of traditional crops.
- *Underserved commodities.* This group includes: (a) Commodities, including livestock and forage, that are covered by a Federal crop insurance plan but for which participation in an area is below the national average; and (b) commodities, including livestock and forage, with inadequate crop insurance coverage.

A project is considered as giving priority to Priority Commodities if the majority (75%) of the educational activities of the project are directed to producers of any of the three classes of commodities listed above or any combination of the three classes.

D. Project Goal

The goal of this program is to ensure that " * * * producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools".

E. Purpose

The purpose of the Commodity Partnership Small Session Program is to provide U.S. farmers and ranchers with training and informational opportunities to be able to understand:

- The kinds of risks addressed by existing and emerging risk management tools;
- The features and appropriate use of existing and emerging risk management tools; and
- How to make sound risk management decisions.

II. Award Information

A. Type of Award

Cooperative Partnership Agreements, which require the substantial involvement of RMA.

B. Funding Availability

Approximately $500,000 (subject to availability of funds) is available in fiscal year 2008 to fund up to 50 cooperative partnership agreements. The maximum award for any agreement will be $10,000. It is anticipated that a maximum of five agreements will be funded in each of the ten designated RMA Regions.

In the event that all funds available for this program are not obligated after the maximum number of agreements are awarded or if additional funds become available, these funds may, at the discretion of the Manager of FCIC, be used to award additional applications that score highly by the technical review panel or allocated pro-rata to awardees for use in broadening the size or scope of awarded projects if agreed to by the awardee. In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements than the available funding might otherwise allow. It is expected that the awards will be made approximately 120 days after the application deadline. All awards will be made and agreements finalized no later than September 30, 2008.

C. Location and Target Audience

RMA Regional Offices and the States serviced within each Region are listed below. Staff from the respective RMA Regional Offices will provide substantial involvement for projects conducted within the Region.

Billings, MT Regional Office: (MT, ND, SD, and WY)

Davis, CA Regional Office: (AZ, CA, HI, NV, and UT)

Jackson, MS Regional Office: (AR, KY, LA, MS, and TN)

Oklahoma City, OK Regional Office: (NM, OK, and TX)

Raleigh, NC Regional Office: (CT, DE, MA, MD, ME, NC, NH, NJ, NY, PA, RI, VA, VT, and WV) Spokane, WA Regional Office: (AK, ID, OR, and WA)

Springfield, IL Regional Office: (IL, IN, MI, and OH)

St. Paul, MN Regional Office: (IA, MN, and WI)

Topeka, KS Regional Office: (CO, KS, MO, and NE)

Valdosta, GA Regional Office: (AL, FL, GA, SC, and Puerto Rico)

Applicants must clearly designate the RMA Region where educational activities will be conducted in their application narrative (Form RME–1) and in block 15 of the SF–424 form. Applications without this designation will be rejected. Priority will be given to producers of Priority Commodities. Applicants proposing to conduct educational activities in more than one RMA Region must submit a separate application for each RMA Region. Single applications proposing to conduct educational activities in more than one RMA Region will be rejected.

D. Maximum Award

Any application that requests Federal funding of more than $10,000 for a project will be rejected. RMA also reserves the right to fund successful applications at an amount less than requested if it is judged that the application can be implemented at a lower funding level.

E. Project Period

Projects will be funded for a period of up to one year from the project starting date.

F. Description of Agreement Award: Awardee Tasks

In conducting activities to achieve the purpose and goal of this program in a designated RMA Region, the awardee will be responsible for performing the following tasks:

• Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other appropriate informational dissemination techniques that are designed to: (a) Raise awareness for risk management; (b) inform producers of the availability of risk management tools; and (c) inform producers and agribusiness leaders in the designated RMA Region of training and informational opportunities.

• Deliver risk management training and informational opportunities to agricultural producers and agribusiness professionals in the designated RMA Region. This will include organizing and delivering educational activities using the instructional materials that have been assembled to meet the local needs of agricultural producers. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise producers on risk management tools and decisions.

• Document all educational activities conducted under the cooperative partnership agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The awardee will also be required to provide information to an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

G. RMA Activities

FCIC, working through RMA, will be substantially involved during the performance of the funded project through RMA's ten Regional Offices. Potential types of substantial involvement may include, but are not limited to the following activities.

• Collaborate with the awardee in assembling, reviewing, and approving risk management materials for producers in the designated RMA Region.

• Collaborate with the awardee in reviewing and approving a promotional program for raising awareness for risk management and for informing producers of training and informational opportunities in the RMA Region.

• Collaborate with the awardee on the delivery of education to producers and agribusiness leaders in the RMA Region. This will include: (a) Reviewing and approving in advance all producer and agribusiness leader educational activities; (b) advising the project leader on technical issues related to crop insurance education and information; and (c) assisting the project leader in informing crop insurance professionals about educational activity plans and scheduled meetings.

• Conduct an evaluation of the performance of the awardee in meeting the deliverables of the project.

• Assist in the selection of subcontractors and project staff.

Applications that do not contain substantial involvement by RMA will be rejected.

H. Other Tasks

In addition to the specific, required tasks listed above, the applicant may propose additional tasks that would contribute directly to the purpose of this program. For any proposed additional task, the applicant must identify the objective of the task, the specific subtasks required to meet the objective, specific time lines for performing the subtasks, and the specific responsibilities of partners. The applicant must also identify specific ways in which RMA would have substantial involvement in the proposed project task.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants include State departments of agriculture, universities, non-profit agricultural organizations, and other public or private organizations with the capacity to lead a local program of risk management education for farmers and ranchers in an RMA Region. Individuals are not eligible applicants. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program governed by Federal law and regulations (e.g. debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or cooperative partnership; a determination of a violation of applicable ethical standards; a determination of being considered ''high risk''). Applications from ineligible or excluded persons will be rejected in their entirety.

B. Cost Sharing or Matching

Although RMA prefers cost sharing by the applicant, this program has neither a cost sharing nor a matching requirement.

C. Other—Non-Financial Benefits

To be eligible, applicants must also be able to demonstrate that they will receive a non-financial benefit as a result of a cooperative partnership agreement. Non-financial benefits must accrue to the applicant and must include more than the ability to provide employment income to the applicant or for the applicant's employees or the community. The applicant must demonstrate that performance under the cooperative partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete their educational program). Applications that do not demonstrate a non-financial benefit will be rejected.

IV. Application and Submission Information

A. Contact To Request Application Package

Program application materials for the Commodity Partnerships Program under this announcement may be downloaded from *http://www.rma.usda.gov/aboutrma/agreements*. Applicants may also request application materials from: Lon Burke, USDA–RMA–RME, *phone:* (202) 720–5265, fax: (202) 690–3605, *e-mail:* RMA.*Risk-Ed@rma.usda.gov.*

B. Content and Form of Application Submission

A complete and valid application package must be submitted in one package at the time of initial submission, which must include the following:

1. An original and two copies of the completed and signed application.

2. An electronic copy (Microsoft Word format preferred) of the narrative portion (Forms RME–1 and RME–2) of the application package on a compact disc.

3. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance.''

4. A completed and signed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs.'' Federal funding requested (the total of direct and indirect costs) must not exceed $10,000.

5. A completed and signed OMB Standard Form 424–B, ''Assurances, Non-constructive Programs.''

6. Risk Management Education Project Narrative (Form RME–1). Complete all required parts of Form RME–1:

Part I—Title Page.

Part II—A written narrative of no more than 5 single-sided pages which will provide reviewers with sufficient

information to effectively evaluate the merits of the application according to the evaluation criteria listed in this notice. Although a Statement of Work, which is an evaluation criterion, is to be completed in detail in RME Form–2, applicants may wish to highlight certain unique features of the Statement of Work in Part II for the benefit of the evaluation panel. If your narrative exceeds the page limit, only the first 5 pages will be reviewed.

- No smaller than 12 point font size.
- Use an easily readable font face (e.g., Arial, Geneva, Helvetica, Times Roman).
- 8.5 by 11 inch paper.
- One-inch margins on each page.
- Printed on only one side of paper.
- Held together only by rubber bands or metal clips; not bound or stapled in any other way

Part III—A Budget Narrative, describing how the categorical costs listed on SF 424–A are derived. The budget narrative should provide enough detail for reviewers to easily understand how costs were determined and how they relate to the goals and objectives of the project.

Part IV—Provide a ''Statement of Non-financial Benefits.'' (Refer to Section III, Eligibility Information, C. Other—Non-financial Benefits, above.)

7. ''Statement of Work,'' Form RME–2, which identifies tasks and subtasks in detail, expected completion dates and deliverables, and RMA's substantial involvement role for the proposed project.

8. A completed and signed OMB Standard Form LLL, ''Disclosure of Lobbying Activities.''

9. A completed and signed AD–1047, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions.''

10. A completed and signed AD–1049, ''Certification Regarding Drug-Free Workplace.''

Applications that do not include items 1–7 above will be considered incomplete, will not receive further consideration, and will be rejected.

C. Funding Restrictions

Cooperative partnership agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

b. Purchase, rent, or install fixed equipment;

c. Repair or maintain privately owned vehicles;

d. Pay for the preparation of the cooperative partnership agreement application;

e. Fund political activities;

f. Purchase alcohol, food, beverage or entertainment;

g. Lend money to support farming or agricultural business operation or expansion;

h. Pay costs incurred prior to receiving a partnership agreement;

i. Fund any activities prohibited in 7 CFR Parts 3015 and 3019, as applicable.

D. Limitation on Use of Project Funds for Salaries and Benefits

Total costs for salary and benefits allowed for projects under this announcement will be limited to not more than 70 percent reimbursement of the funds awarded under the cooperative partnership agreement as indicated in Section III. Eligibility Information, C. Other—Non-financial Benefits. One goal of the Commodity Partnerships Small Sessions Program is to maximize the use of the limited funding available for risk management education for producers of Priority Commodities. In order to accomplish this goal, RMA needs to ensure that the maximum amount of funds practicable is used for directly providing the educational opportunities. Limiting the amount of funding for salaries and benefits will allow the limited amount of funding to reach the maximum number of farmers and ranchers.

E. Indirect Cost Rates

a. Indirect costs allowed for projects submitted under this announcement will be limited to ten (10) percent of the total direct cost of the cooperative partnership agreement. Therefore, when preparing budgets, applicants should limit their requests for recovery of indirect costs to the lesser of their institution's official negotiated indirect cost rate or 10 percent of the total direct costs.

b. RMA will withhold all indirect cost rate funds for an award to an applicant requesting indirect costs if the applicant has not negotiated an indirect cost rate with its cognizant Federal agency.

c. If an applicant is in the process of negotiating an indirect cost rate with its cognizant Federal agency, RMA will withhold all indirect cost rate funds from that applicant until the indirect cost rate has been established.

d. If an applicant's indirect cost rate has expired or will expire prior to award announcements, a clear statement on renegotiation efforts must be included in the application.

e. It is incumbent on all applicants to have a current indirect cost rate or begin negotiations to establish an indirect cost rate prior to the submission deadline. Because it may take several months to obtain an indirect cost rate, applicants needing an indirect cost rate are encouraged to start work on establishing these rates well in advance of submitting an application. The U.S. Office of Management and Budget (OMB) is responsible for assigning cognizant Federal agencies.

f. Applicants may be asked to provide a copy of their indirect cost rate negotiated with their cognizant agency.

g. RMA reserves the right to negotiate final budgets with successful applicants.

F. Other Submission Requirements

Mailed submissions: Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated below for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. Mailed applications will be considered as meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated below for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants using the U.S. Postal Service (USPS) should allow for the extra time for delivery due to the additional security measures that mail delivered to government offices in the Washington, DC area requires. USPS mail sent to Washington, DC headquarters is sanitized offsite, which may result in delays, loss, and physical damage to enclosures.

Address when using private delivery services or when hand delivering:

Attention: Risk Management Education Program, USDA/RMA/RME, Room 6625, South Building, 1400 Independence Avenue, SW., Washington, DC 20250.

Address when using U.S. Postal Services:

Attention: Risk Management Education Program, USDA/RMA/RME/Stop 0808, Room 6625, South Building, 1400 Independence Ave., SW., Washington, DC 20250–0808.

Applicants are responsible for ensuring that RMA receives a complete application package by the closing date and time. Regardless of the delivery method you choose, please do so sufficiently in advance of the due date to ensure your application package is

received on or before the deadline. It is your responsibility to meet the due date and time. Emailed and faxed applications will not be accepted. Late application packages will not receive further consideration and will be rejected.

G. Electronic Submissions

Applications transmitted electronically via Grants.gov will be accepted prior to the application date or time deadline. The application package can be accessed via *Grants.gov*, go to *http://www.grants.gov*, click on ''Find Grant Opportunities'', click on ''Search Grant Opportunities,'' and enter the CFDA number (beginning of the RFA) to search by CFDA number. From the search results, select the item that correlates to the title of this RFA. If you do not have electronic access to the RFA or have trouble downloading material and you would like a hardcopy, you may contact Lon Burke, USDA–RMA–RME, *phone:* (202) 720–5265, *fax:* (202) 690–3605, *e-mail: RMA.Risk-Ed@rma.usda.gov.*

If assistance is needed to access the application package via Grants.gov (e.g., downloading or navigating PureEdge forms, using PureEdge with a Macintosh computer using Adobe), refer to resources available on the Grants.gov Web site first (*http://www.grants.gov/*). Grants.gov assistance is also available as follows:

• Grants.gov customer support

Toll Free: 1–800–518–4726.

Business Hours: M–F, 7 a.m.–9 p.m. Eastern Standard Time.

E-mail: support@grants.gov.

Applicants who submit their applications via the Grants.gov Web site are not required to submit any hard copy documents to RMA.

When using Grants.gov to apply, RMA strongly recommends that you submit the online application at least two weeks prior to the application due date in case there are problems with the Grants.gov Web site and you want to submit your application via a mail delivery service.

H. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until after the awards have been made. When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should notify RMA's point of contact indicated in Section VII, Agency Contact.

V. Application Review Information

A. Criteria

Applications submitted under the Commodity Partnerships Small Sessions Program will be evaluated within each RMA Region according to the following criteria:

Project Impacts—maximum 20 points.

The applicant must demonstrate that the project benefits to farmers and ranchers warrant the funding requested. Applicants will be scored according to the extent they can: (a) Identify the specific actions producers will likely be able to take as a result of the educational activities described in the Statement of Work; (b) identify the specific measures for evaluating results that will be employed in the project; (c) reasonably estimate the total number of producers reached through the various methods and educational activities described in the Statement of Work; and (d) justify such estimates with clear specifics. Reviewers' scoring will be based on the scope and reasonableness of the applicant's clear descriptions of specific expected actions participants will accomplish, and well-designed methods for measuring the project's results and effectiveness. Applicants using direct contact methods with producers will be scored higher.

Statement of Work—maximum 15 points.

The applicant must produce a clear and specific Statement of Work for the project. For each of the tasks contained in the Description of Agreement Award (refer to Section II Award Information), the applicant must identify and describe specific subtasks, responsible entities, expected completion dates, RMA substantial involvement, and deliverables that will further the purpose of this program. Applicants will be scored higher to the extent that the Statement of Work is specific, measurable, reasonable, has specific deadlines for the completion of subtasks, relates directly to the required activities and the program purpose described in this announcement, which is to provide producers with training and informational opportunities so that the producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools. Applicants are required to submit this Statement of Work on Form RME–2.

Project Management—maximum 15 points.

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers in the respective RMA Region. The project manager must demonstrate that he/she has the capability to accomplish the project goal and purpose stated in this announcement by (a) having a previous working relationship with the farm community in the designated RMA Region of the application, including being able to recruit approximately the number of producers to be reached in the application and/or (b) having established the capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agribusiness leaders locally to aid in carrying out a program of education and information, including being able to recruit approximately the number of producers to be reached in this application. Applicants that will employ, or have access to, personnel who have experience in directing local educational programs that benefit agricultural producers in the respective RMA Region will receive higher rankings.

Budget Appropriateness and Efficiency—maximum 15 points.

Applicants must provide a detailed budget summary that clearly explains and justifies costs associated with the project. Applicants will receive higher scores to the extent that they can demonstrate a fair and reasonable use of funds appropriate for the project and a budget that contains the estimated cost of reaching each individual producer. The applicant must provide information factors such as:

• The allowability and necessity for individual cost categories;

• The reasonableness of amounts estimated for necessary costs;

• The basis used for allocating indirect or overhead costs;

• The appropriateness of allocating particular overhead costs to the proposed project as direct costs; and

• The percent of time devoted to the project for all key project personnel identified in the application. Salaries of project personnel should be requested

in proportion to the percent of time that they would devote to the project—*Note:* cannot exceed 70% of the total project budget. Applicants must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. An application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. The projects proposed for funding should be included in the pending section. Only items or services that are necessary for the successful completion of the project will be funded as permitted under the Act.

Priority Commodity—maximum 10 points.

The applicant can submit projects that are not related to Priority Commodities. However, priority will be given to projects relating to Priority Commodities and the degree to which such projects relate to the Priority Commodities. Projects that relate solely to Priority Commodities will be eligible for the most points.

Past Performance—maximum 10 points.

If the applicant has been an awardee of other Federal or other government grants, cooperative agreements, or contracts, the applicant must provide information relating to their past performance in reporting on outputs and outcomes under past or current federal assistance agreements. The applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. RMA reserves the right to add up to 10 points and subtract 5 points to applications due to past performance. Applicants with very good past performance will receive a score from 6–10 points. Applicants with acceptable past performance will receive a score from 1–5 points. Applicants with unacceptable past performance will receive a score of minus 5 points for this evaluation factor. Applicants without relevant past performance information will receive a neutral score of the mean number of points of all applicants with past performance. These past performance points will be applied only to applications that the review panel scored above the minimum score. Applications receiving less than the minimum score required to be eligible for potential funding will not receive past performance points. Under this cooperative partnership agreement, RMA will subjectively rate the awardee on project performance as indicated in Section II, G.

Projected Audience Description—maximum 5 points.

The applicant must clearly identify and describe the targeted audience for the project. Applicants will receive higher scores to the extent that they can reasonably and clearly describe their target audience and why the audience would choose to participate in the project. The applicant must describe why the proposed audience wants the information the project will deliver.

B. Review and Selection Process

Applications will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the requirements of this announcement or that are incomplete will not receive further consideration during the next process. Applications that meet announcement requirements will be sorted into the RMA Region in which the applicant proposes to conduct the project and will be presented to a review panel for consideration.

Second, the review panel will meet to consider and discuss the merits of each application. The panel will consist of not less than three independent reviewers. Reviewers will be drawn from USDA, other Federal agencies, and others representing public and private organizations, as needed. After considering the merits of all applications within an RMA Region, panel members will score each application according to the criteria and point values listed above. The panel will then rank each application against others within the RMA Region according to the scores received. A lottery will be used to resolve any instances of a tie score that might have a bearing on funding recommendations. If such a lottery is required, the names of all tied applicants will be entered into a drawing. The first tied applicant drawn will have priority over other tied applicants for funding consideration.

The review panel will report the results of the evaluation to the Manager of FCIC. The panel's report will include the recommended applicants to receive cooperative partnership agreements for each RMA Region. Funding will not be provided for an application receiving a score less than 45. Funding will not be provided for an application that is highly similar to a higher-scoring application in the same RMA Region. Highly similar is one that proposes to reach the same producers likely to be reached by another applicant that scored higher by the panel and the same general educational material is proposed to be delivered.

An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the program described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding is sufficiently similar to a project that has been funded or has been recommended to be funded under another RMA or FCIC program, then the Manager may elect to not fund that application in whole or in part. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

VI. Award Administration Information

A. Award Notices

Following approval by the awarding official of RMA of the applications to be selected for funding, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a purpose, the awarding official of RMA shall enter into cooperative partnership agreements with those selected applicants. The agreements provide the amount of Federal funds for use in the project period, the terms, and conditions of the award, and the time period for the project. The effective date of the agreement shall be on the date the agreement is executed by both parties and it shall remain in effect for up to one year or through September 30, 2009, whichever is later.

After a partnership agreement has been signed, RMA will extend to awardees, in writing, the authority to draw down funds for the purpose of conducting the activities listed in the agreement. All funds provided to the applicant by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice.

Notification of denial of funding will be sent to applicants after final funding decisions have been made and the awardees announced publicly. Reasons for denial of funding can include, but are not limited to, incomplete applications, applications with evaluation scores that are lower than other applications in an RMA Region, or applications that are highly similar to a

higher-scoring application in the same RMA Region. Highly similar is an application that proposes to reach the same producers likely to be reached by another applicant that scored higher by the panel and the same general educational material is proposed to be delivered.

B. Administrative and National Policy Requirements

1. Requirement To Use Program Logo

Applicants awarded cooperative partnership agreements will be required to use a program logo and design provided by RMA for all instructional and promotional materials.

2. Requirement To Provide Project Information to an RMA-Selected Representative

Applicants awarded cooperative partnership agreements may be required to assist RMA in evaluating the effectiveness of its educational programs by providing documentation of educational activities and related information to any representative selected by RMA for program evaluation purposes.

3. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply for funding under this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC and the entity. Also, such entities will not be allowed to receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

4. Access to Panel Review Information

Upon written request from the applicant, scores from the evaluation panel, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

5. Confidential Aspects of Applications and Awards

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application. When an application results in a partnership agreement, that agreement becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the basis for such designation. The original copy of an application that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of applications not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to award.

6. Audit Requirements

Applicants awarded cooperative partnership agreements are subject to audit.

7. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on awardees of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective awardees, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires awardees and any subcontractors: (1) To certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom awardees of their subcontractors will pay with profits or other non-appropriated funds on or after December 22, 1989; and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application, are available at the address, and telephone number listed in Section VII. Agency Contact.

8. Applicable OMB Circulars

All partnership agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

9. Requirement To Assure Compliance With Federal Civil Rights Laws

Awardees of all cooperative partnership agreements funded as a result of this notice are required to know and abide by Federal civil rights laws and to assure USDA and RMA that the awardee is in compliance with and will continue to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), 7 CFR Part 15, and USDA regulations promulgated thereunder, 7 CFR 1901.202. RMA requires awardees to submit an Assurance Agreement (Civil Rights), assuring RMA of this compliance prior to the beginning of the project period.

10. Requirement To Participate in a Post Award Teleconference

RMA requires that project leaders participate in a post award teleconference to become fully aware of agreement requirements and for delineating the roles of RMA personnel and the procedures that will be followed in administering the agreement and will afford an opportunity for the orderly transition of agreement duties and obligations if different personnel are to assume post-award responsibility.

11. Requirement To Submit Educational Materials to the National AgRisk Education Library

RMA requires that project leaders upload digital copies of all risk management educational materials developed because of the project to the National AgRisk Education Library (*http://www.agrisk.umn.edu/*) for posting. RMA will be clearly identified as having provided funding for the materials.

12. Requirement To Submit Proposed Results to the National AgRisk Education Library

RMA requires that project leaders submit results of the project to the National AgRisk Education Library (*http://www.agrisk.umn.edu/*) for posting.

13. Requirement To Submit a Project Plan of Operation in the Event of a Human Pandemic Outbreak

RMA requires that project leaders submit a project plan of operation in case of a human pandemic event. The plan should address the concept of continuing operations as they relate to the project. This should include the roles, responsibilities, and contact information for the project team and individuals serving as back-ups in case of a pandemic outbreak.

C. Reporting Requirements

Awardees will be required to submit quarterly progress reports, quarterly financial reports (OMB Standard Form 269), and quarterly Activity Logs (Form RMA–300) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

Awardees will be required to submit prior to the award:

- A completed and signed Assurance Agreement (Civil Rights).
- A completed and signed Faith-Based Survey on EEO.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Applicants and other interested parties are encouraged to contact: Lon Burke, USDA–RMA–RME, *phone:* 202–720–5265, *fax:* 202–690–3605, *e-mail: RMA.Risk-Ed@rma.usda.gov*. You may also obtain information regarding this announcement from the RMA Web site at: *http://www.rma.usda.gov/aboutrma/agreements.*

VIII. Other Information

A. Dun and Bradstreet Data Universal Numbering System (DUNS)

A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of over 70 million businesses worldwide. The Office of Management and Budget published a notice of final policy issuance in the **Federal Register** June 27, 2003 (68 FR 38402) that requires a DUNS number in every application (i.e., hard copy and electronic) for a grant or cooperative agreement on or after October 1, 2003. Therefore, potential applicants should verify that they have a DUNS number or take the steps needed to obtain one. For information about how to obtain a DUNS number, go to *http://www.grants.gov*. Please note that the registration may take up to 14 business days to complete.

B. Required Registration With the Central Contract Registry for Submission of Proposals

The Central Contract Registry (CCR) is a database that serves as the primary Government repository for contractor information required for the conduct of business with the Government. This database will also be used as a central location for maintaining organizational information for organizations seeking and receiving grants from the Government. Such organizations must register in the CCR prior to the submission of applications. A DUNS number is needed for CCR registration. For information about how to register in the CCR, visit ''Get Started'' at the Web site, *http://www.grants.gov*. Allow a minimum of 5 business days to complete the CCR registration.

C. Related Programs

Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships), CFDA No. 10.457 (Commodity Partnerships for Risk Management Education), and CFDA No. 10.458 (Crop Insurance Education in Targeted States). These programs have some similarities, but also key differences. The differences stem from important features of each program's authorizing legislation and different RMA objectives. Prospective applicants should carefully examine and compare the notices for each program.

Signed in Washington, DC on January 15, 2008.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E8–952 Filed 1–18–08; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Community Outreach and Assistance Partnership Program

Funding Opportunity Title: Community Outreach and Assistance Partnership Program.

Announcement Type: Request for Applications (RFA) Community Outreach and Assistance Partnership Program: Initial Announcement.

CFDA Number: 10.455.

DATES: Applications are due by 5 p.m. EST March 24, 2008. Applications received after the deadline will not be considered for funding. All awards will be made and partnership agreements completed by September 30, 2008.

Overview: In accordance with section 522(d) of the Federal Crop Insurance Act (Act), the Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of approximately $5 million in fiscal year 2008 (subject to availability of funds) for collaborative outreach and assistance programs for limited resource, socially disadvantaged and other traditionally under-served farmers and ranchers, who produce Priority Commodities as defined in Part I.C. Awards under this program will be made on a competitive basis for projects of up to one year. Recipients of awards must demonstrate non-financial benefits from a partnership agreement and must agree to the substantial involvement of RMA in the project. This announcement lists the information needed to submit an application under this program.

FOR FURTHER INFORMATION CONTACT: David Wiggins, National Outreach Program Manager, Telephone (202) 690–2686, Facsimile (202) 690–1518, E-mail: *david.wiggins@rma.usda.gov*. Application materials can be downloaded from the RMA Web site at *http://www.rma.usda.gov/aboutrma/agreements/*; or from the Government grants Web site at *http://www.grants.gov*. Click on ''Find Grant Opportunities,'' then select ''Basic Search,'' type in ''RMA'' in the Keyword Search field and select ''Search,'' select ''Community Outreach and Assistance Partnership Program'' under the Opportunity Title column to access the application package for this announcement.

The collection of this information has been approved under OMB control number 0563–0066 through November 30, 2010.

This announcement consists of seven parts.

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C. Definition of Priority Commodities
D. Program Description
Part II—Award Information
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Part I—General Information

A. Legislative Authority and Background

This program is authorized under section 522(d)(3)(F) of the Act which authorizes FCIC funding for risk management training and informational efforts for agricultural producers through the formation of partnerships with public and private organizations. RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. One of RMA's four strategic goals is to ensure that its customers and potential customers are well informed of the risk management solutions available. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, providing risk management education and information and offering outreach programs aimed at equal access and participation of underserved communities. A priority must be given to reaching producers of Priority Commodities as defined in section C of this part.

B. Purpose

The purpose of this program is to fund projects that provide limited resource, socially disadvantaged, and other traditionally underserved producers of Priority Commodities with training, informational opportunities and assistance necessary to understand:

(1) The kind of risks addressed by existing and emerging risk management tools;

(2) The features and appropriate use of existing and emerging risk management tools; and

(3) How to make sound risk management decisions.

Each partnership agreement awarded through this program will provide the applicant with funds, guidance, and the substantial involvement of RMA to deliver outreach and assistance programs to producers in a specific geographical area.

C. Definition of Priority Commodities

For purposes of this program, Priority Commodities are defined as:

• *Agricultural commodities covered by* (7 U.S.C. 7333). Commodities in this group are commercial crops that are not covered by catastrophic risk protection crop insurance, are used for food or fiber (except livestock), and specifically include, but are not limited to, floricultural, ornamental nursery, Christmas trees, turf grass sod, aquaculture (including ornamental fish), and industrial crops.

• *Specialty crops.* Commodities in this group may or may not be covered under a Federal crop insurance plan and include, but are not limited to, fruits, vegetables, tree nuts, syrups, honey, roots, herbs, and highly specialized varieties of traditional crops.

• *Underserved commodities.* This group includes: (a) Commodities, including livestock, that are covered by a Federal crop insurance plan but for which participation in an area is below the national average; and (b) commodities, including livestock, with inadequate crop insurance coverage produced by limited resource, socially disadvantaged, and other traditionally underserved producers.

A project is considered as giving priority to Priority Commodities if the majority of the educational outreach and assistance activities are directed to limited resource, socially disadvantaged and other traditionally under-served producers of one or more of the three classes of commodities listed above or any combination of the three classes.

D. Program Description

This program will support a wide range of innovative outreach and assistance activities in farm management, financial management, marketing contracts, crop insurance and other existing and emerging risk management tools, RMA will be substantially involved in the activities listed under paragraph 2. The applicant must identify specific ways in which RMA could have substantial involvement in the proposed outreach activity.

In addition to the specific, required activities listed under paragraph 1, the applicant may suggest other activities that would contribute directly to the purpose of this program. For any additional activity suggested, the applicant should identify the objective of the activity, the specific tasks required to meet the objective, specific time lines for performing the tasks, and specific responsibilities of the partners.

1. In conducting activities to achieve the purpose and goal of this program, award recipients will be required to perform the following activities:

• Develop and finalize a risk management outreach delivery plan that will contain the tasks needed to accomplish the purpose of this program, including a description of the manner in which various tasks for the project will be completed, the dates by which each task will be completed, and the partners that will have responsibility for each task. Task milestones must be listed to ensure that progress can be measured at various stages throughout the life of the project. The plan must also provide for the substantial involvement of RMA in the project.

Note: All partnership agreements resulting from this announcement will include delivery plans in a table format. All applicants are strongly encouraged to refer to the table in the application package, when preparing a delivery plan and to use this format as part of the project description.

• Assemble risk management instructional materials appropriate for producers of Priority Commodities to be used in delivering education and information. This will include: (a) Gathering existing instructional materials that meet the local needs of producers of Priority Commodities; (b) identifying gaps in existing instructional materials; and (c) developing new materials or modifying existing instructional materials to fill existing gaps.

• Develop and conduct a promotional program and dissemination activities to publicize the project accomplishments. This program will include activities using the media, newsletters, publications, or other informational dissemination techniques that are designed to: (a) Raise awareness for risk management; (b) inform producers of the availability of risk management tools; (c) inform producers of the training and informational opportunities

being offered; and (d) communicate the project's accomplishments (products, results and impacts, etc.) to the broadest audiences. Minority media and publications should also be used to achieve the broadest promotion of outreach opportunities for limited resource and socially disadvantaged farmers and ranchers possible.

• Deliver risk management training and informational opportunities to limited resource and socially disadvantaged agricultural producers and agribusiness professionals of Priority Commodities. This will include organizing and delivering educational activities using the instructional materials identified earlier. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise farmers on risk management.

• Document all outreach activities conducted under the partnership agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The recipient will also be required to provide information to an RMA-selected contractor to evaluate all outreach activities and advise RMA as to the effectiveness of activities.

2. RMA will be responsible for the following activities:

• Review and approve in advance the recipient's project delivery plan.

• Collaborate with the recipient in assembling risk management materials for producers. This will include: (a) Reviewing and approving in advance all educational materials for technical accuracy; (b) serving on curriculum development workgroups; (c) providing curriculum developers with fact sheets and other risk management publications prepared by RMA; (d) advising the applicant on the materials available over the internet through the AgRisk Education Library; (e) advising the applicant on technical issues related to crop insurance instructional materials; and (f) advising the applicant on the use of the standardized design and layout formats to be used on program materials.

• Collaborate with the recipient on a promotional program for raising awareness of risk management and for informing producers of training and informational opportunities. This will include: (a) Reviewing and approving in advance all promotional plans, materials, and programs; (b) serving on workgroups that plan promotional programs; (c) advising the applicant on technical issues relating to the presentation of crop insurance products in promotional materials; and (d) participating, as appropriate, in media programs designed to raise general awareness or provide farmers with risk management education.

• Collaborate with the recipient on outreach activities to agricultural producers and agribusiness leaders. This will include: (a) Reviewing and approving in advance all producer and agribusiness educational delivery plans; (b) advising the applicant on technical issues related to the delivery of crop insurance education and information; and (c) assisting the applicant in informing crop insurance professionals about educational plans and scheduled meetings.

• Reviewing and approving recipient's documentation of risk management education and outreach activities.

Part II—Award Information

A. Available Funding

The amount of funds available in FY 2008 for support of this program is approximately $5 million dollars (subject to availability of funds). There is no commitment by USDA/RMA to fund any particular project or to make a specific number of awards. No maximum or minimum funding levels have been established for individual projects or geographic locations. Applicants awarded a partnership agreement for an amount that is less than the amount requested may be required to modify their application to conform to the reduced amount before execution of the partnership agreement. It is expected that awards will be made approximately 120 days after the application deadline.

B. Types of Applications

Applicants must specify whether the application is a new, renewal, or resubmitted application.

1. *New Application*—This is an application that has not been previously submitted to the RMA Outreach Program. All new applications will be reviewed competitively using the selection process and evaluation criteria described in this RFA.

2. *Renewal Application*—This is an application that requests additional funding for a project beyond the period that was approved in an original or amended award. Applications for renewed funding must contain the same information as required for new applications, and additionally must contain a Progress Report. Renewal applications must be received by the relevant due dates, will be evaluated in competition with other pending applications, and will be reviewed according to the same evaluation criteria as new applications.

3. *Resubmitted Application*—This is an application previously submitted to the RMA Outreach office, but was not funded. Resubmitted applications must be received by the relevant due dates, and will be evaluated in competition with other pending applications and will be reviewed according to the same evaluation criteria as new applications.

Part III—Eligibility Information

A. Eligible Applicants

Educational institutions, community based organizations, associations of farmers and ranchers, state departments of agriculture, and other non-profit organizations with demonstrated capabilities in developing and implementing risk management and other marketing options for priority commodities are eligible to apply. Individuals are not eligible applicants. Applicants are encouraged to form partnerships with other entities that complement, enhance, and/or increase the effectiveness and efficiency of the proposed project. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program (e.g. debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or partnership; a determination of a violation of applicable ethical standards). Applications from ineligible or excluded persons will be rejected in their entirety.

B. Project Period

Each project will be funded for a period of up to one year from the project starting date for the activities described in this announcement.

C. Non-Financial Benefits

To be eligible, applicants must also demonstrate that they will receive a non-financial benefit as a result of a partnership agreement. Non-financial benefits must accrue to the applicant and must include more than the ability to provide employment income to the applicant or for the applicant's employees or the community. The applicant must demonstrate that performance under the partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete their educational program). Applications that do not demonstrate a non-financial benefit will be rejected.

D. Cost Sharing or Matching

Cost sharing, matching, in-kind contribution, or cost participation is not required.

E. Funding Restrictions

Indirect costs for projects submitted in response to this solicitation are limited to 10 percent of the total direct costs of the agreement. Partnership agreement funds may not be used to:

1. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;
2. To purchase, rent, or install fixed equipment;
3. Repair or maintain privately owned vehicles;
4. Pay for the preparation of the partnership application;
5. Fund political activities;
6. Pay costs incurred prior to receiving this partnership agreement;
7. Fund any activities prohibited in 7 CFR parts 3015 and 3019, as applicable.

Part IV—Application and Submission Information

A. Address To Submit an Application Package

The address for submissions is USDA/RMA, Community Outreach, and Assistance Partnership Program, c/o William Buchanan, 1400 Independence Avenue, SW., Room 6709, Stop 0805, Washington, DC 20250–0805. All applications must be submitted by the deadline. Late or incomplete applications will not be considered and will be returned to the applicant. Applications will be considered as meeting the announced deadline if they are received in the mailroom at the following address on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants using the U.S. Postal Service should allow for the extra time for delivery due to the additional security measures that mail delivered to government offices in the Washington DC area now requires. Failure of the selected delivery services will not extend the deadline. Applicants are strongly encouraged to submit completed and signed application packages using overnight mail or delivery service to ensure timely receipt.

B. Content and Form of Application

1. *General*—Use the following guidelines to prepare an application. Each application must contain the following elements in the order indicated. Proper preparation of applications will assist reviewers in evaluating the merits of each application in a systematic, consistent fashion.

(a) Prepare the application on only one side of the page using standard size (8½″ x 11″) white paper, one-inch margins, typed or word processed using no type smaller than 12 point font, and single or double spaced. Use an easily readable font face (e.g., Geneva, Helvetica, Times Roman).

(b) Number each page of the application sequentially, starting with the Project Description, including the budget pages, required forms, and any appendices.

(c) Staple the application in the upper left-hand corner. Do not bind. An original and two copies of the completed and signed application (3 total) and one electronic copy (Microsoft Word format preferred) on compact disc or diskette must be submitted in one package. Only hard copies of OMB Standard Forms should be submitted. Do not include the standard forms on the diskette.

(d) Include original illustrations (photographs, color prints, etc.) in all copies of the application to prevent loss of meaning through poor quality reproduction.

2. *Application for Federal Assistance, OMB Standard Form 424*—Please complete this form in its entirety. The original copy of the application must contain a pen-and-ink signature of the authorized organizational representative (AOR), individual with the authority to commit the organization's time and other relevant resources to the project. The Catalog of Federal Domestic Assistance Number (block 10) is ''10–455—Community Outreach and Assistance.''

3. *Table of Contents*—Each application must contain a detailed Table of Contents immediately following OMB SF 424.

4. *Project Summary*—(Limited to one page, placed after the Table of Contents) The summary should be a self-contained, specific description of the activity to be undertaken and should focus on: Overall project goal(s) and supporting objectives; plans to accomplish project goals; and relevance of the project to the goals of the community outreach and assistance program.

5. *Progress Report*—(Limited to three pages, placed immediately after the Project Summary) Renewal applications of an existing project supported under the same program should include a clearly identified summary progress report describing the results to date. The progress report should contain a comparison of actual accomplishments with the goals established for the project.

6. *A Project Description*—(Limited to twenty-five single-sided pages) that describes the outreach project in detail, including the program delivery plan and a Statement of Work. The description should provide reviewers with sufficient information to effectively evaluate the merits of the application under the criteria contained in Part V. The description should include the circumstances giving rise to the proposed activity; a clear, concise statement of the objectives; the steps necessary to implement the program to attain the objectives; an evaluation plan for the activities; a program delivery plan, and statement of work that describes how the activities will be implemented and managed by the applicant.

The statement of work in table format should identify each objective and the key tasks to achieve the objective, the entity responsible for the task, the completion date, the task location, and RMA's role. Applicants are strongly encouraged to refer to the sample table in the application package, when preparing a delivery plan and to use this table format in that portion of the application narrative that addresses the delivery plan.

7. *Budget, OMB Standard Form 424–A,* ''Budget Information, Non-Construction Program''—Indirect costs allowed for projects submitted under this announcement will be limited to 10 percent of the total direct cost of the partnership or cooperative agreement. Applicants should include reasonable travel costs associated with attending at least two RMA designated two-day events, which will include a Project Directors' meeting and civil rights training.

8. *Budget Narrative*—A detailed narrative in support of the budget should show all funding sources and itemized costs for each line item contained on the SF–424A. All budget categories must be individually listed (with costs) in the same order as the budget and justified on a separate sheet of paper and placed immediately behind the SF–424A. There must be a detailed breakdown of all costs, including indirect costs. Include budget notes on each budget line item detailing how each line item was derived. Also provide a brief narrative description of any costs that may require explanation (i.e., why a specific cost may be higher than market costs). Only items or services that are necessary for the successful completion of the project will be funded as permitted under the Act, the applicable Federal Cost principles,

and are not prohibited under any other Federal statute. Salaries of project personnel should be requested in proportion to the effort that they would devote to the project.

9. *Key Personnel*—The roles and responsibilities of each PD and/or collaborator should be clearly described; and the vitae of the PD and each co-PD, senior associate and other professional personnel.

10. *Collaborative Arrangements (including Letters of Support)*—If it will be necessary to enter into formal consulting or collaborative arrangements, such arrangements should be fully explained and justified. If the consultants or collaborators are known at the time of application, a vitae or resume should be provided. Evidence (e.g., letter of support) should be included if the collaborators involved have agreed to render these services. Additional information on consultants and collaborators are required in the budget portion of the application.

11. *Current and Pending Support*—All applications must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. An application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. The projects proposed for funding should be included in the pending section.

12. *Disclosure of Lobbying Activities, OMB Standard Form LLL*—All applications must contain a signed copy of this form (See Part VI (F)). Applicants who are not engaging in lobbying activities should write ''Not Applicable'' and sign the form.

13. *A completed and Signed ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters* (Primary Covered Transactions), AD 1047.''

14. A completed and Signed ''Certifications Regarding Drug-Free Workplace, AD–1049.''

15. *Appendices* are allowed if they are directly germane to the proposed project.

C. Acknowledgment of Applications

Applications submitted by facsimile or through other electronic media (except grants.gov), regardless of the date or time of submission or the time of receipt, will not be considered and will be returned to the applicant. Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide an e-mail address in the application. If an e-mail address is not indicated on an application, receipt will be acknowledged in writing. There will be no notification of incomplete, unqualified, or unfunded applications until the awards have been made. RMA will assign an identification number to the application when received. This number will be provided to applicants when the receipt of application is acknowledged. Applicants should reference the assigned identification number in all correspondence regarding the application.

If receipt of application is not acknowledged by RMA within 15 days of the submission deadline, the applicant should contact David Wiggins at (202) 690–2686 or electronically at *david.wiggins@rma.usda.gov.*

Part V—Application Review Process

A. General

Each application will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the requirements of this announcement or are incomplete will not receive further consideration.

Second, a review panel will consider the merits of all applications that meet the requirements in the announcement. A panel of not less than three independent reviewers will evaluate each application. Reviewers will be drawn from USDA, other Federal agencies, and others representing public and private organizations, as needed. The project description and any appendices submitted by applicant will be used by the review panel to evaluate the merits of the project being proposed for funding. The panel will examine and score applications based on each of the four criteria contained in paragraph B of this part ''Evaluation Criteria and Weights''.

The panel will be looking for the specific elements listed with each criterion when evaluating the applications and scoring them. For each application, panel members will assign a point value up to the maximum for each criterion. After all reviewers have evaluated and scored each of the applications, the scores for the entire panel will be averaged to determine an application's final score.

After assigning points for each criterion, applications will be listed in initial rank order and presented, along with funding level recommendations, to the Manager of FCIC, who will make the final decision on awarding of a partnership agreement. Applications will then be funded in final rank order until all available funds have been expended. Applicants must score 50 points or more to be considered for funding. If there are unused remaining funds, RMA may conduct another round of competition through the announcement of another RFA.

An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the programs described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding under this announcement is sufficiently similar to a project that has been funded or has been recommended to be funded under another FCIC or RMA education or outreach program, then the Manager may elect to not fund that application in whole or in part.

B. Evaluation Criteria and Weights

1. Project Benefits—Maximum 40 Points

The applicant must demonstrate that the project benefits to limited resource, socially disadvantaged and other traditionally underserved producers warrant the funding requested. Applicants will be scored according to the extent they can: (a) Reasonably estimate the number of producers reached through the project; (b) justify the estimates with clear specifics related to the delivery plan; (c) identify the actions producers will likely be able to take as a result of the project; and (d) identify specific measures for evaluating the success of the project. Reviewers' scoring will be based on the scope and reasonableness of the applicants' estimate of the number of producers reached through the project, clear descriptions of specific expected project benefits for producers, and well-constructed plans for measuring the project's effectiveness.

2. Project Management—Maximum 20 Points

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs using the appropriate language service that assist limited resource, socially disadvantaged and other traditionally underserved producers. If the applicant has been a recipient of other Federal or other government grants, cooperative

agreements, or contracts, the applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. Applicants that will employ, or have access to personnel who have experience in directing agricultural programs or providing education programs that benefit producers will receive higher rankings. Higher scores will be awarded to applicants with no more than two on-going projects funded by RMA under this program in previous years.

3. Collaborative Partnering—Maximum 20 Points

The applicant must demonstrate experience and capacity to partner with and gain the support of other agencies, grower organizations, agribusiness professionals, and agricultural leaders to enhance the quality and effectiveness of the program. Applicants will receive higher scores to the extent that they can document and demonstrate: (a) That partnership commitments are in place for the express purpose of delivering the program in this announcement; (b) that the project will incorporate training on the benefits and implementation of the Adjusted Gross Revenue Lite (AGR–LITE) insurance coverage plan; (c) that the project promotes energy alternatives for small farmers and ranchers; (d) that a broad and diverse group of farmers and ranchers will be reached; and (e) that a substantial effort has been made to partner with organizations that can meet the needs of producers that are small, have limited resources, are minorities, or are beginning farmers and ranchers.

4. Delivery Plan—Maximum 20 Points

The applicant must demonstrate that its program delivery plan is clear and specific. For each of the applicant's responsibilities contained in the description of the program, the applicant must demonstrate that it can identify specific tasks and provide reasonable time lines that further the purpose of this program. Applicants will obtain a higher score to the extent that the tasks of the project are specific, measurable, and reasonable, have specific periods for completion, relate directly to the required activities, the program objectives described in this announcement, and use the appropriate language service.

5. Diversity and Dissemination—Maximum 25 Points

Management reserves the right to award applications up to 25 additional points to promote the broadest geographic diversity and emphasize the dissemination measures to broadly communicate project accomplishments.

Part VI—Award Administration

A. Notification of Award

Following approval by the RMA awarding official, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a purpose, the awarding official of RMA shall enter into partnership agreements with applicants whose applications are judged to be most meritorious under the procedures set forth in this announcement. The agreements provide the amount of Federal funds for use in the project period, the terms and conditions of the award and the time period for the project.

The effective date of the agreement is the date the agreement is executed by both parties. RMA will extend to award recipients, in writing, the authority to draw down funds for conducting the activities listed in the agreement. All funds provided to the applicant by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice.

Applicants that are not funded will be notified within 120 days after the submission deadline.

B. Access to Panel Review Information

Upon written request from the applicant, your score from the evaluation panel, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

C. Confidential Aspects of Proposals and Awards

When an application results in a partnership agreement, it becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the basis for such designation. The original copy of a proposal that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of proposals not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to award.

D. Reporting Requirements

Applicants awarded partnership agreements will be required to submit quarterly progress and financial reports (OMB Standard Form 269) throughout the project period, as well as a final program and financial report no later than 90 days after the end of the project period.

E. Administration

All partnership agreements are subject to the requirements of 7 CFR part 3015.

F. Prohibitions and Requirements With Regard to Lobbying

All partnership agreements are subject to the requirements of 7 CFR part 3018. A copy of the certification and disclosure forms must be submitted with the application.

G. Applicable OMB Circulars

All partnership and cooperative agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

H. Confidentiality

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application.

I. Civil Rights Training

All recipients of federally assisted programs are required to comply with Federal civil rights laws and regulations. USDA/RMA policies and procedures require recipients of federally assisted programs to attend mandatory civil rights training sponsored by RMA, to become fully aware of civil rights requirements and responsibilities. Applicants should include in their budgets reasonable travel costs associated with attending at least two two-day RMA designated

events that include a Project Directors meeting and required civil rights training.

Part VII—Additional Information

A. Requirement To Use Program Logo

Applicants awarded partnership agreements will be required to use a program logo and design provided by RMA for all instructional and promotional materials.

B. Requirement To Provide Project Information to an RMA Representative

Applicants awarded partnership agreements will be required to assist RMA in evaluating the effectiveness of its outreach program by providing documentation of outreach activities and related information to any contractor selected by RMA for program evaluation purposes. This requirement also includes providing demographic data on program participants.

C. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply for funding under this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC and the entity. Such entities will also not be allowed to receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

D. DUNS Number

A Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of businesses worldwide. A **Federal Register** notice of final policy issuance (68 FR 38402) requires a DUNS number in every application (i.e., hard copy and electronic) for a grant or cooperative agreement. Therefore, potential applicants should verify that they have a DUNS number or take steps needed to obtain one. For information about how to obtain a DUNS number, go to *http://www.grants.gov.* Please note that the registration may take up to 14 business days to complete.

E. Required Registration for Grants.gov

The Central Contract Registry (CCR) is a database that serves as the primary Government repository for contractor information required for the conduct of business with the Government. This database will also be used as a central location for maintaining organizational information for organizations seeking and receiving grants from the Government. Such organizations must register in the CCR prior to the submission of applications via grants.gov (a DUNS number is needed for CCR registration). For information about how to register in the CCR, visit *http://www.grants.gov.* Allow a minimum of 5 days to complete the CCR registration.

Signed in Washington, DC on January 11, 2008.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E8–941 Filed 1–18–08; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Funding Opportunity Title: Crop Insurance Education in Targeted States (Targeted States Program)

Announcement Type: Announcement of Availability of Funds and Request for Application for Competitive Cooperative Agreements.

Catalog of Federal Domestic Assistance Number (CFDA): 10.458

DATES: Applications are due by 5 p.m. EST, March 24, 2008.

SUMMARY: The Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces the availability of approximately $4.5 million (subject to availability of funds) to fund cooperative agreements under the Crop Insurance Education in Targeted States program (the Targeted States Program). The purpose of this cooperative agreement program is to deliver crop insurance education and information to U.S. agricultural producers in certain States that have been designated as historically underserved with respect to crop insurance. The States, collectively referred to as Targeted States, are Connecticut, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming. A maximum of 15 cooperative agreements will be funded, one in each of the 15 Targeted States. Awardees of awards must agree to the substantial involvement of RMA in the project. Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships) CFDA No. 10.457 (Commodity Partnerships for Risk Management Education), and CFDA No. 10.459 (Commodity Partnerships for Small Agricultural Risk Management Education Sessions). Prospective applicants should carefully examine and compare the notices for each program.

The collections of information in this announcement have been approved by OMB under control number 0563–0067 through January 31, 2009.

This Announcement Consists of Eight Sections:

Section I—Funding Opportunity Description

A. Legislative Authority
B. Background
C. Project Goal
D. Purpose

Section II—Award Information

A. Type of Award
B. Funding Availability
C. Location and Target Audience
D. Maximum Award
E. Project Period
F. Description of Agreement Award-Awardee Tasks
G. RMA Activities
H. Other Tasks

Section III—Eligibility Information

A. Eligible Applicants
B. Cost Sharing or Matching

Section IV—Application and Submission Information

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B. Content and Form of Application Submission
C. Funding Restrictions
D. Limitation on Use of Project Funds for Salaries and Benefits
E. Indirect Cost Rates
F. Other Submission Requirements
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Section V—Application Review Information

A. Criteria
B. Review and Selection Process

Section VI—Award Administration Information

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B. Administrative and National Policy Requirements
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2. Requirement To Provide Project Information to an RMA-Selected Representative

3. Private Crop Insurance Organizations and Potential Conflict of Interest
4. Access to Panel Review Information
5. Confidential Aspects of Applications and Awards
6. Audit Requirements
7. Prohibitions and Requirements Regarding Lobbying
8. Applicable OMB Circulars
9. Requirement To Assure Compliance With Federal Civil Rights Laws
10. Requirement To Participate in a Post Award Conference
11. Requirement To Submit Educational Materials to the National AgRisk Education Library
12. Requirement To Submit Proposed Results to the National AgRisk Education Library
13. Requirement To Submit a Project Plan of Operation in the Event of a Human Pandemic Outbreak
C. Reporting Requirements

Section VII—Agency Contact

Section VIII—Other Information

A. Dun and Bradstreet Data Universal Numbering System (DUNS)
B. Required Registration with the Central Contract Registry for Submission of Proposals
C. Related Programs

Full Text of Announcement

I. Funding Opportunity Description

A. Legislative Authority

The Targeted States Program is authorized under section 524(a)(2) of the Federal Crop Insurance Act (Act).

B. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information. One of RMA's strategic goals is to ensure that its customers are well informed as to the risk management solutions available. This educational goal is supported by section 524(a)(2) of the Act. This section authorizes funding for the establishment of crop insurance education and information programs in States that have historically been underserved by the Federal crop insurance program. In accordance with the Act, the fifteen States designated as ''underserved'' are Connecticut, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming (collectively referred to as ''Targeted States'').

C. Project Goal

The goal of the Targeted States Program is to ensure that farmers and ranchers in the Targeted States are sufficiently informed so as to take full advantage of existing and emerging crop insurance products.

D. Purpose

The purpose of the Targeted States Program is to provide farmers and ranchers in Targeted States with education and information to be able to understand:

- The kinds of risk addressed by crop insurance;
- The features of existing and emerging crop insurance products;
- The use of crop insurance in the management of risk;
- How the use of crop insurance can affect other risk management decisions, such as the use of marketing and financial tools;
- How to make informed decisions on crop insurance prior to the sales closing date deadline; and
- Record keeping requirements for crop insurance.

In addition, for 2008, the FCIC Board of Directors and the FCIC Manager are seeking projects that also include the Special Emphasis Topics listed below which highlight the educational priorities within each of the twelve Northeast Targeted States:

Massachusetts—Aquaculture (Clams), AGR, AGR-Lite and Nursery Crop Insurance Tools.

West Virginia—Livestock and Livestock Risk Protection (LRP), Nursery, and AGR-Lite Crop Insurance Tools.

Pennsylvania—AGR, AGR-Lite, Nursery and Pasture Rangeland and Forage Rainfall Index and Pasture Rangeland and Forage Vegetation Index Crop Insurance Tools.

New York—AGR, AGR-Lite, Nursery and Pasture Rangeland and Forage Vegetation Index Crop Insurance Tools.

Connecticut, Delaware, Maine, Maryland, New Hampshire, New Jersey, Rhode Island, and Vermont—AGR, AGR-Lite and Nursery Crop Insurance Tools.

II. Award Information

A. Type of Award

Cooperative Agreements, which require the substantial involvement of RMA.

B. Funding Availability

Approximately $4,500,000 (subject to availability of funds) is available in fiscal year 2008 to fund up to 15 cooperative agreements, a maximum of one agreement for each of the Targeted States. The maximum funding amount anticipated for each Targeted State's agreement is as follows. Applicants should apply for funding for that Targeted State where the applicant intends on delivering educational activities.

Connecticut	$225,000
Delaware	261,000
Maine	225,000
Maryland	370,000
Massachusetts	209,000
Nevada	208,000
New Hampshire	173,000
New Jersey	272,000
New York	617,000
Pennsylvania	754,000
Rhode Island	157,000
Utah	301,000
Vermont	226,000
West Virginia	209,000
Wyoming	293,000
Total	4,500,000

Funding amounts were determined by first allocating an equal amount of $150,000 to each Targeted State. Remaining funds were allocated on a pro rata basis according to each Targeted State's share of 2000 agricultural cash receipts relative to the total for all Targeted States. Both allocations were totaled for each Targeted State and rounded to the nearest $1,000.

In the event that additional funds become available under this program or in the event that no application for a given Targeted State is recommended for funding by the evaluation panel, these additional funds may, at the discretion of the Manager of FCIC, be allocated pro-rata to State awardees for use in broadening the size or scope of awarded projects within the Targeted State if agreed to by the awardee.

In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements than the available funding might otherwise allow. It is expected that the awards will be made approximately 120 days after the application deadline. All awards will be made and agreements finalized no later than September 30, 2008.

C. Location and Target Audience

Targeted States serviced by RMA Regional Offices are listed below. Staff

from the respective RMA Regional Offices will provide substantial involvement for Targeted States projects conducted within the respective Regions.

Billings, MT Regional Office: (WY).

Davis, CA Regional Office: (NV and UT).

Raleigh, NC Regional Office: (CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT, and WV).

Applicants must clearly designate the Targeted State where crop insurance educational activities for the project will be delivered in their application narrative (Form RME–1) and in block 15 of the SF–424 form. Applications without this designation will be rejected. Applicants may apply to deliver education to producers in more than one Targeted State, but a separate application must be submitted for each Targeted State. Single applications proposing to conduct educational activities in more than one Targeted State will be rejected.

D. Maximum Award

Any application that requests Federal funding of more than the amount listed above for a project in a given Targeted State will be rejected.

E. Project Period

Projects will be funded for a period of up to one year from the project starting date.

F. Description of Agreement Award

Awardee Tasks

In conducting activities to achieve the purpose and goal of this program in a designated Targeted State, the awardee will be responsible for performing the following tasks:

• Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other appropriate informational dissemination techniques that are designed to: (a) Raise awareness for crop insurance; (b) inform producers of the availability of crop insurance; (c) inform producers of the crop insurance sales closing dates prior to the deadline; and (d) inform producers and agribusiness leaders in the designated Targeted State of training and informational opportunities.

• Deliver crop insurance training and informational opportunities to agricultural producers and agribusiness professionals in the designated Targeted State in a timely manner prior to crop insurance sales closing dates in order for producers to make informed decisions prior to the crop insurance sales closing dates deadline. This will include organizing and delivering educational activities using instructional materials that have been assembled to meet the local needs of agricultural producers. Activities should be directed primarily to agricultural producers, but may include those agribusiness professionals that have frequent opportunities to advise producers on crop insurance tools and decisions.

• Document all educational activities conducted under the cooperative agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The awardee may also be required to provide information to an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

G. RMA Activities

FCIC, working through RMA, will be substantially involved during the performance of the funded project through three of RMA's ten Regional Offices. Potential types of substantial involvement may include, but are not limited to the following activities.

• Collaborate with the awardee in assembling, reviewing, and approving risk management materials for producers in the designated RMA Region.

• Collaborate with the awardee in reviewing and approving a promotional program for raising awareness for risk management and for informing producers of training and informational opportunities in the RMA Region.

• Collaborate with the awardee on the delivery of education to producers and agribusiness leaders in the RMA Region. This will include: (a) Reviewing and approving in advance all producer and agribusiness leader educational activities; (b) advising the project leader on technical issues related to crop insurance education and information; and (c) assisting the project leader in informing crop insurance professionals about educational activity plans and scheduled meetings.

• Conduct an evaluation of the performance of the awardee in meeting the deliverables of the project.

• Assist in the selection of subcontractors and project staff.

Applications that do not contain substantial involvement by RMA will be rejected.

H. Other Tasks

In addition to the specific, required tasks listed above, the applicant may propose additional tasks that would contribute directly to the purpose of this program. For any proposed additional task, the applicant must identify the objective of the task, the specific subtasks required to meet the objective, specific time lines for performing the subtasks, and the specific responsibilities of partners. The applicant must also identify specific ways in which RMA would have substantial involvement in the proposed project task.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants include State departments of agriculture, universities, non-profit agricultural organizations, and other public or private organizations with the capacity to lead a local program of crop insurance education for farmers and ranchers within a Targeted State. Individuals are eligible applicants. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program governed by Federal law and regulations (e.g. debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or partnership; a determination of a violation of applicable ethical standards; a determination of being considered ''high risk''). Applications from ineligible or excluded persons will be rejected in their entirety.

B. Cost Sharing or Matching

Although RMA prefers cost sharing by the applicant, this program has neither a cost sharing nor a matching requirement.

IV. Application and Submission Information

A. Contact To Request Application Package

Program application materials for the Targeted States Program under this announcement may be downloaded from *http://www.rma.usda.gov/aboutrma/agreements*. Applicants may also request application materials from: Lon Burke, USDA–RMA–RME, phone: (202) 720–5265, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov*.

B. Content and Form of Application Submission

A complete and valid application package must be submitted in one package at the time of initial submission, which must include the following:

1. An original and two copies of the completed and signed application.

2. An electronic copy (Microsoft Word format preferred) of the narrative portion (Forms RME–1 and RME–2) of the application package on a compact disc.

3. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance.''

4. A completed and signed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs.'' Federal funding requested (the total of direct and indirect costs) must not exceed the maximum level for the respective Targeted State, as specified in section II, Award Information.

5. A completed and signed OMB Standard Form 424–B, ''Assurances, Non-constructive Programs.''

6. Risk Management Education Project Narrative (Form RME–1). Complete all required parts of Form RME–1:

Part I—Title Page.

Part II—A written narrative of no more than 10 single-sided pages which will provide reviewers with sufficient information to effectively evaluate the merits of the application according to the evaluation criteria listed in this notice. Although a Statement of Work, which is an evaluation criterion, is to be completed in detail in RME Form–2, applicants may wish to highlight certain unique features of the Statement of Work in Part II for the benefit of the evaluation panel. If your narrative exceeds the page limit, only the first 10 pages will be reviewed.

- No smaller than 12-point font size.
- Use an easily readable font face (e.g., Arial, Geneva, Helvetica, Times Roman).
- 8.5 by 11 inch paper.
- One-inch margins on each page.
- Printed on only one side of paper.
- Held together only by rubber bands or metal clips; not bound or stapled in any other way.

Part III—A Budget Narrative, describing how the categorical costs listed on SF 424–A are derived. The budget narrative should provide enough detail for reviewers to easily understand how costs were determined and how they relate to the goals and objectives of the project.

Part IV—(Not required for Targeted States Program).

7. ''Statement of Work,'' Form RME–2, which identifies tasks and subtasks in detail, expected completion dates and deliverables, and RMA's substantial involvement role for the proposed project.

8. A completed and signed OMB Standard Form LLL, ''Disclosure of Lobbying Activities.''

9. A completed and signed AD–1047, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions.''

10. A completed and signed AD–1049, ''Certification Regarding Drug-Free Workplace.''

Applications that do not include items 1–7 above will be considered incomplete and will not receive further consideration and will be rejected.

C. Funding Restrictions

Cooperative agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

b. Purchase, rent, or install fixed equipment;

c. Repair or maintain privately owned vehicles;

d. Pay for the preparation of the cooperative agreement application;

e. Fund political activities;

f. Purchase alcohol, food, beverage, or entertainment;

g. Lend money to support farming or agricultural business operation or expansion;

h. Pay costs incurred prior to receiving a partnership agreement;

i. Fund any activities prohibited in 7 CFR parts 3015 and 3019, as applicable.

D. Limitation on Use of Project Funds for Salaries and Benefits

Total costs for salary and benefits allowed for projects under this announcement will be limited to not more than 70 percent reimbursement of the funds awarded under the cooperative agreement. One goal of the Targeted States Program is to maximize the use of the limited funding available for crop insurance education for Targeted States. In order to accomplish this goal, RMA needs to ensure that the maximum amount of funds practicable is used for directly providing the educational opportunities. Limiting the amount of funding for salaries and benefits will allow the limited amount of funding to reach the maximum number of farmers and ranchers.

E. Indirect Cost Rates

a. Indirect costs allowed for projects submitted under this announcement will be limited to ten (10) percent of the total direct cost of the cooperative agreement. Therefore, when preparing budgets, applicants should limit their requests for recovery of indirect costs to the lesser of their institution's official negotiated indirect cost rate or 10 percent of the total direct costs.

b. RMA will withhold all indirect cost rate funds for an award to an applicant requesting indirect costs if the applicant has not negotiated an indirect cost rate with its cognizant Federal agency.

c. If an applicant is in the process of negotiating an indirect cost rate with its cognizant Federal agency, RMA will withhold all indirect cost rate funds from that applicant until the indirect cost rate has been established.

d. If an applicant's indirect cost rate has expired or will expire prior to award announcements, a clear statement on renegotiation efforts must be included in the application.

e. It is incumbent on all applicants to have a current indirect cost rate or begin negotiations to establish an indirect cost rate prior to the submission deadline. Because it may take several months to obtain an indirect cost rate, applicants needing an indirect cost rate are encouraged to start work on establishing these rates well in advance of submitting an application. The U.S. Office of Management and Budget (OMB) is responsible for assigning cognizant Federal agencies.

f. Applicants may be asked to provide a copy of their indirect cost rate negotiated with their cognizant agency.

g. RMA reserves the right to negotiate final budgets with successful applicants.

F. Other Submission Requirements

Mailed submissions: Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated below for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. Mailed applications will be considered as meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated below for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants using the U.S. Postal Service (USPS) should allow for the extra time for delivery due to the additional security measures that mail delivered to government offices in the Washington DC area requires. USPS mail sent to Washington DC headquarters is sanitized offsite, which may result in delays, loss, and physical damage to enclosures.

Address when using private delivery services or when hand delivering: Attention: Risk Management Education

Program, USDA/RMA/RME, Room 6625, South Building, 1400 Independence Avenue, SW., Washington, DC 20250.

Address when using U.S. Postal Services: Attention: Risk Management Education Program, USDA/RMA/RME/ Stop 0808, Room 6625, South Building, 1400 Independence Ave., SW., Washington, DC 20250–0808.

Applicants are responsible for ensuring that RMA receives a complete application package by the closing date and time. Regardless of the delivery method you choose, please do so sufficiently in advance of the due date to ensure your application package is received on or before the deadline. It is your responsibility to meet the due date and time. Emailed and faxed applications will not be accepted. Late application packages will not receive further consideration and will be rejected.

G. Electronic Submissions

Applications transmitted electronically via *Grants.gov* will be accepted prior to the application date or time deadline. The application package can be accessed via *Grants.gov*, go to *http://www.grants.gov*, click on ''Find Grant Opportunities,'' click on ''Search Grant Opportunities,'' and enter the CFDA number (beginning of the RFA) to search by CFDA number. From the search results, select the item that correlates to the title of this RFA. If you do not have electronic access to the RFA or have trouble downloading material and you would like a hardcopy, you may contact Lon Burke, USDA–RMA–RME, phone: (202) 720–5265, fax: (202) 690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov*.

If assistance is needed to access the application package via *Grants.gov* (e.g., downloading or navigating PureEdge forms, using PureEdge with a Macintosh computer, using Adobe), refer to resources available on the Web site first (*http://www.grants.gov/*). *Grants.gov* assistance is also available as follows:

- *Grants.gov* customer support. Toll Free: 1–800–518–4726.

Business Hours: M–F 7 a.m.–9 p.m. Eastern Standard Time.

E.mail: *support@grants.gov*.

Applicants who submit their applications via the *Grants.gov* Web site are not required to submit any hard copy documents to RMA.

When using *Grants.gov* to apply, RMA strongly recommends that you submit the online application at least two weeks prior to the application due date in case there are problems with the *Grants.gov* Web site and you want to submit your application via a mail delivery service.

H. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. There will be no notification of incomplete, unqualified or unfunded applications until the awards have been made. When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should notify RMA's point of contact indicated in section VII, Agency Contact.

V. Application Review Information

A. Criteria

Applications submitted under the Targeted States program will be evaluated within each Targeted State according to the following criteria:

Project Impacts—Maximum 30 Points.

The applicant must demonstrate that the project benefits to farmers and ranchers warrant the funding requested. Applicants will be scored according to the extent they can: (a) Identify the specific actions producers will likely be able to take as a result of the educational activities described in the Statement of Work; (b) identify the specific measures for evaluating results that will be employed in the project; (c) reasonably estimate the total number of producers reached through the various methods and educational activities described in the Statement of Work; and (d) justify such estimates with clear specifics. Reviewers' scoring will be based on the scope and reasonableness of the applicant's clear descriptions of specific expected actions participants will accomplish, and well-designed methods for measuring the project's results and effectiveness. Applicants using direct contact methods with producers will be scored higher.

Statement of Work—Maximum 25 Points.

The applicant must produce a clear and specific Statement of Work for the project. For each of the tasks contained in the Description of Agreement Award (refer to section II Award Information), the applicant must identify and describe specific subtasks, responsible entities, expected completion dates, RMA substantial involvement, and deliverables that will further the purpose of this program. Applicants will obtain a higher score to the extent that the Statement of Work is specific, measurable, reasonable, has specific deadlines for the completion of subtasks, relates directly to the required activities and the program purpose described in this announcement. Applicants are required to submit this Statement of Work on Form RME–2.

Partnering—Maximum 15 Points.

The applicant must demonstrate experience and capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agricultural leaders to carry out a local program of education and information in a designated Targeted State. The applicant is required to establish a written partnering plan that includes how each partner will aid in carrying out the project goal and purpose stated in this announcement and letters of commitment stating that the partner has agreed to do this work. The applicant must ensure this plan includes a list of all partners working on the project, their titles, and how they will be contributing to the deliverables listed in the agreement. The partnering plan will not count towards the maximum length of the application narrative (Form RME–1). Applicants will receive higher scores to the extent that they can document and demonstrate in the written partnering plan: (a) That partnership commitments are in place for the express purpose of delivering the program in this announcement; (b) that a broad group of farmers and ranchers will be reached within the Targeted State; (c) that partners are contributing to the project and involved in recruiting producers to attend the training; (d) that a substantial effort has been made to partner with organizations that can meet the needs of producers; and (e) statements from each partner regarding the number of producers that partner is committed to recruit for the project that would support the estimates specified under the Project Impacts criterion.

Project Management—Maximum 15 Points.

The applicant must demonstrate an ability to implement sound and effective project management practices. Higher scores will be awarded to applicants that can demonstrate organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers in the respective Targeted State. The project manager must demonstrate that he/she has the capability to accomplish the

project goal and purpose stated in this announcement by (a) having a previous working relationship with the farm community in the designated Targeted State of the application, including being able to recruit approximately the number of producers to be reached in the application and/or (b) having established the capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agribusiness leaders locally to aid in carrying out a program of education and information, including being able to recruit approximately the number of producers to be reached in this application. Applicants that will employ, or have access to, personnel who have experience in directing local educational programs that benefit agricultural producers in the respective Targeted State will receive higher rankings.

Budget Appropriateness and Efficiency—Maximum 15 Points.

Applicants must provide a detailed budget summary that clearly explains and justifies costs associated with the project. Applicants will receive higher scores to the extent that they can demonstrate a fair and reasonable use of funds appropriate for the project and a budget that contains the estimated cost of reaching each individual producer. The applicant must provide information factors such as:

- The allowability and necessity for individual cost categories;
- The reasonableness of amounts estimated for necessary costs;
- The basis used for allocating indirect or overhead costs;
- The appropriateness of allocating particular overhead costs to the proposed project as direct costs; and
- The percent of time devoted to the project for all key project personnel identified in the application. Salaries of project personnel should be requested in proportion to the percent of time that they would devote to the project—Note: cannot exceed 70% of the total project budget. Applicants must list all current public or private support to which personnel identified in the application have committed portions of their time, whether or not salary support for persons involved is included in the budget. Only items or services that are necessary for the successful completion of the project will be funded as permitted under the Act. An application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. The projects proposed for funding should be included in the pending section.

Past Performance—maximum 10 points.

If the applicant has been an awardee of other Federal or other government grants, cooperative agreements, or contracts, the applicant must provide information relating to their past performance in reporting on outputs and outcomes under past or current federal assistance agreements. The applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. RMA reserves the right to add up to 10 points and subtract 5 points to applications due to past performance. Applicants with very good past performance will receive a score from 6–10 points. Applicants with acceptable past performance will receive a score from 1–5 points. Applicants with unacceptable past performance will receive a score of minus 5 points for this evaluation factor. Applicants without relevant past performance information will receive a neutral score of the mean number of points of all applicants with past performance. These past performance points will be applied only to applications that the review panel scored above the minimum score. Applications receiving less than the minimum score required to be eligible for potential funding will not receive past performance points. Under this cooperative partnership agreement, RMA will subjectively rate the awardee on project performance as indicated in Section II, G.

Projected Audience Description—maximum 5 points.

The applicant must clearly identify and describe the targeted audience for the project. Applicants will receive higher scores to the extent that they can reasonably and clearly describe their target audience and why the audience would choose to participate in the project. The applicant must describe why the proposed audience wants the information the project will deliver.

B. Review and Selection Process

Applications will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the requirements of this announcement or are incomplete will not receive further consideration during the next process. Applications that meet announcement requirements will be sorted into the Targeted State in which the applicant proposes to conduct the project and will be presented to a review panel for consideration.

Second, the review panel will meet to consider and discuss the merits of each application. The panel will consist of not less than three independent reviewers. Reviewers will be drawn from USDA, other Federal agencies, and others representing public and private organizations, as needed. After considering the merits of all applications within a Targeted State, panel members will score each application according to the criteria and point values listed above. The panel will then rank each application against others within the Targeted State according to the scores received. A lottery will be used to resolve any instances of a tie score that might have a bearing on funding recommendations. If such a lottery is required, the names of all tied applicants will be entered into a drawing. The first tied applicant drawn will have priority over other tied applicants for funding consideration.

The review panel will report the results of the evaluation to the Manager of FCIC. The panel's report will include the recommended applicants to receive cooperative agreements for each Targeted State. Funding will not be provided for an application receiving a score less than 60. An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the program described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding is sufficiently similar to a project that has been funded or has been recommended to be funded under another RMA or FCIC program, then the Manager may elect to not fund that application in whole or in part. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

VI. Award Administration Information

A. Award Notices

Following approval by the awarding official of RMA of the applications to be selected for funding, project leaders whose applications have been selected for funding will be notified. Within the limit of funds available for such a purpose, the awarding official of RMA shall enter into cooperative agreements with those awardees. The agreements provide the amount of Federal funds for use in the project period, the terms and conditions of the award, and the time period for the project. The effective date of the agreement shall be on the date the agreement is executed by both parties and it shall remain in effect for up to one year or through September 30, 2009, whichever is later.

After a cooperative agreement has been signed, RMA will extend to awardees, in writing, the authority to draw down funds for the purpose of conducting the activities listed in the agreement. All funds provided to the awardee by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice.

Notification of denial of funding will be sent to applicants after final funding decisions have been made and awardees announced publicly. Reasons for denial of funding can include, but are not limited to, incomplete applications, applications with evaluation scores below 60, or applications with evaluation scores that are lower than those of other applications in a Targeted State.

B. Administrative and National Policy Requirements

1. Requirement to Use Program Logo

Awardees of cooperative agreements will be required to use a program logo and design provided by RMA for all instructional and promotional materials.

2. Requirement to Provide Project Information to an RMA-Selected Representative

Awardees of cooperative agreements may be required to assist RMA in evaluating the effectiveness of its educational programs by providing documentation of educational activities and related information to any representative selected by RMA for program evaluation purposes.

3. Private Crop Insurance Organizations and Potential Conflicts of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply for funding under this announcement. However, such entities will not be allowed to receive funding to conduct activities that would otherwise be required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC and the entity. Also, such entities will not be allowed to receive funding to conduct activities that could be perceived by producers as promoting one company's services or products over another's. If applying for funding, such organizations are encouraged to be sensitive to potential conflicts of interest and to describe in their application the specific actions they will take to avoid actual and perceived conflicts of interest.

4. Access to Panel Review Information

Upon written request from the applicant, scores from the evaluation panel, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

5. Confidential Aspects of Applications and Awards

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application. When an application results in a cooperative agreement, that agreement becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application, including the basis for such designation. The original copy of an application that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Copies of applications not receiving awards will be released only with the express written consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to award.

6. Audit Requirements

Awardees of cooperative agreements are subject to audit.

7. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on awardees of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective awardees, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires awardees and any subcontractors: (1) To certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom awardees of their subcontractors will pay with profits or other non-appropriated funds on or after December 22, 1989; and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application and are available at the address and telephone number listed in section VII. Agency Contact.

8. Applicable OMB Circulars

All cooperative agreements funded as a result of this notice will be subject to the requirements contained in all applicable OMB circulars.

9. Requirement To Assure Compliance With Federal Civil Rights Laws

Project leaders of all cooperative agreements funded as a result of this notice are required to know and abide by Federal civil rights laws and to assure USDA and RMA that the awardee is in compliance with and will continue to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et. seq.*), 7 CFR part 15, and USDA regulations promulgated thereunder, 7 CFR 1901.202. RMA requires that awardees submit an Assurance Agreement (Civil Rights), assuring RMA of this compliance prior to the beginning of the project period.

10. Requirement To Participate in a Post Award Conference

RMA requires that project leaders attend a post award conference to become fully aware of cooperative agreement requirements and for delineating the roles of RMA personnel and the procedures that will be followed in administering the agreement and will afford an opportunity for the orderly transition of agreement duties and obligations if different personnel are to assume post-award responsibility. In

their applications, applicants should budget for possible travel costs associated with attending this conference.

11. Requirement To Submit Educational Materials to the National AgRisk Education Library

RMA requires that project leaders upload digital copies of all risk management educational materials developed because of the project to the National AgRisk Education Library (*http://www.agrisk.umn.edu/*) for posting. RMA will be clearly identified as having provided funding for the materials.

12. Requirement To Submit Proposed Results to the National AgRisk Education Library

RMA requires that project leaders submit results of the project to the National AgRisk Education Library (*http://www.agrisk.umn.edu/*) for posting.

13. Requirement To Submit a Project Plan of Operation in the Event of a Human Pandemic Outbreak

RMA requires that project leaders submit a project plan of operation in case of a human pandemic event. The plan should address the concept of continuing operations as they relate to the project. This should include the roles, responsibilities, and contact information for the project team and individuals serving as back-ups in case of a pandemic outbreak.

C. Reporting Requirements

Awardees will be required to submit quarterly progress reports, quarterly financial reports (OMB Standard Form 269), and quarterly Activity Logs (Form RMA–300) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

Awardees will be required to submit prior to the award:

- A completed and signed Assurance Agreement (Civil Rights).
- A completed and signed Faith-Based Survey on EEO.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Applicants and other interested parties are encouraged to contact: Lon Burke, USDA–RMA–RME, phone: 202–720–5265, fax: 202–690–3605, e-mail: *RMA.Risk-Ed@rma.usda.gov.* You may also obtain information regarding this announcement from the RMA Web site at: *http://www.rma.usda.gov/aboutrma/agreements/.*

VIII. Other Information

A. Dun and Bradstreet Data Universal Numbering System (DUNS)

A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of over 70 million businesses worldwide. The Office of Management and Budget published a notice of final policy issuance in the **Federal Register** June 27, 2003 (68 FR 38402) that requires a DUNS number in every application (i.e., hard copy and electronic) for a grant or cooperative agreement on or after October 1, 2003. Therefore, potential applicants should verify that they have a DUNS number or take the steps needed to obtain one. For information about how to obtain a DUNS number, go to *http://www.grants.gov.* Please note that the registration may take up to 14 business days to complete.

B. Required Registration with the Central Contract Registry for Submission of Proposals

The Central Contract Registry (CCR) is a database that serves as the primary Government repository for contractor information required for the conduct of business with the Government. This database will also be used as a central location for maintaining organizational information for organizations seeking and receiving grants from the Government. Such organizations must register in the CCR prior to the submission of applications. A DUNS number is needed for CCR registration. For information about how to register in the CCR, visit ''Get Started'' at the Web site, *http://www.grants.gov.* Allow a minimum of 5 business days to complete the CCR registration.

C. Related Programs

Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—CFDA No. 10.455 (Community Outreach and Assistance Partnerships), CFDA No. 10.456 (Risk Management Research Partnerships), CFDA No. 10.457 (Commodity Partnerships for Risk Management Education), and CFDA No. 10.459 (Commodity Partnerships Small Sessions Program). These programs have some similarities, but also key differences. The differences stem from important features of each program's authorizing legislation and different RMA objectives. Prospective applicants should carefully examine and compare the notices for each program.

Signed in Washington, DC, on January 15, 2008.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E8–942 Filed 1–18–08; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Fee Site; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Rogue River—Siskiyou National Forest, USDA Forest Service.

ACTION: Notice of New Fee Site.

SUMMARY: The Wild Rivers Ranger District of the Rogue River—Siskiyou National Forest proposes to begin charging a $5 day use fee per vehicle at the Illinois River Scenic Recreation area. The District proposes to charge a $10 fee for the overnight use of Store Gulch Campground. Implementation of these news fees is proposed to begin in 2008. Use of the developed recreation facilities on the Illinois River of the Rogue River-Siskiyou National Forest have shown that people appreciate and enjoy the availability of the recreation experience. Funds generated through recreation fees will be used for the continued operation and maintenance of the Illinois River Scenic Recreation area along with other improvements including law enforcement and sanitation.

DATES: The fees would be charged from May 1 to September 30.

ADDRESSES: Forest Supervisor, Rogue River-Siskiyou National Forest, 333 W. 8th St./ P.O. Box 520, Medford, Oregon 97501–0209.

FOR FURTHER INFORMATION CONTACT: Jerry Sirski, 541–899–3815.

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.

These facilities are in close proximity to the Wild, Scenic, and Recreational segments of the Illinois River. This area offers significant recreational viewing opportunities, fishing experiences, and is rich in historical and cultural importance. A market analysis indicates that the $5/per day single vehicle fee is both reasonable and acceptable for this sort of unique recreation experience.

Dated: January 9, 2008.

Scott Conroy,

Rogue River-Siskiyou National Forest Supervisor.

[FR Doc. E8–820 Filed 1–18–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Umpqua National Forest, Douglas County, Oregon; D-Bug Hazard Reduction Timber Sale Project

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The USDA Forest Service will prepare an environmental impact statement (EIS) for reducing fuels, improving forest stand conditions, salvaging present and future bark beetle mortality, and creating fuel breaks around the Diamond Lake and Lemolo Lake Wildland Urban Interface (WUI) areas, and along evacuation routes that lead to and from these areas. Fuel loadings have increased due to fire exclusion and an ongoing bark beetle outbreak in both lodgepole and mixed conifer stands throughout the area. This EIS will be prepared under the authority of the Healthy Forest Restoration Act (HFRA). The project proposes variable density commercial thinning on about 3,146 acres of lodgepole pine, leaving between 20–50 trees per acre (TPA), interspersed with 10% of the area with no treatment; commercial thinning from below on about 2,244 acres of mixed conifer stands, leaving 50–200 TPA; overstory removal on 59 acres of lodgepole pine stands, leaving about 20 TPA; non-commercial treatment of fuels using pre-commercial thinning, mastication, whip felling, chipping, piling and burning on about 2,013 acres; treating all activity-created fuels by underburning, crushing, machine piling, masticating, handpile burning, and/or yarding tops attached; using 25 miles of existing unclassified roads to access thinning/treatment areas, then decommissioning about 5 miles that are not used for trails or as the old highway; building 15 miles of new temporary spur roads for access, then decommissioning them after use; road reconstruction and maintenance throughout the planning area; and use of existing rock pits; all acreages and miles are approximate and are refined during sale layout. The project includes amending the 1990 Umpqua National Forest Land and Resource Management Plan (LRMP). The planning area is located approximately 75 miles east of Roseburg, Oregon. The project is expected to be implemented starting in Fiscal Year 2009. The agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people may become aware of how they can participate in the process and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by February 5, 2008. The draft environmental impact statement is expected to be available in April or May of 2008 and the final environmental impact statement is expected to be available in June or July of 2008.

ADDRESSES: Send written comments and suggestions concerning this proposal to Clifford J. Dils, Forest Supervisor, Umpqua National Forest, 2900 NW. Stewart Parkway, Roseburg, OR 97470; you may also submit comments electronically to *comments-pacificnorthwest-umpqua@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: For information about the proposal, contact Barbara Fontaine, D-Bug Project Manager, phone 541–957–3422, e-mail *bfontaine@fs.fed.us,* Umpqua National Forest, 2900 NW. Stewart Parkway, Roseburg, OR 97470; or Debbie Anderson, D-Bug Interdisciplinary Team Leader, phone 541–957–3466, e-mail *danderson01@fs.fed.us,* Umpqua National Forest, 2900 NW. Stewart Parkway, Roseburg, OR 97470. The proposal is also listed on the Forest's Web site at *http://www.fs.fed.us/r6/umpqua/projects/projectdocs/d-bug-ts/index.shtml.*

SUPPLEMENTARY INFORMATION: The planning area being analyzed in the D-Bug Hazard Reduction Timber Sale Project encompasses almost 40,000 acres, and is bounded by Lemolo Lake to the North, Crater Lake National Park to the South, the Oregon Cascades Recreation Area and the Mt. Thielsen Wilderness to the East, and the Mt. Bailey Inventoried Roadless Area to the West. The planning area includes all or portions of T26S, R5E, Sections 10, 11, 13–15, 23–26, 34–36; T26S, R6E, Sections 16–21, 28–33; T27S, R5E, Sections 1–5, 25, 36; T27S, R6E, Sections 5–8, 17, 20, 29–32; T28S, R5.5E, Sections 4, 9, 16, 18–21, 28–30, 33–35; T28S, R6E, Sections 1, 12, 13, 22–26, 35; and T29S, R5.5E, Sections 2–4.

Purpose and Need for Action

The purpose of the D-Bug Hazard Reduction Timber Sale Project is to lessen the severity and reduce the impacts of both an on-going mountain pine beetle outbreak and existing and anticipated fuel accumulations by the timely commercial harvest and non-commercial treatments of high risk stands in strategic locations. The need for action is focused on four elements:

Element 1: The need for modifying pine beetle habitat conditions in stands containing lodgepole pine to reduce potential infestation by mountain pine beetles.

Element 2: The need to reduce existing and predicted fuel loads in areas identified as high fire hazard within the Diamond and Lemolo Lake wildland-urban interface areas (WUIs) and the evacuation routes from these at risk communities.

Element 3: The need for removing existing dead and eminently dying pine in areas already infested where human use is high in order to protect the recreating public from hazard trees.

Element 4: The need for increasing stand vigor in densely-stocked mixed conifer stands containing older, large ponderosa pine, western white pine, Shasta red fir, and Pacific silver fir in order to improve stand resiliency during future wildfires.

Proposed Action

The proposed action was developed to address the elements of the purpose and need. It would implement recommendations of the Douglas County Community Wildfire Protection Plans for Lemolo and Diamond Lakes to treat hazardous fuels in the WUIs and install fuelbreaks along evacuation routes such as Highways 138, 230, and roads leading away from both the WUIs. Additional fuelbreaks are also included in the proposed action to help slow down a wildfire between the Mt. Thielsen Wilderness and the Lemolo Lake area. In stands containing pine, timely thinning in advance of beetle outbreaks would increase the vigor of the remaining trees as well as the likelihood that they would survive an outbreak when it arrives, thus lessening the fuel accumulation that naturally follows behind pine beetle outbreaks. In stands already infested by mountain pine beetles and located near high use recreation areas, the dead trees would be salvaged to lower safety hazards and fuel accumulations. Finally, reducing stand density will approximate more natural stand conditions potentially allowing older fire-tolerant trees more of a chance to survive future fires.

Specifically the Proposed Action includes the following activities:

- Variable density commercial thinning of 3,146 acres in lodgepole pine stands leaving 20–50 trees per acre

(TPA) interspersed with 10% of the area with no treatment, and commercial thinning of 2,244 acres in mixed conifer stands (leaving 50–200 TPA). The thinnings would use ground-based and skyline logging systems in both the matrix and riparian reserve land allocations to generate about 44 million board feet of timber. These commercial thinnings include 620 acres within outer edges of the Mt. Bailey and Thirsty Creek Appendage Inventoried Roadless Areas (IRA's), and 318 acres along the edge of the Oregon Cascades Recreation Area (OCRA). The lodgepole variable density thinning would not generate any individual openings greater than 40 acres in size.

- Overstory removal (leaving about 20 overstory TPA) in two lodgepole pine stands on 59 acres. These overstory removals would not generate any openings greater than 40 acres.
- Non-commercial removal of fuels on about 2,013 acres by pre-commercial thinning, mastication, whip felling, chipping, and piling and burning of slash. This includes treatment on about 344 acres of stands along the edges of the Mt. Bailey and Thirsty Creek Appendage IRA and 15 acres in the OCRA.
- Treating activity-created fuels (slash) on all acres commercially thinned by underburning (195 acres), crushing (976 acres), machine piling (1,223 acres), masticating (1,146 acres), handpile burning (107); yarding tops attached (3,333 acres), or using a combination of the above (663 acres).
- Using about 25 miles of existing spur roads to access thinning areas then decommissioning about 5 miles after use (about 20 miles of these existing roads are now designated as winter use trails, are the remnants of the old North Umpqua Highway, or are used for other access needs and would not be obliterated after use).
- Building a total of about 15.5 miles of new temporary spur roads to provide access for logging machinery and for accessing stands for non-commercial treatments, then obliterating them after use.
- Reconstructing portions of 9 sections of existing system roads (work would occur along 3.3 miles of road) including: Road re-alignment; intersection improvement; road widening; placing or replacing surface rock; reshaping road beds; and hazard tree felling.
- Maintaining about 66 miles of existing roads (approximately 9 miles are currently closed) including: Grading and shaping of existing road surfaces; dust abatement; blading road beds and ditches; hazard tree felling; cleaning/maintaining ditches as needed; opening and re-closing existing closed roads; removing debris from the roadway; and cutting of intruding vegetation along roadsides.
- Utilizing the existing Boundary and Lemolo Dam rock pits (including drilling, blasting, rock crushing and rock hauling), along with several rock disposal sites as the rock source for the road work.

Forest Plan Amendments

The 1990 Umpqua National Forest Land and Resource Management Plan (LRMP) would be amended in the following areas:

1. The LRMP assigned Visual Quality Objectives of Retention and Partial Retention along Highway 138 and Highway 230, and areas surrounding Diamond Lake and Lemolo Lakes. The LRMP would be amended to modify these objectives in the short term in order to meet the purpose and need.

2. The LRMP does not permit timber harvest in Management Areas 1, except in the event of catastrophic damage; there are about 60 acres of commercial treatment planned in MA 1 in order to lower the effects of the on-going mountain pine beetle outbreak and reduce fuels in the vicinity of the Wildland Urban Interface Area. The LRMP would be amended to allow timber harvest to help reduce the fire risk to the area.

3. The LRMP places a size limitation on timber harvest openings (units) that can be created within Management Area 2, the Diamond Lake Recreation Composite. In order to allow for removal of beetle killed trees and to allow for the lodgepole pine to be removed, the LRMP would be amended to allow for timber harvest units greater than ½-acre in size.

4. The LRMP excluded most of the lodgepole pine ecosystem from the timber harvest base because of poor site conditions and low growing capacity. A recent analysis (Blackburn 2007) of stand conditions shows that these sites are growing at a rate that exceeds plan expectations; however, in order to harvest timber for this project, the 1990 LRMP would be amended to allow for timber harvest in the lodgepole pine ecosystem.

5. The LRMP excludes timber harvest around unique habitats for a distance of 150 feet. The LRMP would be amended to allow for fuel reduction treatments adjacent to some unique habitats in order to reduce existing and predicted fuel loads.

Possible Alternatives

The alternatives to be considered include the No Action Alternative, the Proposed Action, and another alternative that may be developed if scoping identifies any issues with the proposed action.

Lead and Cooperating Agencies

The USDA Forest Service, Umpqua National Forest is the lead agency. Douglas County has been granted cooperating agency status.

Responsible Official

Clifford J. Dils, Forest Supervisor of the Umpqua National Forest, is the responsible official for this project. The address for the Umpqua National Forest is 2900 NW Stewart Parkway, Roseburg, OR 97470.

Nature of Decision To Be Made

The Forest Supervisor of the Umpqua National Forest will decide whether to implement the action as proposed, whether to take no action at this time, or whether to implement any alternatives that are proposed. The Forest Supervisor will also decide whether to amend the 1990 Umpqua National Forest Land and Resource Management Plan, if an action alternative is chosen.

Scoping Process

Scoping begins with the publication of this Notice of Intent to prepare an EIS. The project has also been listed in the quarterly schedule of proposed actions (SOPA) since October of 2007. A scoping packet, detailing the proposed action, along with maps of the proposal, was mailed to over 350 interested publics on January 10, 2008. The scoping effort is intended to identify issues, which may lead to the development of alternatives to the proposed action.

Preliminary Issues

At this time, no preliminary issues have been identified.

Comment Requested

This notice of intent initiates the scoping proces which guides the development of the environmental impact statement. In order to help the Forest Service identify any issues related to the proposal, comments are requested by February 5, 2008. Issues that are raised with the proposal may lead to alternative ways to meet the purpose and need of the project.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: January 15, 2008.

Clifford J. Dils,

Forest Supervisor.

[FR Doc. E8–982 Filed 1–18–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

East Texas Electric Cooperative: Notice of Availability of an EnvironmentalAssessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of an Environmental Assessment for public review.

SUMMARY: The Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development, is issuing an Environmental Assessment (EA) related to possible financial assistance to East Texas Electric Cooperative (ETEC) of Nacogdoches, Texas, for the proposed construction of approximately 168 MW simple cycle combustion turbine generation station in Hardin County, Texas. ETEC is requesting USDA Rural Development to provide financial assistance for the proposed project.

DATES: Written comments on this Notice must be received on or before February 16, 2008.

ADDRESSES: To send questions and comments or for further information, contact: Dennis Rankin, Environmental Protection Specialist, USDA, Rural Development Utilities Programs, Engineering and Environmental Staff, 1400 Independence Avenue, SW., Stop 1571, Washington, DC 20250–1571, telephone (202) 720–1953, or e-mail: *dennis.rankin@wdc.usda.gov*. The EA will be available for public review at the USDA Rural Development, Utilities Programs, 1400 Independence Avenue, SW., Washington, DC 20250–1571: at the USDA Rural Development's Web site—*http://www.usda.gov/rus/water/ees/ea.htm*; at ETEC's Web site—*http://www.etec.coop/projects.html*; and the Kountze Public Library, 800 South Redwood Avenue, Kountze, TX 77625.

SUPPLEMENTARY INFORMATION: The ETEC is constructing the Hardin County Peaking Facility (HCPF), a 168 MW simple cycle combustion turbine generation station, in Hardin County, Texas. The proposal is located approximately 6 miles southeast of Kountze and one-half mile west of U.S. Highway 69/287, and will be adjacent to an existing Entergy electrical substation. Construction on the proposal is expected to commence in June 2008 with an expected completion date of May 2009. The generation facility will be constructed, owned, operated, and maintained by ETEC.

The generation units at the HCPF will consist of two (2) natural gas fired combustion turbines that have a net output of 84 MW each. The proposal will require the construction of a 1,200 foot 230 kV transmission line to interconnect with Entergy's existing Cypress substation. The output of the HCPF will be used to meet ETEC's power and energy requirements in east Texas, along with providing added reliability and stability to the region's power and transmission system.

Alternatives considered by USDA Rural Development and ETEC included: (a) No action; (b) alternate generation alternatives, and (c) other electrical alternatives. An Environmental Report (ER) that described the proposal in detail and discusses its anticipated environmental impacts has been prepared by ETEC. The USDA Rural Development has accepted the ER as its EA for the proposal. The EA is available for public review at the addresses provided above in this Notice.

Written comments received by the due date will be considered in the environmental impact determination.

Should USDA Rural Development determine, based on the EA of the proposal, that the impacts of the construction and operation of the proposal would not have a significant environmental impact, it will prepare a Finding of No Significant Impact. Public notification of a Finding of No Significant Impact will be published in the **Federal Register** and in newspapers with circulation in the project area.

Any final action by USDA Rural Development related to the proposal will be subject to, and contingent upon, compliance with all relevant federal, state and local environmental laws and regulations and completion of the environmental review procedures as prescribed by USDA Rural Development Environmental Policies and Procedures (7 CFR 1794).

Dated: January 14, 2008.

Mark S. Plank,

Director, Engineering and Environmental Staff, USDA/Rural Development/Utilities Programs.

[FR Doc. E8–955 Filed 1–18–08; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

East Texas Electric Cooperative: Notice of Availability of an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of an Environmental Assessment for public review.

SUMMARY: The Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development, is issuing an Environmental Assessment (EA) related to possible financial assistance to East Texas Electric Cooperative (ETEC) of Nacogdoches, Texas, for the proposed construction of approximately 168 MW simple cycle combustion turbine generation station in San Jacinto County, Texas. ETEC is requesting USDA Rural Development to provide financial assistance for the proposed project.

DATES: Written comments on this Notice must be received on or before February 16, 2008.

ADDRESSES: To send questions and comments or for further information, contact: Dennis Rankin, Environmental Protection Specialist, USDA, Rural Development Utilities Programs, Engineering and Environmental Staff, 1400 Independence Avenue, SW., Stop 1571, Washington, DC 20250–1571, telephone (202) 720–1953, or e-mail: *dennis.rankin@wdc.usda.gov.* The EA will be available for public review at the USDA Rural Development, Utilities Programs, 1400 Independence Avenue, SW., Washington, DC 20250–1571: at the USDA Rural Development's Web site—*http://www.usda.gov/rus/water/ees/ea.htm;* at ETEC's Web site—*http://www.etec.coop/projects.html;* and the Shepherd Public Library, 30 North Liberty Street, Shepherd, TX 77371.

SUPPLEMENTARY INFORMATION: The ETEC proposes to construct the San Jacinto County Peaking Facility (SJCPF), a 168 MW simple cycle combustion turbine generation station, in San Jacinto County, Texas. The proposal is located approximately 5 miles south of Shepherd and 2 miles east of U.S. Highway 59. Construction on the proposal is expected to commence in June 2008 with an expected completion date of May 2009. The generation facility will be constructed, owned, operated, and maintained by ETEC.

The generation units at the SJCPF will consist of two (2) natural gas fired combustion turbines that have a net output of 84 MW each. The proposal will require the construction of less than 500 feet of transmission line to interconnect with Entergy's existing 138 kV Jacinto-Poco transmission line that crosses the property where the SJCPF will be located. The output of the SJCPF will be used to meet ETEC's power and energy requirements in east Texas, along with providing added reliability and stability to the region's power and transmission system.

Alternatives considered by USDA Rural Development and ETEC included: (a) No action; (b) alternate generation alternatives, and (c) other electrical alternatives. An Environmental Report (ER) that describes the proposal in detail and discusses its anticipated environmental impacts has been prepared by ETEC. The USDA Rural Development has accepted the ER as its EA for the proposal. The EA is available for public review at the addresses provided above in this Notice.

Written comments received by the due date will be considered in the environmental impact determination.

Should USDA Rural Development determine, based on the EA of the proposal, that the impacts of the construction and operation of the project would not have a significant environmental impact, it will prepare a Finding of No Significant Impact. Public notification of a Finding of No Significant Impact will be published in the **Federal Register** and in newspapers with circulation in the project area.

Any final action by USDA Rural Development related to the proposal will be subject to, and contingent upon, compliance with all relevant federal, state and local environmental laws and regulations and completion of the environmental review procedures as prescribed by USDA Rural Development Environmental Policies and Procedures (7 CFR part 1794).

Dated: January 14, 2008.

Mark S. Plank,

Director, Engineering and Environmental Staff, USDA/Rural Development/Utilities Programs.

[FR Doc. E8–958 Filed 1–18–08; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Brazos Electric Power Cooperative Inc.: Notice of Intent To Hold a Public Scoping Meeting and Prepare an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of intent to hold a public scoping meeting and prepare an Environmental Assessment.

SUMMARY: The Rural Utilities Service (RUS), an Agency delivering the United States Department of Agriculture (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development, intends to hold a public scoping meeting and prepare an Environmental Assessment (EA) related to possible financial assistance to Brazos Electric Power Cooperative, Inc. (Brazos) of Waco, Texas, for the proposed construction of approximately 600 MW gas-fired unit at the existing Jack County Generating Facility. Brazos is requesting USDA Rural Development to provide financial assistance for the proposal.

DATES: USDA Rural Development will hold a scoping meeting in an open house format in order to provide information and solicit comments for the preparation of an EA. The meeting will be held on January 31, 2008, from 5 to 8 p.m. at the Twin Lakes Community Center, 420 Highway 59, Jacksboro, Texas. All written questions and comments must be received by March 3, 2008.

ADDRESSES: To send comments or for further information, contact: Dennis Rankin, Environmental Protection Specialist, USDA, Rural Development Utilities Programs, Engineering and Environmental Staff, 1571, 1400 Independence Avenue, SW., Stop 1571, Washington, DC 20250–1571, or e-mail: *dennis.rankin@wdc.usda.gov.* An Alternative Evaluation/Site Selection Study is available for public review at USDA Rural Development offices at 1400 Independence Avenue, SW., Washington, DC 20250–1571 and at the following Web site *http://www.usda.gov/rus/water/ees/ea.htm.*

SUPPLEMENTARY INFORMATION: Brazos is proposing to construct an additional 500 MW gas-fired combustion turbine at its Jack County Generation Station. The site is located northeast of State Highway 199 and FM 1156 in Jack County and southeast of the intersection of Shepard Road/Henderson Ranch Rd. and FM 1156.

Government agencies, private organizations, and the public are invited to participate in the planning and analysis of the proposal. Representatives from USDA Rural Development and Brazos will be available at the scoping meeting to discuss USDA Rural Development's environmental review process, describe the project, the purpose and need for the proposal, discuss the scope of environmental

issues to be considered, answer questions, and accept oral and written comments.

Written comments received by the due date will be incorporated into the EA Brazos and will be submitted to USDA Rural Development for review. USDA Rural Development will use the EA to determine the significance of the impacts of the project and may adopt it as its environmental assessment of the project. USDA Rural Development's environmental assessment of the proposal would be available for review and comment for 30 days.

Should USDA Rural Development determine that the preparation of an Environmental Impact Statement is not necessary, it will prepare a Finding of No Significant Impact. Public notification of a Finding of No Significant Impact would be published in the **Federal Register** and in newspapers with circulation in the project area.

Any final action by USDA Rural Development related to the proposed proposal will be subject to, and contingent upon, compliance with all relevant federal, state, and local environmental laws and regulations and completion of the environmental review procedures as prescribed by USDA Rural Development Environmental Policies and Procedures (7 CFR part 1794).

Dated: January 14, 2008.

Mark S. Plank,

Director, Engineering and Environmental Staff, USDA/Rural Development/Utilities Programs.

[FR Doc. E8–957 Filed 1–18–08; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Emergency Beacon Registrations.

Form Number(s): None.

OMB Approval Number: 0648–0295.

Type of Request: Regular submission.

Burden Hours: 7,500.

Number of Respondents: 30,000.

Average Hours per Response: 15 minutes.

Needs and Uses: An international system exists to use satellites to detect and locate ships, aircraft, or individuals in distress if they are equipped with an emergency radio beacon. The persons purchasing such a beacon must register it with NOAA. The data provided in the registration can assist in identifying who is in trouble and suppressing the consequences of false alarms.

Affected Public: Individuals or households, not-for-profit institutions; business or other for-profit organizations; State, Local or Tribal Government.

Frequency: On occasion and biannually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Fax number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: January 15, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–921 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Office of the Secretary

Proposed Information Collection; Comment Request; Faith-Based and Community Initiatives Toolkit Website Survey

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 24, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Jennifer Sullivan, phone: 202–482–6808, *jsullivan1@doc.gov*, fax: 202–482–4636.

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Department of Commerce is conducting a study to evaluate the effectiveness of the Faith-Based and Community Initiatives toolkit Web site (*http://www.commerce.gov/OS/CFBCI*) and, specifically the ''Additional Resources'' link. The toolkit assists users with finding U.S. Census Bureau data for grant writing and community needs assessment. The U.S. Census Bureau is the leading source of quality data about our nation's people and economy. The findings from the study will be used to assist in making informed decisions about users' expectations and needed improvements to the site.

II. Method of Collection

Electronically—the survey will be available after viewing: *http://www.commerce.gov/OS/CFBCI*, clicking the ''Additional Resources'' link, and using the toolkit.

III. Data

OMB Control Number: None.

Form Number(s): None.

Type of Review: Regular submission.

Affected Public: Individuals or households; not-for-profit institutions.

Estimated Number of Respondents: 400.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 33.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information

on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 15, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–919 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–EC–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Current Population Survey (CPS) Basic Demographic Items

AGENCY: U.S. Census Bureau, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before March 24, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dennis E. Clark, U.S. Census Bureau, 7H0003J, Washington, DC 20233–8400 at (301) 763–5488 (or via the Internet at *Dennis.E.Clark@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau plans to request clearance from the Office of Management and Budget (OMB) for the collection of basic demographic information on the Current Population Survey (CPS) beginning in July 2008. The current clearance expires June 30, 2008.

The CPS has been the source of official government statistics on employment and unemployment for over 50 years. The Bureau of Labor Statistics (BLS) and the Census Bureau jointly sponsor the basic monthly survey. The Census Bureau also prepares and conducts all the field work. At OMB's request, the Census Bureau and the BLS divide the clearance request in order to reflect the joint sponsorship and funding of the CPS program. The justification that follows is in support of the demographic data.

The demographic information collected in the CPS provides a unique set of data on selected characteristics for the civilian noninstitutional population. Some of the demographic information collected are age, marital status, gender, Armed Forces status, education, race, origin, and family income. These data are used in conjunction with other data, particularly the monthly labor force data, as well as periodic supplement data. The data is also used independently for internal analytic research and for evaluation of other surveys. And, in addition, as a control to produce accurate estimates of other personal characteristics.

II. Method of Collection

The CPS basic demographic information is collected from individual households by both personal visits and telephone interviews each month. All interviews are conducted using computer-assisted interviewing.

III. Data

OMB Control Number: 0607–0049.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 57,000 per month.

Estimated Time per Response: 1.58 minutes.

Estimated Total Annual Burden Hours: 18,012.

Estimated Total Annual Cost: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Section 182, and Title 29, U.S.C., Sections 1–9.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 15, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–913 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 07–00004.

SUMMARY: On January 14, 2008, the U.S. Department of Commerce issued an Export Trade Certificate of Review to Houston Industries, USA, L.L.C. (''HIUSA''). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number), or by E-mail at *oetca@ita.doc.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2006).

Export Trading Company Affairs (''ETCA'') is issuing this notice pursuant to 15 CFR section 325.6(b), which requires the U.S. Department of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice,

bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct:

Export Trade

1. Products

All products.

2. Services

All services.

3. Technology Rights

Technology rights, including, but not limited to, patents, trademarks, copyrights, and trade secrets that relate to Products and Services.

4. Export Trade Facilitation Services (as They Relate to the Export of Products, Services, and Technology Rights)

Export Trade Facilitation Services, including, but not limited to, professional services in the areas of government relations and assistance with state and federal programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping; export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation services; and facilitating the formation of shippers' associations.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. With respect to the sales of Products and Services, licensing of Technology Rights and provisions of Export Trade Facilitation Services, HIUSA, subject to the terms and conditions listed below, may:

a. Provide and/or arrange for the provisions of Export Trade Facilitation Services;

b. Engage in promotional and marketing activities and collect information on trade opportunities in the Export Markets and distribute such information to clients;

c. Enter into exclusive and/or non-exclusive licensing and/or sales agreements with Suppliers for the export of Products, Services, and/or Technology Rights to Export Markets;

d. Enter into exclusive and/or non-exclusive agreements with distributors and/or sales representatives in Export Markets;

e. Allocate export sales or divide Export Markets among Suppliers for the sale and/or licensing of Products, Services, and/or Technology Rights;

f. Allocate export orders among Suppliers;

g. Establish the price of Products, Services, and/or Technology Rights for sales and/or licensing in Export Markets;

h. Negotiate, enter into, and/or manage licensing agreements for the export of Technology Rights; and

i. Enter into contracts for shipping.

2. HIUSA may exchange information on a one-to-one basis with individual Suppliers regarding that Supplier's inventories and near-term production schedules for the purpose of determining the availability of Products for export and coordinating export with distributors.

Terms and Conditions of Certificate

1. In engaging in Export Trade Activities and Methods of Operations, HIUSA will not intentionally disclose, directly or indirectly, to any Supplier any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods that is not already generally available to the trade or public.

2. HIUSA will comply with requests made by the Secretary of Commerce on behalf of the Secretary of Commerce or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standard of Section 303(a) of the Act.

Definition

''Supplier'' means a person who produces, provides, or sells Products, Services, and/or Technology Rights.

Protection Provided by Certificate

This Certificate protects HIUSA and its directors, officers, and employees acting on its behalf, from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

Effective Period of Certificate

This Certificate continues in effect from the effective date indicated below until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

Other Conduct

Nothing in this Certificate prohibits HIUSA from engaging in conduct not specified in this Certificate, but such conduct is subject to the normal application of the antitrust laws.

Disclaimer

The issuance of this Certificate of Review to HIUSA by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion of the Secretary of Commerce or the Attorney General concerning either (a) the viability or quality of the business plans of HIUSA or (b) the legality of such business plans of HIUSA under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

The application of this Certificate to conduct in Export Trade where the United States Government is the buyer or where the United States Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V.(D.) of the ''Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition),'' 50 FR 1786 (January 11, 1985).

A copy of the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: January 14, 2008.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E8–910 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Cooperative Game Fish Tagging Report

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 24, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Eric Orbesen, (305) 361–4253 or *Eric.Orbesen@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Cooperative Tagging Center, National Marine Fisheries Service (NMFS), NOAA attempts to determine the migration patterns and other biological information of billfish, tunas, and swordfish. Fishermen volunteer to tag and release their catch. The fish tagging report is provided to the angler with the tags, and he/she fills out the card with the information when a fish is tagged. Besides the tag number, the card request name, address, date, and club affiliation (if applicable). The card is then mailed back to NMFS where the data is stored.

II. Method of Collection

Information is submitted by mail.

III. Data

OMB Number: 0648–0247.
Form Number: NOAA form 88–162.
Type of Review: Regular submission.
Affected Public: Individuals or households.
Estimated Number of Respondents: 12,000.
Estimated Time per Response: 2 minutes.
Estimated Total Annual Burden Hours: 360.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 15, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information.

[FR Doc. E8–914 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southeast Region Bycatch Reduction Device Certification Family of Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 24, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jason Rueter, (727) 824–5350 or *jason.rueter@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Any person seeking to obtain certification for bycatch reduction devices (BRD) to be used on shrimp vessels in the Gulf of Mexico or South Atlantic must apply for authorization to conduct tests and submit the test results. Persons seeking certification to be observers for such tests in the Gulf of Mexico must file an application and provide three references. The information is needed for NOAA to determine if the equipment meets the standards that would allow its use in commercial fisheries.

II. Method of Collection

Paper applications and telephone calls are required from participants, and methods of submittal include mailing and facsimile transmission of paper forms.

III. Data

OMB Number: 0648–0345.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Individuals or households; business or other for-profit organizations.
Estimated Number of Respondents: 32.
Estimated Time per Response: Pre-certification and certification applications, 2 hours and 20 minutes; pre-certification data collection, 3 hours; vessel information form, trip report/cover sheet and duplication/mailing of independent BRD tests, 30 minutes; gear specification form, station sheet and station sheet tuning forms, Turtle Excluder Device/BRD specification form, length frequency form, condition and fate form, 20 minutes; species characterization form and program receipt form, 5 hours; sea turtle form, 15 minutes; final reports, 4 hours; testing, 4 hours; observer certifications and observer references, 1 hour.
Estimated Total Annual Burden Hours: 6,899.
Estimated Total Annual Cost to Public: $306,495 in capital and recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 15, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–915 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southeast Region Gear Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 24, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jason Rueter, (727) 824–5350 or *jason.rueter@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The participants in Federally-regulated fisheries in the Southeast Region of the U.S. must mark their fishing gear with the official identification number or some other form of identification and color code. Harvesters of aquaculture live rock must mark or tag the material deposited. This identification is necessary to aid fishery enforcement activities and for purposes of gear identification concerning damage, loss, and civil proceedings.

II. Method of Collection

No information is collected.

III. Data

OMB Number: 0648–0359.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households; and business or other for-profits organizations.

Estimated Number of Respondents: 1,000.

Estimated Time per Response: 7 minutes for traps; 10 seconds for live rock; and 20 minutes for mackerel gillnets.

Estimated Total Annual Burden Hours: 2,192.

Estimated Total Annual Cost to Public: $17,000 in capital and recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 15, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–916 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southeast Region Vessel Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 24, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jason Rueter, (727) 824–5350 or *jason.rueter@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The participants in federally-regulated fisheries in the Southeast Region of the U.S. must mark their fishing vessels with the official identification number or some other form of identification. The vessel's identification number is displayed on its deckhouse or hull, and its weatherdeck. This identification is necessary to aid fishery enforcement activities and for purposes of gear identification concerning damage, loss, and civil proceedings.

II. Method of Collection

No information is collected.

III. Data

OMB Number: 0648–0358.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households; business or other for-profits organizations.

Estimated Number of Respondents: 9,774.

Estimated Time per Response: 45 minutes.

Estimated Total Annual Burden Hours: 7,431.

Estimated Total Annual Cost to Public: $297,000 in capital and recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 15, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–917 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Marine Mammal Health and Stranding Response Program Survey for Stranding Network Participants

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 24, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Sarah Howlett, (301) 713–2322 or *sarah.howlett@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service's (NMFS) Marine Mammal Health and Stranding Response Program will conduct program evaluations of the six NMFS regional stranding networks: Northeast, Southeast, Southwest, Northwest, Alaska, and Pacific Islands Regions. A survey will be used to gather data from a cross-section of stranding network participants in each region. The data will be collected regarding performance, organizational structure, objectives, and needs of the program. The information will be used to prioritize and discuss issues of concern and assist with future program management and planning.

II. Method of Collection

The survey will be conducted through a combination of telephone interviews, paper format (mailed), and electronic format via e-mail or online.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions; business or other for-profits organizations; State, Local, or Tribal Government; Federal Government.

Estimated Number of Respondents: 294.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 294.

Estimated Total Annual Cost to Public: $22.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 15, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–920 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Extension of Application Period for Vacancies on the Channel Islands National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Channel Islands National Marine Sanctuary (CINMS) is still seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council): Chumash Community member and alternate, and Tourism alternate. Applicants are chosen based upon: Their particular expertise and experience in relation to the seat for which they are applying, community and professional affiliations, views regarding the protection and management of marine resources, and the length of residence in the communities located near the Sanctuary. Applicants who are chosen as members should expect to serve in a volunteer capacity for 2-year terms, pursuant to the Council's Charter.

DATES: The application period has been extended and applications are now due by February 10, 2008.

ADDRESSES: Application kits may be obtained from Dani Lipski, Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, CA 93109–2315. Completed applications should be sent to the same address. Application materials are also available at: *http://www.channelislands.noaa.gov/sac/news.html.*

FOR FURTHER INFORMATION CONTACT: Michael Murray, Channel Islands

National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, CA 93109–2315, 805–966–7107 extension 464, *michael.murray@noaa.gov.*

SUPPLEMENTARY INFORMATION: The CINMS Advisory Council was originally established in December 1998 and has a broad representation consisting of 21 members, including ten government agency representatives and eleven members from the general public. The Council functions in an advisory capacity to the Sanctuary Superintendent. The Council works in concert with the Sanctuary Superintendent by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Superintendent in achieving the goals of the National Marine Sanctuary Program. Specifically, the Council's objectives are to provide advice on: (1) Protecting natural and cultural resources and identifying and evaluating emergent or critical issues involving Sanctuary use or resources; (2) Identifying and realizing the Sanctuary's research objectives; (3) Identifying and realizing educational opportunities to increase the public knowledge and stewardship of the Sanctuary environment; and (4) Assisting to develop an informed constituency to increase awareness and understanding of the purpose and value of the Sanctuary and the National Marine Sanctuary Program.

Authority: 16 U.S.C. Sections 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: January 14, 2008.

Daniel J. Basta,

Director, National Marine Sanctuary Program, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 08–201 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE89

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Amendment 18

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

ACTION: Notice of intent (NOI) to prepare a draft environmental impact statement (DEIS); notice of scoping meetings; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) intends to prepare a DEIS to assess impacts on the natural and human environment of management measures proposed in its draft Amendment 18 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic Region (FMP).

DATES: Written comments on the scope of the issues to be addressed in the DEIS will be accepted until February 22, 2008, at 5 p.m.

ADDRESSES: Comments may be sent by any of the following methods, mail: Kate Michie, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 727–824–5305; fax: 727–824–5308; e-mail: *0648–XE89@noaa.gov*. Scoping documents are available from the Council's Web site at *www.safmc.net*.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fisheries Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: 843–571–4366, toll free 1–866–SAFMC–10;fax: 843–769–4520; e-mail: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: The mackerel fishery of the Gulf of Mexico and South Atlantic region in the exclusive economic zone is managed under the FMP. The FMP was prepared by the Council and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Amendment 18 would allocate the Atlantic migratory group king mackerel commercial quota by region to prevent early closure in one state from negatively impacting fishing in another state. Given the level of commercial catch and the potential change in the commercial quota after the 2008 Southeast Data Assessment and Review (SEDAR) assessment, it is possible the commercial quota would be harvested before the end of the fishing year. If the quota is reached by October or November, 2008, and a closure is necessary, this could have large, negative impacts to fishermen in North Carolina.

This NOI is intended to inform the public of the preparation of a DEIS in support of Amendment 18 to the FMP to establish regional allocations for Atlantic migratory group king mackerel. Options suggested thus far to allocate the quota by region include: state by state quotas; semi-annual quotas (i.e., March 1 through September 30 and October 1 through the end of February, or March 1 through August 31 and September 1 through the end of February); and regional quotas (i.e., for Georgia and Florida, and for North Carolina and South Carolina).

Following consideration of public scoping comments, the Council plans to begin preparation of the draft Mackerel Amendment 18/DEIS after the 2008 SEDAR stock assessment has been completed. The Council and its Scientific and Statistical Committee will review the draft Mackerel Amendment 18/DEIS in 2009. If the Council approves the document, public review will take place in May 2009.

A **Federal Register** notice will announce the availability of the DEIS associated with this amendment, as well as a 45–day public comment period, pursuant to regulations issued by the Council on Environmental Quality for implementing the National Environmental Policy Act and to NOAA's Administrative Order 216–6. The Council will consider public comments received on the DEIS in developing the final environmental impact statement (FEIS), and before voting to submit the final amendment to NMFS for Secretarial review, approval, and implementation. NMFS will announce in the **Federal Register** the availability of the final amendment and FEIS for public review during the Secretarial review period, and will consider all public comments prior to final agency action to approve, disapprove, or partially approve the final amendment.

Scoping Meetings, Times, and Locations

All meetings will begin at 2 p.m. In addition to Amendment 18, the Council intends to scope three other amendments at this series of meetings. Separate NOIs have been prepared for each amendment. The meetings will be physically accessible to people with disabilities. Requests for information packets or for sign language interpretation or other auxiliary aids should be directed to the Council (see **ADDRESSES**).

Monday, February 4, 2008 – The Mutiny Hotel, 2951 South Bayshore Drive, Coconut Grove, FL 33133; phone: 305–441–2100.

Tuesday, February 5, 2008 – Radisson Resort at the Port, 8701 Astronaut Boulevard, Cape Canaveral, FL 32920; phone: 321–784–0000.

Wednesday, February 6, 2008 – Quality Inn, 125 Venure Drive, Brunswick, GA 31525; phone: 912–265–4600.

Thursday, February 7, 2008 – Sheraton New Bern, 100 Middle Street, New Bern, NC 28560; phone: 252–638–3585.

Wednesday, February 20, 2008 – Hilton Garden Inn, 5265 International Boulevard, North Charleston, SC 29418; phone: 843–308–9331.

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

Dated: January 16, 2008.

Emily H. Menashes,

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

[FR Doc. E8–1042 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE88

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Snapper-Grouper Fishery, Shrimp Fishery, Sargassum, Dolphin/Wahoo, Spiny Lobster, Golden Crab; and Coral, Coral Reefs, and Live/Hard Bottom Habitat off the Southern Atlantic States; Comprehensive Amendment

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

ACTION: Notice of intent (NOI) to prepare a draft environmental impact statement (DEIS); notice of scoping meetings; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) intends to prepare a DEIS to assess impacts on the natural and human environment of management measures proposed in its draft Comprehensive Amendment to the Fishery Management Plans (FMPs) for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic Region; and the Snapper-Grouper Fishery, Shrimp Fishery, Sargassum, Dolphin/Wahoo, Spiny Lobster, Golden Crab, and Coral, Coral Reefs, and Live/Hard Bottom Habitat in the South Atlantic Region to address allocations.

DATES: Written comments on the scope of the issues to be addressed in the DEIS will be accepted until February 22, 2008, at 5 p.m.

ADDRESSES: Comments may be sent by any of the following methods, mail: Kate Michie, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 727–824–5305; fax: 727–824–5308; e-mail: *0648–XE88@noaa.gov*. Scoping documents are available from the Council's Web site at *www.safmc.net*.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fisheries Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: 843–571–4366, toll free 1–866–SAFMC–10;fax: 843–769–4520; e-mail: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: Fisheries of the South Atlantic region in the exclusive economic zone are managed under their respective FMPs. The Magnuson-Stevens Fishery Conservation and Management Act requires the Councils to establish annual catch limits (ACLs) that will limit harvest and prevent overfishing. To establish sector specific ACLs, the Council would need to allocate the total allowable catch between recreational and commercial sectors. In addition, the Council could consider a separate allocation for the for-hire sector such that there could be three sectors with allocations: commercial; for-hire (charters, headboats and guides); and private recreational.

This NOI is intended to inform the public of the preparation of a DEIS in support of a Comprehensive Amendment to the Council's FMPs to address allocations. Options suggested thus far for determining sector allocations include: use of historical landings; examination of relative catches by each sector and projection of future demand; and detailed social and economic analyses.

Following consideration of public scoping comments, the Council plans to begin preparation of the draft Comprehensive Allocation Amendment/DEIS in March 2008. The Council and its Scientific and Statistical Committee will review the draft Comprehensive Allocation Amendment/DEIS in 2008. If the Council approves the document, public review will take place in November 2008.

A **Federal Register** notice will announce the availability of the DEIS associated with this amendment, as well as a 45–day public comment period, pursuant to regulations issued by the Council on Environmental Quality for implementing the National Environmental Policy Act and to NOAA's Administrative Order 216–6. The Council will consider public comments received on the DEIS in developing the final environmental impact statement (FEIS), and before voting to submit the final amendment to NMFS for Secretarial review, approval, and implementation. NMFS will announce in the **Federal Register** the availability of the final amendment and FEIS for public review during the Secretarial review period, and will consider all public comments prior to final agency action to approve, disapprove, or partially approve the final amendment.

Scoping Meetings, Times and Locations

All meetings will begin at 2 p.m. In addition to the Comprehensive Amendment, the Council intends to scope three other amendments at this series of meetings. Separate NOIs have been prepared for each amendment. The meetings will be physically accessible to people with disabilities. Requests for information packets or for sign language interpretation or other auxiliary aids should be directed to the Council (see **ADDRESSES**).

Monday, February 4, 2008 – The Mutiny Hotel, 2951 South Bayshore Drive, Coconut Grove, FL 33133; phone: 305–441–2100.

Tuesday, February 5, 2008 – Radisson Resort at the Port, 8701 Astronaut Boulevard, Cape Canaveral, FL 32920; phone: 321–784–0000.

Wednesday, February 6, 2008 – Quality Inn, 125 Venure Drive, Brunswick, GA 31525; phone: 912–265–4600.

Thursday, February 7, 2008 – Sheraton New Bern, 100 Middle Street, New Bern, NC 28560; phone: 252–638–3585.

Wednesday, February 20, 2008 – Hilton Garden Inn, 5265 International Boulevard, North Charleston, SC 29418; phone: 843–308–9331.

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

Dated: January 16, 2008.

Emily H. Menashes,

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

[FR Doc. E8–1046 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE86

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 17

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

ACTION: Notice of intent (NOI) to prepare a draft environmental impact statement (DEIS); notice of scoping meetings; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) intends to prepare a DEIS to assess the impacts on the natural and human environment of the management measures proposed in its draft Amendment 17 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP).

DATES: Written comments on the scope of the issues to be addressed in the DEIS will be accepted until February 22, 2008, at 5 p.m.

ADDRESSES: Comments may be sent by any of the following methods, mail: Kate Michie, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 727–824–5305; fax: 727–824–5308; e-mail: *0648–XE86@noaa.gov*. Scoping documents are available from the Council's Web site at *www.safmc.net*.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fisheries Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: 843–571–4366, toll free 1–866–SAFMC–10; fax: 843–769–4520; e-mail: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic region in the exclusive economic zone is managed under the FMP. The FMP was prepared by the Council and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The Council is considering specifying annual catch limits (ACLs) for all snapper-grouper species currently undergoing overfishing. Revisions to the Magnuson-Stevens Act in 2007 require that by 2010, FMPs, for fisheries determined by the Secretary to be subject to overfishing, must establish a mechanism for specifying ACLs at a level that prevents overfishing and does not exceed the recommendations of the Council's Scientific and Statistical Committees or other established peer review processes. These FMPs are also required to establish, by 2010, accountability measures for fisheries subject to overfishing.

By 2011, FMPs for all other fisheries, except fisheries for species with annual life cycles, must meet these same requirements. The Council is considering alternatives such as removing species from the fishery management unit that are rarely captured or taken primarily in state waters. The Council is also considering assigning some species to stock complexes. Furthermore, the Council is considering extending regulations for the snapper-grouper complex into the Mid-Atlantic Fishery Management Council's jurisdiction because the northern part of the range of some snapper-grouper species occurs beyond the current jurisdiction of the Council.

This NOI is intended to inform the public of the preparation of a DEIS in support of Amendment 17 to the FMP. The DEIS will specify ACLs, establish measures to ensure accountability for species experiencing overfishing, as well as establish other measures. Following publication of this NOI, the Council will conduct public scoping meetings to determine the range of issues to be addressed in the DEIS and the associated Amendment 17.

Following consideration of public scoping comments, the Council plans to begin preparation of the draft Snapper-Grouper Amendment 17/DEIS. The Council and its Scientific and Statistical Committee will review the draft Snapper-Grouper Amendment 17/DEIS in 2008. If the Council approves the document, public review will take place in late 2008. A comment period on the DEIS is planned, which will include public hearings to receive comments. A **Federal Register** notice will announce the availability of the DEIS associated with this amendment, as well as a 45-day public comment period, pursuant to regulations issued by the Council on Environmental Quality for implementing the National Environmental Policy Act and to NOAA's Administrative Order 216–6. The Council will consider public comments received on the DEIS in developing the final environmental impact statement (FEIS), and before voting to submit the final amendment to NMFS for Secretarial review, approval, and implementation. NMFS will announce in the **Federal Register** the availability of the final amendment and FEIS for public review during the Secretarial review period, and will consider all public comments prior to final agency action to approve, disapprove, or partially approve the final amendment.

Scoping Meetings, Times, and Locations

All meetings will begin at 2 p.m. In addition to Amendment 17, the Council intends to scope three other amendments at this series of meetings. Separate NOIs have been prepared for each amendment. The meetings will be physically accessible to people with disabilities. Requests for information packets or for sign language interpretation or other auxiliary aids should be directed to the Council (see **ADDRESSES**).

Monday, February 4, 2008—The Mutiny Hotel, 2951 South Bayshore Drive, Coconut Grove, FL 33133; phone: 305–441–2100.

Tuesday, February 5, 2008—Radisson Resort at the Port, 8701, Astronaut Boulevard, Cape Canaveral, FL 32920; phone: 321–784–0000.

Wednesday, February 6, 2008—Quality Inn, 125 Venure Drive, Brunswick, GA 31525; phone: 912–265–4600.

Thursday, February 7, 2008—Sheraton New Bern, 100 Middle Street, New Bern, NC 28560; phone: 252–638–3585.

Wednesday, February 20, 2008—Hilton Garden Inn, 5265 International Boulevard, North Charleston, SC 29418; phone: 843–308–9331.

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

Dated: January 16, 2008.

Emily H. Menashes,

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

[FR Doc. E8–1029 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE87

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 18

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

ACTION: Notice of intent (NOI) to prepare a draft environmental impact statement (DEIS); notice of scoping meetings; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) intends to prepare a DEIS to assess the impacts on the natural and human environment of the management measures proposed in its draft Amendment 18 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP).

DATES: Written comments on the scope of the issues to be addressed in the DEIS will be accepted until February 22, 2008, at 5 p.m.

ADDRESSES: Comments may be sent by any of the following methods, mail: Kate Michie, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 727–824–5305; fax: 727–824–5308; e-mail: 0648–XE87@noaa.gov. Scoping documents are available from the Council's Web site at *www.safmc.net*.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fisheries Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: 843–571–4366, toll free 1–866–SAFMC–10; fax: 843–769–4520; e-mail: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic region in the exclusive economic zone is managed under the FMP. The FMP was prepared by the Council and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622. Of the 98 species managed by the Council, 73 of these are included in the snapper-grouper management complex.

The mixed species nature of this fishery poses a significant management challenge. Initially, FMP regulations consisted of minimum sizes, gear restrictions, and a provision for the designation of special management zones. To address overcapitalization in the fishery, the Council established a permit program to limit effort. However, recent ecological occurrences and regulatory requirements have decreased the ability for fishermen to maintain profitability in the South Atlantic snapper-grouper fishery. Management options that enable a reduction in fleet size are expected to increase total fleet profitability compared to the status quo. The Council is considering use of a limited access privilege (LAP) program and other management tools for the South Atlantic commercial snapper-grouper fishery.

In December 2006, the Council passed a motion to consider application of a LAP program for the South Atlantic commercial snapper-grouper fishery in Amendment 18. The LAP Committee met January 23–24, 2007 to draft goals and objectives for a possible LAP program, discuss the membership and structure of a LAP Exploratory Workgroup, and develop an action plan that would outline how the Council should explore use of a LAP program for this fishery. In 2007, the Limited Access Program Exploratory Workgroup was tasked with developing a potential plan for using a LAP program in the commercial snapper-grouper fishery. The group has met several times and has considered a LAP program as well as other programs that look to reduce capacity in the fishery.

This NOI is intended to inform the public of the preparation of a DEIS in support of Amendment 18 to the FMP. The DEIS will evaluate measures to reduce capacity in the South Atlantic snapper-grouper fishery. Following publication of this NOI, the Council will conduct public scoping meetings to determine the range of issues to be addressed in the DEIS and the associated Amendment 18.

Following consideration of public scoping comments, the Council plans to begin preparation of the draft Snapper-Grouper Amendment 18/DEIS. The Council and its Scientific and Statistical Committee will review the draft Snapper-Grouper Amendment 18/DEIS in 2008. If the Council approves the document, public review will take place in late 2008. A comment period on the DEIS is planned, which will include public hearings to receive comments. A **Federal Register** notice will announce the availability of the DEIS associated with this amendment, as well as a 45-day public comment period, pursuant to regulations issued by the Council on Environmental Quality for implementing the National Environmental Policy Act and to NOAA's Administrative Order 216–6. The Council will consider public comments received on the DEIS in developing the final environmental impact statement (FEIS), and before voting to submit the final amendment to NMFS for Secretarial review, approval, and implementation. NMFS will announce in the **Federal Register** the availability of the final amendment and FEIS for public review during the Secretarial review period, and will consider all public comments prior to final agency action to approve, disapprove, or partially approve the final amendment.

Scoping Meetings, Times, and Locations

All meetings will begin at 2 p.m. In addition to Amendment 18, the Council intends to scope three other amendments at this series of meetings. Separate NOIs have been prepared for each amendment. The meetings will be physically accessible to people with disabilities. Requests for information packets or for sign language interpretation or other auxiliary aids should be directed to the Council (see **ADDRESSES**).

Monday, February 4, 2008—The Mutiny Hotel, 2951 South Bayshore Drive, Coconut Grove, FL 33133; phone: 305–441–2100.

Tuesday, February 5, 2008—Radisson Resort at the Port, 8701, Astronaut Boulevard, Cape Canaveral, FL 32920; phone: 321–784–0000.

Wednesday, February 6, 2008—Quality Inn, 125 Venure Drive, Brunswick, GA 31525; phone: 912–265–4600.

Thursday, February 7, 2008—Sheraton New Bern, 100 Middle Street, New Bern, NC 28560; phone: 252–638–3585.

Wednesday, February 20, 2008—Hilton Garden Inn, 5265 International Boulevard, North Charleston, SC 29418; phone: 843–308–9331.

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

Dated: January 16, 2008.

Emily H. Menashes,

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

[FR Doc. E8–1045 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF08

International Whaling Commission; Intersessional Meeting on the Future of the International Whaling Commission; Nominations

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

ACTION: Notice; request for nominations.

SUMMARY: This notice calls for nominees for one non-federal position to the U.S. Delegation to the Intersessional Meeting on the Future of the International Whaling Commission (IWC) that will be held in March, 2008, in London, England. The non-federal representative selected as a result of this nomination process is responsible for providing input and recommendations to the U.S. IWC Commissioner representing the positions of non-governmental organizations.

DATES: All written nominations for the U.S. Delegation to the IWC annual meeting must be received by February 8, 2008.

ADDRESSES: All nominations for the U.S. Delegation to the IWC annual meeting must be addressed to Bill Hogarth, U.S. Commissioner to the IWC, and sent via post to: Cheri McCarty, National Marine Fisheries Service, Office of International Affairs, 1315 East-West Highway,

SSMC3 Room 12603, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Cheri McCarty, 301–713–9090, ext. 183.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce is charged with the responsibility of discharging the domestic obligations of the United States under the International Convention for the Regulation of Whaling, 1946. The U.S. IWC Commissioner (Commissioner) has responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. The Commissioner is staffed by the Department of Commerce and assisted by the Department of State, the Department of the Interior, the Marine Mammal Commission, and by other agencies. The non-federal representative selected as a result of this nomination process is responsible for providing input and recommendations to the Commissioner regarding the positions of non-governmental organizations.

The Intersessional Meeting on the Future of the IWC will be held March 6–8, 2008, at the Renaissance London Heathrow Hotel in London, England.

Dated: January 15, 2008.

Rebecca Lent,

Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. E8–1036 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XF12

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee (Committee) in February, 2008 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Friday, February 1, 2008, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Home Suites Inn, 455 Totten Pond Road, Waltham, MA 02451; telephone: (781) 890–3000; fax: (781) 890–0233.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Council's Research Steering Committee will address a range of issues including, a briefing on funding available for research projects supported through the Northeast Region's Cooperative Research Program, the development of comments related to a National Marine Fisheries proposed rule concerning the experimental fishery permit application process; strategic planning for research to support New England Fishery Management Council fishery management plans and research priority setting for 2008. The agenda also may include the review of final cooperative research reports relative to their utility in fisheries management. The Committee may consider other topics at their discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: January 16, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–949 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XF13

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat/MPA/Ecosystem Committee, in February, 2008, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, February 4, 2008, at 9:30 a.m.

ADDRESSES: This meeting will be held at the Holiday Inn, 30 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200; fax: (508) 339–1040.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will review proposed habitat areas of particular concerns (HAPCs) that include areas with depths greater than designated essential fish habitat (EFH). The Committee will also review risk assessment strategy for minimizing adverse impacts to the EFH to the extent practicable in Phase II of the omnibus habitat. The Committee will also consider other topics at their discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul

J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: January 16, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–950 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XF11

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.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings in Seattle, WA.

DATES: The meetings will be held February 4–12, 2008. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Renaissance Hotel, 515 Madison Street, Seattle, WA. See **SUPPLEMENTARY INFORMATION** for specific locations.

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, telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Council will begin its plenary session at 8 a.m. on Wednesday, February 6 continuing through Tuesday February 12, 2008. The Council's Advisory Panel (AP) will begin at 8 a.m., Monday, February 4 and continue through Friday February 8. The Scientific and Statistical Committee (SSC) will begin at 8 a.m. on Monday, February 4 and continue through Wednesday February 6, 2008. The Data Collection Committee will meet Monday, February 4, from 5 p.m. to 7 p.m. in the Northwest Room. The Ecosystem Committee will meet Wednesday, February 6, from 1 p.m. to 5 p.m. in the Madison Room. The Enforcement Committee will meet Tuesday, February 5, from 1 p.m. to 5 p.m. in the James 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 (including recommendations on operating procedures)

NMFS Management Report (legal issues re: Pacific cod jig sector State water management)

NMFS Enforcement/NOAA General Counsel Enforcement Report

U.S. Coast Guard Report

Alaska Department of Fish & Game Report

U.S. Fish & Wildlife Service Report

IPHC Report

Protected Species Report (including Aleutian Island Pollock Experimental Fishing Permit (EFP) report, Steller Sea Lion (SSL) consultation update, SSL Mitigation Committee progress report)

2. BSAI Crab Issues: Report from Crab Committee; action as necessary; Report on BSAI Crab data collection quality and confidentiality; Report on proposed economic analysis for program 3-year review; Initial review of BSAI ''C'' Share active participation; Initial review of BSAI Crab Arbitration Regulations; Discussion paper on BSAI Crab Arbitrator Immunity; Initial review St. George protection measures; Discussion paper on BSAI Crab loan eligibility

3. License Limitation Program (LLP) Trawl Recency: Initial review of EA/RIR/IRFA alternatives to address modifications to LLP requirements.

4. Amendment 80: Final action on Amendment 80 post-delivery transfers and rollovers.

5. Observer Program: Initial review of Observer Program regulation package.

6. American Fisheries Act: Review 2007 Co-op reports and 2008 co-op agreements.

7. CGOA Rockfish Program: Review 2007 Cooperative reports; Review outline for Pilot Program review.

8. Social and Economic Data Collection: Receive Committee report and action as necessary (T).

9. Bycatch Issues: Review EFP results; Review stream of origin information; Refine BSAI salmon bycatch alternatives; other action as necessary; Review GOA salmon and crab bycatch discussion paper (SSC only).

10. Groundfish Management: Initial review of GOA Other Species catch specifications; review discussion paper ''Other Species'' Management; Non-target Committee Report (Council only); Discussion paper on Vessel Monitor System (VMS) exemption for dinglebar gear (Council only); Report on BS and AI P cod area split; action as necessary; Initial review of 4E Seabird Avoidance measures; report on flatfish stock assessment Center for Independent Experts review (SSC only).

11. Ecosystem Issues: Preliminary review of Arctic FMP; action as necessary; Report from Ecosystem Committee; report on Alaska Marine Ecosystem Forum.

12. Staff Tasking: Review Committees and tasking, and take action as necessary; Review broader (PSEIS) community outreach plan and actions pursuant to the NMFS Policy on stakeholder participation.

13. Other Business

The SSC agenda will include the following issues:

1. Protected Species Report
2. BSAI Crab Issues
3. CGOA Rockfish
4. Data Collection
5. Bycatch Issues
6. Groundfish Management
7. Ecosystem Issues

The Advisory Panel will address the same agenda issues as the Council, except for ι1 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: January 16, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–948 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Thunder Bay National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Thunder Bay National Marine Sanctuary (TBNMS or sanctuary) is seeking applicants for the following vacant seats on its Sanctuary

Advisory Council (council): Higher Education, Recreation, Fishing (recreational, charter, and/or commercial), Business/Economic Development alternate, and Citizen-at-Large. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary. Applicants who are chosen as members should expect to serve 3-year terms, pursuant to the council's Charter.

DATES: Applications are due by March 31, 2008.

ADDRESSES: Application kits may be obtained from Thunder Bay National Marine Sanctuary, 500 W. Fletcher Street, Alpena, Michigan 49707. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Jean Prevo, Advisory Council Coordinator, Thunder Bay National Marine Sanctuary, 500 W. Fletcher Street, Alpena, Michigan 49707, (989) 356–8805 ext. 13, *jean.prevo@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Thunder Bay Sanctuary Advisory Council (council) was established in 1997. The council has fifteen members and fifteen alternatives; five seats represent local community governments, and the other ten represent facets of the sanctuary community, including education, research, fishing, diving, tourism, economic development, and the community at large. The council meets bi-monthly, with informal coffees and lunches scheduled for non-meeting months. Working groups meet as needed. The fifteen alternates also take an active role in council meetings as well as assist in carrying out many volunteer assignments throughout the year.

Authority: 16 U.S.C. 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: January 14, 2008.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries, National Oceanic and Atmospheric Administration.

[FR Doc. 08–200 Filed 1–18–08; 8:45 am]

BILLING CODE 3510–NK–M

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0013, Exemptions From Speculative Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on exemptions from speculative limits.

DATES: Comments must be submitted on or before March 24, 2008.

ADDRESSES: Comments may be mailed to Gary Martinaitis, Division of Economic Analysis, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Gary Martinaitis, (202) 418–5209; Fax: (202) 418–5527; e-mail: *gmartinaitis@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

Exemptions From Speculative Limits, OMB Control Number 3038–0013—Extension

Section 4a(a) of the Commodity Exchange Act (Act) allows the Commission to set speculative limits in any commodity for future delivery in order to prevent excessive speculation. Certain sections of the Act and/or the Commission's Regulations allow exemptions from the speculative limits for persons using the market for hedging and, under certain circumstances, for commodity pool operators and similar traders. This information collection contains the recordkeeping and reporting requirements needed to ensure regulatory compliance with Commission rules relating to this issue.

The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

Regulations (17 CFR)	Estimated number of respondents	Reports annually by each respondent	Total annual responses	Estimated number of hours per response	Annual burden
Rule 1.47 and 1.48	7	2	14	3	42
Part 150	2	1	2	3	6

There are no capital costs or operating and maintenance costs associated with this collection.

Dated: January 15, 2008.

David Stawick,

Secretary of the Commission.

[FR Doc. E8–981 Filed 1–18–08; 8:45 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, January 24, 2008; 2 p.m.

PLACE: Room 410, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Compliance Status Report

The Commission staff will brief the Commission on the status of compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814 (301) 504–7923.

Dated: January 15, 2008.

Todd A. Stevenson,

Secretary.

[FR Doc. 08–245 Filed 1–17–08; 2:08 am]

BILLING CODE 6355–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted a public information collection request (ICR) entitled the Volunteering in America Focus Groups to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Ms. Carla Manuel (202) 606–6720. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 565–2799 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**:

(1) *By fax to:* (202) 395–6974, Attention: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service; and

(2) Electronically by e-mail to: *Katherine_T._Astrich@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Comments

A 60-day public comment Notice was published in the **Federal Register** on October 17, 2007. This comment period ended December 17, 2007. No public comments were received from this notice.

Description: The Corporation is seeking approval of its Volunteering in America Focus Groups study to provide insight into the perceptions of volunteering, the motivations that prompt individuals to volunteer, and the obstacles to impact an individual's ability to serve.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Volunteering in America Focus Groups.

OMB Number: New.

Agency Number: None.

Affected Public: Individuals.

Total Respondents: 200.

Frequency: One-time.

Average Time per Response: 1 hour.

Estimated Total Burden Hours: 200 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: January 14, 2008.

Robert Grimm,

Director, CNCS Office of Research and Policy Development.

[FR Doc. E8–927 Filed 1–18–08; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Name Change and Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR § 102–3.65, the Department of Defense gives notice that the name of the Ocean Research Advisory Panel is being changed to the Ocean Research and Resources Advisory Panel (hereafter referred to as the Panel), and that the Panel's charter is being renewed.

The Panel is a non-discretionary federal advisory committee established by 10 U.S.C. 7903 to provide independent scientific advice and recommendations to the National Ocean research Leadership Council (hereafter referred to as the Council). Pursuant to 10 U.S.C. 7903(b), the Council shall assign the following responsibilities to the Panel:

1. To advise the Council on policies and procedures to implement the National Oceanographic Partnership Program.

2. To advise the Council on selection of partnership projects and allocation of funds for partnership projects for implementation under the program.

3. To advise the Council on matters relating to national oceanographic data requirements.

4. Any additional responsibilities that the Council considers appropriate. As directed by 10 U.S.C. 7903(a), the Panel shall be composed of not less than 10 and not more than 18 members

representing the National Academy of Sciences, the National Academy of Engineering, the Institute of Medicine, ocean industries, State Governments, academia and others including individuals who are eminent in the fields of marine science, marine policy or related fields including ocean resource management. Panel Members appointed by the Secretary of Defense or designated representative, who are not full-time federal officers or employees, shall serve as Special Government Employees under the authority of 5 U.S.C. 3109.

Panel Members, under the provisions of 10 U.S.C. 7903, shall be appointed on an annual basis by the Secretary of Defense or designated representative, and shall serve no more than four years. The Panel Membership shall select the Chairperson and Vice-Chairpersons of the Panel for renewable one-year terms. In addition, the Secretary of Defense or designated representative may invite other distinguished Government officers to serve as non-voting observers of the Panel, and appoint consultants, with special expertise, to assist the Panel on an ad hoc basis.

The Panel shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Sunshine in the Government Act of 1976, and other appropriate federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Panel, and shall report all their recommendations and advice to the Panel for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Panel nor can they report directly to the Department of Defense or any federal officers or employees who are not Panel Members.

SUPPLEMENTARY INFORMATION: The Panel shall meet at the call of the Panel's Designated Federal Officer, in consultation with the Panel's chairperson. The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all committee meetings and subcommittee meetings.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Ocean Research and Resources Advisory Panel membership about the Panel's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Ocean Research and Resources Advisory Panel.

All written statements shall be submitted to the Designated Federal Officer for the Ocean Research and Resources Advisory Panel, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Ocean Research and Resources Advisory Panel's Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Ocean Research and Resources Advisory Panel. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703–601–2554, extension 128.

Dated: January 15, 2008.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–986 Filed 1–18–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education: Overview Information; Improving Literacy Through School Libraries Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008

Catalog of Federal Domestic Assistance (CFDA) Number: 84.364A.

DATES:

Applications Available: January 22, 2008.

Deadline for Transmittal of Applications: March 7, 2008.

Deadline for Intergovernmental Review: May 6, 2008.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to improve student reading skills and academic achievement by providing students with increased access to up-to-date school library materials; well-equipped, technologically advanced school library media centers; and well-trained, professionally certified school library media specialists.

Priorities: This notice contains one competitive preference priority and one invitational priority.

Competitive Preference Priority: This priority is from the notice of final priority for this program, published in the **Federal Register** on February 16, 2007 (72 FR 7629). For FY 2008, and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 5 points to an application, depending on how well the application meets this priority.

Under this priority, we give priority to projects that demonstrate in their grant applications that the proposed library literacy project services are comprehensive and aligned with a school or district improvement plan. A school improvement plan may include the required two-year plan (under section 1116(b)(3) of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001) that addresses the academic issues that caused a school to be identified as in need of improvement. The plan could also include a voluntary plan developed by the school or district to improve academic achievement. The applicant must clearly describe the improvement plan that is in place, whether it is for the school or the entire district, the reasons why the plan was put in place, and how the proposed project and the operation of the school library media center will directly support the academic goals established in the improvement plan.

Invitational Priority: This priority is from the notice of final priorities for discretionary grant programs published in the **Federal Register** on October 11, 2006 (71 FR 60046). For FY 2008 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is for projects that help school districts implement academic and structural interventions in schools that have been identified for improvement, corrective action, or restructuring under the Elementary and Secondary Education Act of 1965, as

amended by the No Child Left Behind Act of 2001.

Program Authority: 20 U.S.C. 6383.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 84, 85, 97, 98, and 99. (b) The notice of final clarification of eligible local activities, published in the **Federal Register** on April 5, 2004 (69 FR 17894). (c) The notice of final priority, published in the **Federal Register** on February 16, 2007 (72 FR 7629). (d) The notice of final priorities for discretionary grant programs published in the **Federal Register** on October 11, 2006 (71 FR 60046).

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $18,570,261. Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2009 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $30,000—$500,000.

Estimated Average Size of Awards: $250,000.

Estimated Number of Awards: 80.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 12 months.

III. Eligibility Information

1. *Eligible Applicants:* LEAs in which at least 20 percent of the students served by the LEA are from families with incomes below the poverty line based on the most recent satisfactory data available from the U.S. Census Bureau at the time this notice is published. These data are Small Area Income and Poverty Estimates for school districts for income year 2005. A list of LEAs with their family poverty rates (based on these Census Bureau data) is posted on our Web site at: *http://www.ed.gov/programs/lsl/eligibility.html.*

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. Funds made available under this program must be used to supplement, and not supplant, other Federal, State, and local funds expended to carry out activities relating to library, technology, or professional development activities (20 U.S.C. 6383(i)).

IV. Application and Submission Information

1. *Address To Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use either of the following addresses: *http://www.grants.gov* or *http://www.ed.gov/programs/lsl/applicant.html.* To obtain a copy from ED Pubs, write, fax, or call the following: Education Publications Center, P.O. Box 1398, Jessup, MD 20794–1398. Telephone, toll free: 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *http://www.ed.gov/pubs/edpubs.html* or at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.364A.

Individuals with disabilities can obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the person or team listed under *Alternative Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program. Page Limit: The application narrative (Part IV of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative (Part IV) to no more than 15 pages, using the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1'' margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part III, the one-page abstract; Part VI, the other attachments including the resumes, and the endnotes, if applicable; and Part VII, the assurances and certifications. However, you must include all of the application narrative in Part IV. Charter schools and State administered schools must include some form of documentation from their State educational agency (SEA) confirming eligibility for this program. This documentation is not counted toward the page limit.

Our reviewers will not read any pages of your application that exceed the page limit if you apply these standards. Appendices to the narrative are not permitted, with the exception of resumes and endnotes. None of the material sent as appendices to the narrative, with the exception of resumes and endnotes, will be sent to the reviewers.

3. *Submission Dates and Times:*

Applications Available: January 22, 2008.

Deadline for Transmittal of Applications: March 7, 2008.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: May 6, 2008.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this program must be submitted

electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Improving Literacy Through School Libraries program, CFDA Number 84.364A must be submitted electronically using the Governmentwide Grants.gov Apply site at *http//www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Improving Literacy Through School Libraries program at *http://www.Grants.gov* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.*, search for 84.364, not 84.364A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date and time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- 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 do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*
- To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf).* You also must provide on your application the same D-U-N-S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Education Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance).
- You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem

affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Irene Harwarth, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W227, Washington, DC 20202–6200, Fax: (202) 260–8969.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier), your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.364A), 400 Maryland Avenue, SW., Washington, DC 20202–4260;

or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center, Stop 4260, Attention: (CFDA Number 84.364A), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.364A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from section 1251 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), and 34 CFR 75.210 and are as follows. The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses. We evaluate an application by determining how well the proposed project meets the following criteria:

(a) *Need for school library resources* (10 points). How well the applicant demonstrates the need for school library media improvement, based on the age and condition of school library media resources, including book collections; access of school library media centers to advanced technology; and the availability of well-trained, professionally certified school library media specialists, in schools served by the applicant.

(b) *Use of funds* (30 points). How well the applicant will use the funds made available through the grant to carry out one or more of the following activities that meet its demonstrated needs:

(1) Acquiring up-to-date school library media resources, including books.

(2) Acquiring and using advanced technology, incorporated into the curricula of the school, to develop and enhance students' skills in retrieving and making use of information and in critical thinking.

(3) Facilitating Internet links and other resource-sharing networks among schools and school library media centers, and public and academic libraries.

(4) Providing professional development (as described in the notice of final clarification of eligible local activities published in the **Federal Register** on April 5, 2004 (69 FR 17894)) for school library media specialists that is designed to improve literacy in grades K–3, and for school library media specialists as described in section 1222(d)(2) of the ESEA and providing activities that foster increased

collaboration between school library media specialists, teachers, and administrators.

(5) Providing students with access to school libraries during non-school hours, including the hours before and after school, during weekends, and during summer vacation periods.

(c) *Quality of the project design* (20 points). In determining the quality of the design of the proposed project, the Secretary considers the extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(d) *Quality of the management plan* (20 points). In determining the quality of the management plan for the proposed project, the Secretary considers the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(e) *Broad-based involvement and coordination* (10 points). How well the applicant will extensively involve school library media specialists, teachers, administrators, and parents in the proposed project activities and effectively coordinate the funds and activities provided under this program with other literacy, library, technology, and professional development funds and activities.

(f) *Evaluation of quality and impact* (10 points). How well the applicant will collect and analyze data on the quality and impact of the proposed project activities, including the extent to which the availability of, the access to, and the use of up-to-date school library media resources in the elementary schools and secondary schools served by the applicant increase; and the impact of the project on the reading skills of students.

2. *Review and Selection Process:* An additional factor we consider in selecting an application for an award is the equitable distribution of grants across geographic regions and among LEAs serving urban and rural areas.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* In response to the Government Performance and Results Act (GPRA), the Department developed three measures for evaluating the overall effectiveness of the Improving Literacy Through School Libraries program. These measures gauge improvement in student achievement and resources in the schools and districts served by the Improving Literacy Through School Libraries program by assessing increases in: (1) The percentage of students in schools served by the Improving Literacy Through School Libraries program who are proficient in reading; (2) The number of books and media resources purchased per student, pre- and post-grant, compared to the national average; and (3) The difference in the number of purchases of school library materials (books and media resources) between schools participating in the Improving Literacy Through School Libraries program and the national average. The Department will collect data for these measures from grantees' final performance reports and other data sources.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Irene Harwarth, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W227, Washington, DC 20202–6200. Telephone: (202) 401–3751 or by e-mail: *Irene.Harwarth@ed.gov*.

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Alternative Format: Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/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*.

Dated: January 16, 2008.

Kerri Briggs,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. E8–1007 Filed 1–18–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

January 14, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP96–320–079.

Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Co, LP submits an interim negotiated rate letter agreement re East Texas to Mississippi Expansion Project.

Filed Date: 01/10/2008.

Accession Number: 20080111–0080.

Comment Date: 5 p.m. Eastern Time on Tuesday, January 22, 2008.

Docket Numbers: RP97–81–045.

Applicants: Kinder Morgan Interstate Gas Transmission.

Description: Kinder Morgan Interstate Gas Transmission LLC submits Nineteenth Revised Sheet 4G.01 et al to FERC Gas Tariff, Fourth Revised Volume 1–A, effective 1/12/08.

Filed Date: 01/11/2008.

Accession Number: 20080114–0246.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 23, 2008.

Docket Numbers: RP08–49–001.

Applicants: Midwestern Gas Transmission Company.

Description: Midwestern Gas Transmission Company submits

Substitute Third Revised Sheet 90, proposed to be effective 1/7/08.

Filed Date: 01/11/2008.

Accession Number: 20080114–0038.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 23, 2008.

Docket Numbers: RP08–159–000.

Applicants: Crossroads Pipeline Company.

Description: Crossroads Pipeline Company submits First Revised Sheet 78A to FERC Gas Tariff, Second Revised Volume 1, to be effective 2/10/08.

Filed Date: 01/11/2008.

Accession Number: 20080114–0135.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 23, 2008.

Docket Numbers: RP08–160–000.

Applicants: Columbia Gulf Transmission Company.

Description: Columbia Gulf Transmission Company submits Ninth Revised Sheet 144 to FERC Gas Tariff, Second Revised Volume 1, to be effective 2/10/08.

Filed Date: 01/11/2008.

Accession Number: 20080114–0136.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 23, 2008.

Docket Numbers: RP08–161–000.

Applicants: Columbia Gas Transmission Corporation.

Description: Columbia Gas Transmission Corporation submits Eleventh Revised Sheet 280 to FERC Gas Tariff, Second Revised Volume 1, to be effective 2/10/08.

Filed Date: 01/11/2008.

Accession Number: 20080114–0137.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 23, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed 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.,

Deputy Secretary.

[FR Doc. E8–980 Filed 1–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

January 15, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP91–143–058.

Applicants: Great Lakes Gas Transmission LP.

Description: Great Lakes Gas Transmission Cosubmits the Interruptible/Overrun Revenue Sharing Report for the November 2006–October 2007.

Filed Date: 12/18/2007.

Accession Number: 20071219–0359.

Comment Date: 5 p.m. Eastern Time on Tuesday, January 22, 2008.

Docket Numbers: RP08–47–002.

Applicants: Wyoming Interstate Company, Ltd.

Description: Wyoming Interstate Company Ltd submits its Twentieth Revised Sheet 4C to its FERC Gas Tariff, Second Revised Volume.

Filed Date: 01/11/2008.

Accession Number: 20080114–0419.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 23, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed 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.,

Deputy Secretary.

[FR Doc. E8–983 Filed 1–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR07–14–003]

Bridgeline Holdings, L.P.; Notice of Compliance Filing

January 15, 2008.

Take notice that on December 27, 2007, Bridgeline Holdings, L.P. filed a Report of Refunds in compliance with the Commission's letter order issued on October 26, 2007 in Docket Nos. PR07–14–000, PR07–14–001 and PR07–14–002.

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 January 23, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–960 Filed 1–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP06–61–004 and CP01–23–005]

North Baja Pipeline, LLC; Notice of Compliance Filing

January 15, 2008.

Take notice that on January 11, 2008, North Baja Pipeline, LLC (NBP) tendered for filing as part of its FERC Gas Tariff, certain revised tariff sheets, with an effective date of February 15, 2008.

NBP states that the filing is being made in compliance with the Commission's order issued on October 2, 2007 in the above-referenced 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 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 January 22, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–966 Filed 1–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–213–000; ER08–213–001]

Round Rock Energy, L.P.; Notice of Issuance of Order

January 15, 2008.

Round Rock Energy, LP (Round Rock) filed an application for market-based rate authority, with accompanying tariff. The proposed market-based rate tariff provides for the sale of energy, capacity and ancillary services at market-based rates. Round Rock also requested waivers of various Commission regulations. In particular, Round Rock requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Round Rock.

On January 11, 2008, 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 Round Rock, 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 (2007).

Notice is hereby given that the deadline for filing protests is February 11, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Round Rock 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 Round Rock, 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 Round Rock'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. E8–963 Filed 1–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–299–000]

Snowflake White Mountain Power, LLC; Notice of Issuance of Order

January 15, 2008.

Snowflake White Mountain Power, LLC (Snowflake) filed an application for market-based rate authority, with accompanying tariff. The proposed market-based rate tariff provides for the sale of energy, capacity and ancillary services at market-based rates. Snowflake also requested waivers of various Commission regulations. In particular, Snowflake requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Snowflake.

On January 11, 2008, 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 Snowflake, 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 (2007).

Notice is hereby given that the deadline for filing protests is February 11, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Snowflake 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 Snowflake, 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 Snowflake'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. E8–964 Filed 1–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–8–000]

Leaf River Energy Center LLC; Notice of Public Scoping Meeting and Site Visit for the Proposed Leaf River Storage Project

January 15, 2008.

The staff of the Federal Energy Regulatory Commission (Commission) will conduct a public scoping meeting and site visit for the Leaf River Storage Project involving construction and operation of natural gas storage and pipeline header facilities by Leaf River Energy Center LLC in Smith, Jasper, and Clarke Counties, Mississippi.

We invite you to attend the public scoping meeting beginning at 7 p.m. (CST) on Tuesday evening, January 29, 2008, to provide environmental comments on the proposed project. Your input will help us determine the issues that need to be evaluated in the environmental assessment. The public scoping meeting will be held at: Heidelberg Multi Purpose Building, 114 West Park Street, Heidelberg, Mississippi 39114, Phone: 601–787–3000.

The Commission staff will also conduct a site visit of the location of the proposed facilities on January 30, 2008. Anyone interested in participating in the site visit may attend, and they must provide their own transportation. The staff will start the site visit on Wednesday, January 30 at approximately 9 a.m. (CST). The Commission staff, company representatives, and interested participants will meet in the parking lot at the following location: Piggly Wiggly, Highway 15, Bay Springs, MS 39422.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–962 Filed 1–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–5–000]

Southern Natural Gas Company Magnolia Enterprise Holdings, Inc.; Notice of Intent to Prepare an Environmental Assessment for the Proposed AGL–Brunswick Project and Request for Comments on Environmental Issues

January 2, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the AGL-Brunswick Project involving construction and operation of natural gas pipeline facilities by Southern Natural Gas Company (Southern) in Jones, Laurens, Glynn, and Liberty Counties, Georgia. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help determine which issues need to be evaluated in the EA. Please note that the scoping period will close on February 4, 2008. Details on how to submit comments are provided

in the Public Participation section of this notice.

This notice is being sent to affected landowners; Federal, State, and local government agencies; elected officials; Native American tribes; other interested parties; and local libraries and newspapers. State and local government representatives are asked to notify their constituents of this proposed project and to encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

The proposed AGL-Brunswick Project would provide Atlanta Gas Light Company (AGLC) with direct access to liquefied natural gas supplies at the Elba Island LNG facility by making use of Southern's existing interstate natural gas pipeline system.

In order for AGLC to gain gas supply from Southern's Elba Island LNG facility, Southern proposes to abandon by sale to Magnolia Enterprise Holdings, Inc. (Magnolia) an undivided interest equal to 82,000 thousand cubic feet per day (Mcf/d) of the respective total capacities of the following facilities:

- Its Twin 30 Pipelines from the interconnect with Elba Island to Port Wentworth in Chatham County, Georgia, and from milepost (MP) 0.0 to MP 13.6 in Jasper County, South Carolina;
- 10 miles of its 20-inch Wrens to Savannah Second Loop Line from the interconnection with the Twin 30 Pipelines at MP 104.6 at Port Wentworth, Georgia to the Rincon Gate at MP 95.1 in Effingham County, Georgia;
- Its Cypress Pipeline from the take off point at MP 95.1on the Wrens-Savannah Lines to an interconnection with AGLC's Brunswick Pipeline in Glynn County, Georgia, including an additional compressor facility installed by Southern on that portion of the Cypress Pipeline (as described below); and
- Its Brunswick Pipeline from MP 0.0 to its Jackson Measurement Station at MP 53.8.

Magnolia would acquire these facilities and requests authorization to lease these facilities back to Southern. Magnolia would also acquire AGLC's 107.5-mile-long Brunswick Pipeline (located between the Laurens County Meter Station and the East Brunswick Meter Station), including the measurement facilities, and seeks authorization to lease these facilities back to Southern.

In addition, Southern proposes to install the following facilities to provide the transportation service to AGLC:

- An odorizer at the Brunswick Tap facility in Jones County, Georgia at milepost (MP) 0.0 on Southern's existing Brunswick Line;
- A new meter station (Macon-Milledgeville 3 Meter Station) in Jones County, Georgia at MP 4.8 on Southern's existing Brunswick Line and the intersection with AGLC's existing facilities;
- A new meter station (East Brunswick Meter Station), new block valve, and odorizer in Glynn County, Georgia at approximate MP 72.2 on the existing Cypress Pipeline; and
- An additional 7,700-horsepower compressor unit at the Riceboro Compressor Station in Liberty County, Georgia at the same location as the previously approved Station #1 authorized as part of the Cypress Pipeline Project.

Finally, Southern would abandon by removal the existing Laurens County Meter Station in Laurens County, Georgia at the southern terminus of Southern's Brunswick Line (MP 53.8);

The general location of the proposed facilities is shown in Appendix 1.[1]

Land Requirements for Construction

The proposed project would affect about 16.3 acres of land during construction and about 6.2 acres during operation. Following construction, land consisting of the temporary facility construction footprints and any additional temporary workspaces would be allowed to revert to previous conditions. Southern proposes to utilize its existing rights-of-way during construction of the proposed facilities. The installation of the new compressor unit at the Riceboro Compressor Station would disturb about 14.2 acres of the existing 32.6 acre site during construction and would require about 5.5 fenced acres during operation. Construction at the Brunswick Tap, East Brunswick Meter Station, and abandonment at the Laurens County Meter Station would occur entirely within the existing and previously disturbed facility footprint and right-of-way, therefore, no new land requirements exist for these facilities. Southern proposes to use existing public and private roads for access to the construction areas.

The EA Process

We[2] are preparing this EA to comply with the National Environmental Policy Act (NEPA) which requires the Commission to take into account the environmental impact that could result if it authorizes Southern's proposal. By this notice, we are also asking federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. Agencies that would like to request cooperating status should follow the instructions for filing comments provided below.

NEPA also requires the FERC to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, we are requesting public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Land use and visual quality.
- Cultural resources.
- Vegetation and wildlife (including threatened and endangered species).
- Air quality and noise.
- Reliability and safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, where necessary, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the ''Additional Information'' section of this notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to Southern.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are received and considered, please carefully follow the instructions in the Public Participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal including alternative locations and routes, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Kimberley D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of Gas Branch 1, PJ–11.1;
- Reference Docket No. CP08–5–000; and
- Mail your comments so that they will be received in Washington, DC, on or before February 4, 2008.

The Commission encourages electronic filing of comments. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the ''eFiling'' link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments you will need to create an account by clicking on ''Login to File'' and then ''New User Account.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.''

As described above, we may publish and distribute the EA for comment. If you are interested in receiving an EA for review and/or comment, please return the Information Request (Appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's eFiling system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding.

If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see Appendix 2).[3] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on the eLibrary link, then on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm*.

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–973 Filed 1–18–08; 8:45 am]

BILLING CODE 6717–01–P

[3] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–27–000]

Tennessee Gas Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Carthage Expansion Project and Request for Comments on Environmental Issues

January 2, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Carthage Expansion Project involving construction and operation of natural gas pipeline facilities by Tennessee Gas Pipeline Company (Tennessee) in Ouachita and Desoto Parishes, Louisiana. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help determine which issues need to be evaluated in the EA. Please note that the scoping period will close on February 4, 2008. Details on how to submit comments are provided in the Public Participation section of this notice.

This notice is being sent to affected landowners; federal, state, and local government agencies; elected officials; Native American tribes; other interested parties; and local libraries and newspapers. State and local government representatives are asked to notify their constituents of this proposed project and to encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' addresses a number of typically asked questions, including the

use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

Tennessee proposes to:

- Construct a new compressor station (Compressor Station 703A) on Line 700–1 with a single 7,700 horsepower (HP) gas turbine unit near Mansfield in Desoto Parish;
- Install a 10,310 HP gas turbine unit at its existing Compressor Station 47 to replace three existing 1,100 HP units on its Line 100 system in Ouachita Parish;
- Install a 12-inch tap on exiting lines 100–1 and 100–3 at mileposts (MP) 47–1D+13.10 and 47–3D+13.09, respectively in Ouachita Parish;
- Construct 1.1 miles of 12-inch-diameter interconnecting pipeline (Line 47E–100) in Ouachita Parish;
- Install a new pig launcher and receiver on Line 47E–100 in Ouachita Parish; and
- Construct a new meter station and tie-in facilities within Entergy's Perryville Generation Station property in Ouachita Parish.

The purpose of the project is to provide Entergy's Perryville Generation Station with 100,000 dekatherms per day of firm transportation service.

The general location of the proposed facilities is shown in Appendix 1.[1]

Land Requirements for Construction

The proposed project would affect about 72.9 acres of land during construction and about 15.2 acres during operation. Construction of Compressor Station 703A would be completed within a 10.5 acre portion of a 31.4 acre property owned by Tennessee. About 8.7 acres of land would be required during operation of Compressor Station 703A, including a new access road, and the remainder of the 31.4-acre site would be maintained as a buffer area. All work at Compressor Station 47 would be completed within the existing fenceline of the facility. Construction of the proposed pipeline, meter station, and pig receiver would require about 17.6 acres of land during construction and about 6.5 acres for operation. About 4.6 acres of land would be used as additional temporary workspaces which would be allowed to revert to previous conditions. Three existing private access roads would be utilized for access to the pipeline right-of-way. Staging areas would be located at the proposed and existing compressor station sites for the storage of equipment, pipe, and construction materials, and field offices.

The EA Process

We[2] are preparing this EA to comply with the National Environmental Policy Act (NEPA) which requires the Commission to take into account the environmental impact that could result if it authorizes Tennessee's proposal. By this notice, we are also asking federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. Agencies that would like to request cooperating status should follow the instructions for filing comments provided below.

NEPA also requires the FERC to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, we are requesting public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Land use and visual quality.
- Cultural resources.
- Vegetation and wildlife (including threatened and endangered species).
- Air quality and noise.
- Reliability and safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, where necessary, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, State, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are received and considered, please carefully follow the instructions in the Public Participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal including alternative compressor station sites, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Kimberley D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of Gas Branch 1, PJ–11.1;
- Reference Docket No. CP08–27–000; and
- Mail your comments so that they will be received in Washington, DC on or before February 4, 2008.

The Commission encourages electronic filing of comments. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the ''eFiling'' link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments you will need to create an account by clicking on ''Login to File'' and then ''New User Account.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.''

As described above, we may publish and distribute the EA for comment. If you are interested in receiving an EA for review and/or comment, please return the Information Request (Appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the ''Additional Information'' section of this notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to Tennessee.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's eFiling system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding.

If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see Appendix 2).[3] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on the eLibrary link, then on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–974 Filed 1–18–08; 8:45 am]

BILLING CODE 6717–01–P

[3] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–50–000]

Trunkline Gas Company, LLC; Notice of Request Under Blanket Authorization

January 14, 2008.

Take notice that on January 9, 2008, Trunkline Gas Company (Trunkline), P.O. Box 4967, Houston, Texas 77210–4967, filed in Docket No. CP08–50–000 a prior notice request pursuant to sections 157.205, 157.208 and 157.212 of the Commission's regulations under the Natural Gas Act (NGA) and Trunkline's blanket certificate issued January 10, 1983 in Docket No. CP83–84–000, for authorization to construct and operate a new interconnect with Kinder Morgan Louisiana Pipeline, LLC to receive revaporized liquefied natural gas in Jefferson Davis Parish, Louisiana, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The estimated cost of constructing the proposed facilities is $950,000.

Any questions regarding the application should be directed to Stephen T. Veach, Regulatory Affairs, Trunkline Gas Company, 5444 Westheimer Road, Houston, Texas 77056, or fax (713) 989–1158, or e-mail *stephen.veach@sug.com.*

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: February 4, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–961 Filed 1–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF07–16–000]

UGI LNG, Inc.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Temple LNG Plant Expansion Project and Request for Comments on Environmental Issues

January 15, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the proposed Temple LNG Plant Expansion Project involving construction and operation of facilities by UGI LNG, Inc. (UGI LNG) in Ontelaunee Township, Berks County, Pennsylvania. The EA will be used by

the Commission in its decisionmaking process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help determine which issues need to be evaluated in the EA. Please note that the scoping period for this Notice will close on February 18, 2008. Details on how to submit comments are provided in the Public Participation section of this notice. Further notice will be issued in the near future regarding any local public comment meetings to be held by the Commission staff.

This notice is being sent to affected landowners; federal, state, and local government representatives and agencies; elected officials; other interested parties; and local libraries and newspapers. State and local government representatives are asked to notify their constituents of this proposed project and to encourage them to comment on their areas of concern.

A brochure prepared by the FERC entitled ''A Guide to LNG—What All Citizens Should Know'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This brochure addresses a number of typically asked questions, including what is LNG and how is it transported.

Summary of the Proposed Project

UGI LNG proposes to expand its existing Temple LNG Plant in Ontelaunee Township, Berks County, Pennsylvania (see map in Appendix 1[1]). The expansion would consist of adding one LNG storage tank with a net working capacity of 50,000 cubic meters.

Specifically, UGI LNG seeks authority to construct and operate the following facilities:

- One full-containment LNG storage tank with a net working capacity of 50,000 cubic meters (314,500 barrels);
- Three vapor return blowers;
- Two boil-off gas compressors;
- Six LNG send out pumps;
- Six submerged combustion vaporizers;
- A shell-and-tube gas-to-gas exchanger;
- Send-out pipeline connecting the new LNG tank to the existing Texas Eastern Transmission Corporation (TETCO) pipeline; and
- A control building.

Land Requirements

It is estimated that construction of the project would disturb about 15 acres of land. This land is within the existing plant site owned by UGI LNG and on adjacent existing right-of-way controlled by TETCO.

The EA Process

We[2] are preparing this EA to comply with the National Environmental Policy Act (NEPA) which requires the Commission to take into account the environmental impact that could result if it authorizes UGI LNG's proposal. By this notice, we are also asking federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA.

Agencies that would like to request cooperating status should follow the instructions for filing comments provided below.

The purpose of the Pre-filing Process is to seek public and agency input early in the project planning phase and encourage involvement by interested stakeholders in a manner that allows for the early identification and resolution of environmental issues. We will work with all interested stakeholders to identify and attempt to address issues before UGI LNG files its application with the FERC. A diagram depicting the environmental review process for the proposed project is attached to this notice as Appendix 2.

NEPA also requires the FERC to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, we are requesting public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA. As part of the Pre-filing Process review, FERC staff representatives participated in a public open house sponsored by UGI LNG in the project area on December 18, 2007, to explain the environmental review process to interested stakeholders and take comments about the project.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Wetlands and waterbodies.
- Land use.
- Cultural resources.
- Vegetation and wildlife (including sensitive species).
- Air and noise quality.
- Reliability, safety and security.

Our independent analysis of the issues will be in the EA which will be published and mailed to Federal, State, and local agencies, interested individuals who return the Information Request Form in Appendix 3, and the Commission's official service list for this proceeding. A comment period will be allotted for review when the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Although no formal application has been filed, the FERC staff has already initiated its NEPA review under its Pre-filing Process. The purpose of the Pre-filing Process is to encourage the early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. Once a formal application is filed with the FERC, a new docket number will be established.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, reasonable alternatives to the proposal including alternative locations and routes, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Branch 3.
- Reference Docket No. PF07–16–000.
- Mail your comments so that they will be received in Washington, DC on or before February 18, 2008.

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Web site at the eLibrary link or from the Commission's Public Reference Room or by calling (202) 502–8371. For instructions on connecting to eLibrary refer to the public participation section of this notice. For instructions on connecting to eLibrary, refer to the ''Additional Information'' section at the end of this notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to UGI LNG.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

The Commission encourages electronic filing of comments. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the ''eFiling'' link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments you will need to create an account by clicking on ''Login to File'' and then ''New User Account.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.''

If you are interested in receiving a copy of the EA, please return the Information Request (Appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Once UGI LNG formally files its application with the Commission, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that you may not request intervenor status at this time. You must wait until a formal application is filed with the Commission.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*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. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm*.

Kimberly D. Bose,

Secretary.

BILLING CODE 6717–01–P

Mailing List Form
(Docket No. PF07-16-000)

☐ Please keep my name on the environmental mailing list for the Temple LNG Plant Expansion Project.

Name_____

Agency_____

Address_____

City_____State_____Zip Code_____

_____
(1st fold on line)

_____
(2nd fold on line)

FROM_____

_____

ATTN: OEP – Gas 3, PJ - 11.3
Federal Energy Regulatory Commission
888 First Street, NE.
Washington, DC 20426

Docket No. PF07-16-000

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[FR Doc. E8–965 Filed 1–18–08; 8:45 am]
BILLING CODE 6717–01–C

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2007–0270; FRL–8518–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule; EPA ICR No. 1365.08, OMB No. 2070–0091

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA)(44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before February 21, 2008.

ADDRESSES: Submit your comments, referencing docket ID Number EPA-HQ-OPPT–2007–0270 to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *oppt.ncic@epa.gov* or by mail to: Document Control Office (DCO), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Mail Code: 7407T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mailcode: 7408–M, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–554–1404; e-mail address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2007 (72 FR 26355), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OPPT–2007–0270, which is available for online viewing at *http://www.regulations.gov,* or in person inspection at the OPPT Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center 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 Pollution Prevention and Toxics Docket is 202–566–0280.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule.

ICR Numbers: EPA ICR No. 1365.08, OMB Control No. 2070–0091.

ICR Status: This ICR is currently scheduled to expire on 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, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Asbestos Hazard Emergency Response Act (AHERA) requires Local Education Agencies (LEAs) to conduct inspections, develop management plans, and design or conduct response actions with respect to the presence of asbestos-containing materials in school buildings. AHERA also requires states to develop model accreditation plans for persons who perform asbestos inspections, develop management control plans, and design or conduct response actions. This information collection addresses the burden associated with reporting and recordkeeping requirements imposed on LEAs by the asbestos in schools rule, and reporting and recordkeeping requirements imposed on state agencies and training providers related to the model accreditation plan rule.

Responses to the collection of information are mandatory (see 40 CFR part 763, Subpart E). Respondents may claim all or part of a notice as CBI. EPA will disclose information that is covered by a CBI claim only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

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**, are listed in 40 CFR part 9 and included on the related collection instrument or form, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 5.5 hours and 140 hours per response, depending on the category of the respondent. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are local education agencies

(LEAs, e.g., elementary or secondary public school districts or a private school or school system); asbestos training providers to schools and educational systems; and state education departments or commissions or state public health departments or commissions.

Frequency of Response: On occasion.

Estimated No. of Respondents: 125,691.

Estimated Total Annual Hour Burden: 2,530,600 hours.

Estimated Total Annual Labor Costs: $76,352,159.

Changes in Burden Estimates: There is a net increase of 45,160 hours (from 2,485,440 hours to 2,530,600 hours) in the total estimated respondent burden compared with that currently in the OMB inventory. This increase reflects changes in the estimated numbers of Local Education Agencies and training providers. The increase is an adjustment.

Dated: January 15, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–1000 Filed 1–18–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8518–1]

Determination of Sole Source Aquifer Petition

AGENCY: Environmental Protection Agency.

ACTION: Notice of Sole Source Aquifer Petition Determination.

SUMMARY: The United States Environmental Protection Agency (EPA) today provides notice that it approves the petition to designate the Española Basin Aquifer System a Sole Source Aquifer. The aquifer is eligible for designation because it is the principal source of drinking water for the area covered by the petition.

ADDRESSES: The administrative record underlying today's decision was available for inspection at the EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202. EPA had also posted a fact sheet, summary of public comments and responses, and a decision support document on its Web site at *http://www.epa.gov/earth1r6/6wq/swp/ssa*.

FOR FURTHER INFORMATION CONTACT: Michael Bechdol, Environmental Scientist, Source Water Protection Branch (6WQ–SG), EPA Region 6, 1445 Ross Ave., Dallas, TX 75202–2733, phone (214) 665–7133, *bechdol.michael@epa.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to Section 1424(e) of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300h–3(e), EPA may designate an aquifer a ''sole source aquifer'' if it serves as the sole or principal drinking water source for an area and contamination of that aquifer would create a significant hazard to public health. EPA may essentially ''veto'' financial assistance proposed by Federal agencies for projects it finds may contaminate such a designated aquifer. To date, EPA has designated 75 sole source aquifers.

On June 2, 2006, EPA received a petition for sole source aquifer designation from the La Cienega Valley Citizens for Environmental Safeguards. The petition sought designation for the Española Basin Aquifer System, which covers approximately 3,000 sq miles which includes the cities of Santa Fe, Los Alamos and Española. The area also includes the Pueblos of San Juan, Santa Clara, Pojoaque, San Ildefonso, Nambe, Tesuque, Picuris, and Cochiti. The U.S. census for 2000 shows a population in the petitioned area of approximately 172,750, including around 70,000 in the City of Santa Fe. To show the aquifer was the primary source of drinking water for the area, the petitioner relied on documentation of water rights allocated to water users by the New Mexico Office of the State Engineer and by U.S. Geological Survey's 1990 generalized estimates of water use in New Mexico.

EPA published notice of the petition in the Santa Fe New Mexican and requested comments thereon. It received a number of comments and carefully considered them in reaching today's decision. EPA also performed an independent review of the hydrology and water use in the area covered by the petition. The Agency concludes that approximately 85% of the drinking water used in the area covered by the petition is derived from wells in the aquifer. EPA thus approves the Española Basin Aquifer System petition.

Dated: January 10, 2008.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. E8–999 Filed 1–18–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8518–3]

Meeting of the Local Government Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Local Government Advisory Committee (LGAC) and the Small Community Advisory Subcommittee (SCAS), and workgroups will meet on February 5–6, 2008 in Washington, DC. The Committee and Subcommittee meetings will be located at The Madison, at 1177 Fifteenth Street, NW., Washington, DC 20005, in conference rooms Vernon A & B. The focus areas of the meeting will be Green Buildings, Small Communities, and other environmental issues potentially affecting local governments.

This is an open meeting and all interested persons are invited to attend. The Committee will hear comments from the public between 11:30 a.m. and 12 p.m. on Tuesday, February 5, 2008. Each individual or organization wishing to address the LGAC meeting will be allowed a maximum of five minutes to present their point of view. Also, written comments should be submitted electronically to *Eargle.Frances@epa.gov*. Please contact the Designated Federal Officer (DFO) at the number listed below to schedule agenda time. Time will be allotted on a first come, first serve basis, and the total period for comments may be extended, if the number of requests for appearances require it.

ADDRESSES: The LGAC meeting will be held at The Madison, a Loews Hotel, located at 1177 Fifteenth St., NW. on February 5–6 in conference rooms Vernon A & B.

The Committee's meeting minutes and Subcommittee summary notes will be available after the meeting online at *http://www.epa.gov/ocir/scas* and can be obtained by written request to the DFO.

FOR FURTHER INFORMATION CONTACT: Frances Eargle, DFO for the Local Government Advisory Committee (LGAC), at (202) 564–3115 or e-mail at *Eargle.Frances@epa.gov*. For those interested in participating in the Small Community Subcommittee meeting, contact Anna Raymond at (202) 564–2663 or by e-mail at *Raymond.Anna@epa.gov*.

Information on Services for Those With Disabilities: For information on access or services for individuals with

disabilities, please contact Frances Eargle at (202) 564–3115 or *Eargle.Frances@epa.gov*. To request accommodation of a disability, please request it 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: January 10, 2008.

Anna Raymond,

Designated Federal Officer, Small Community Advisory Subcommittee.

[FR Doc. E8–991 Filed 1–18–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

January 8, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments March 24, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), (202) 395–5887, or via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission (FCC). To submit your comments by e-mail send them to: *PRA@fcc.gov*.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review'', (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.''

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0997.

Title: Section 52.15(k), Numbering Utilization and Compliance Audit.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit

Number of Respondents: 25 respondents; 25 responses.

Estimated Time Per Response: 33 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Mandatory.

Total Annual Burden: 825 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Commission employees and the independent auditor are prohibited by 47 U.S.C. 220(f) from divulging any fact or information that may come to their knowledge in the course of performing the audit, except as directed by the Commission or a court.

Needs and Uses: This collection will be submitted as an extension (no change in reporting or recordkeeping requirements) after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance.

The audit program, consisting of audit procedures and guidelines, has been developed to conduct random audits. The random audits are conducted on the carriers that use numbering resources in order to verify the accuracy of numbering data reported on FCC Form 502 (North American Number Plan Numbering Resource Utilization/Forecast (NRUF) Report, OMB Control Number 3060–0896), and to monitor compliance with FCC rules, orders and applicable industry guidelines.

Failure of the audited carriers to respond to the audits can result in penalties. Based on the final audit report, evidence of potential violations may result in enforcement action.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–1022 Filed 1–18–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10 a.m. on Tuesday, January 22, 2008, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to section 552b(c)(2), (c)(4), (c)(6), (c)(8), (9)(A)(ii), and (9)(B) of Title 5, United States Code, to consider matters relating to the Corporation's supervisory and corporate activities and to personnel matters.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–7122.

Dated: January 15, 2008.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E8–944 Filed 1–18–08; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

[Notice 2008–02]

Filing Dates for the Indiana Special Election in the 7th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Indiana has scheduled a special general election on March 11, 2008, to fill the U.S. House of Representatives seat in the Seventh Congressional District vacated by the late Representative Julia Carson. Committees participating in the Indiana Special General Election on March 11, 2008, shall file a 12-day Pre-General Report, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin R. Salley, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Indiana Special General Election shall file a 12-day Pre-General Report on February 28, 2008; and a 30-day Post-General Report on April 10, 2008. (See chart below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a quarterly basis in 2008 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Indiana Special General Election by the close of books for the applicable report(s). (See chart below for the closing date for each report).

Committees filing monthly that support candidates in the Indiana Special General Election should continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Indiana Special General Election may be found on the FEC Web site at *http://www.fec.gov/info/report_dates.shtml.*

CALENDAR OF REPORTING DATES FOR INDIANA SPECIAL ELECTION

[Committees involved in the special general (03/11/08), must file]

Report	Close of books [1]	Reg./Cert. and overnight mailing deadline	Filing deadline
Pre-General	02/20/08	02/25/08	02/28/08
Post-General	03/31/08	04/10/08	04/10/08
April Quarterly	—WAIVED—		

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

Dated: January 14, 2008.

David M. Mason,

Chairman, Federal Election Commission.

[FR Doc. E8–912 Filed 1–18–08; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications 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 February 15, 2008.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Community State Bankshares, Inc.; to become a bank holding company by acquiring 100 percent of the voting shares of Community State Bank (in organization), both in Lamar, Colorado.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. National Bank & Trust Employee Stock Ownership Plan With 401(k) Provisions; to become a bank holding company by acquiring up to 30 percent of First La Grange Bancshares, Inc., and indirectly acquire National Bank & Trust, all of La Grange, Texas.

Board of Governors of the Federal Reserve System, January 15, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–902 Filed 1–18–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless

otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 5, 2008.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Hancock Bancorp, Inc. Hawesville, Kentucky; to acquire 100 percent of the voting shares of Community First Bancorp, Inc., Madisonville, Kentucky, and thereby indirectly acquire Community First Bank, Madisonville, Kentucky, and engage in operating a savings association pursuant to section 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, January 16, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–976 Filed 1–18–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 15, 2008.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Hancock Bancorp, Inc. Hawesville, Kentucky; to acquire 100 percent of the voting shares of Community First Bancorp, Inc., Madisonville, Kentucky, and thereby indirectly acquire Community First Bank, Madisonville, Kentucky, and engage in operating a savings association pursuant to section 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, January 16, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–985 Filed 1–18–08; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''Assessment of the Emergency Severity Index (ESI).'' In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by March 24, 2008.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by e-mail at *doris.lefkowitz@ahrq.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by e-mail at *doris.lefkowitz@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

''Assessment of the Emergency Severity Index (ESI)''

AHRQ is proposing to examine uptake and use of an emergency room triage tool, the Emergency Severity Index (ESI). The hospital emergency department (ED) represents a critical point in care delivery for patients across the United States. Over the past decade, however, the dramatic influx of patients into EDs has seriously challenged the ability of these departments to deliver timely, quality, and safe emergency health care services. Moreover, with most emergency departments operating at or over capacity it may prove difficult for them to respond to the surge in emergency room demand created by natural and man-made disasters. Development of increasingly refined and validated triage methods is one potential key to addressing overcrowding by speeding up the care delivery to the most acute ED patients while helping hospitals assess, carefully allocate and plan the amount of human and other resources needed to care for all patients.

In response to a need to standardize the triage process and improve the flow of patients, Richard C. Wuerz, M.D., (Department of Emergency Medicine at the Brigham and Women's Hospital and the Harvard Medical School) and David R. Eitel, M.D., (Department of Emergency Medicine, The York Hospital WellSpan Health System) initiated development of the Emergency Severity Index (ESI) in 1995. The ESI is unique in its focus on appropriate resource allocation and its consideration of necessary resource utilization in assigning acuity. To encourage adoption of the ESI, AHRQ developed an implementation handbook (Emergency Severity Index, Version 4) and companion DVDs. These materials are intended to provide hospitals and triage nurses with background on why they might want to implement the ESI as a triage tool, and offers recommendations on the implementation process and staff training.

This project will assess the product's acceptance by emergency departments and others involved in addressing medical surges to better understand the usefulness of the ESI compared to other

similar tools. It will focus on the satisfaction with the product's presentation, content, and clarity; extent to which the product has improved emergency services and surge preparation; and the improvements users would like to see in the next version of this product. This will be accomplished through (1) developing and implementing an electronic and paper-based survey targeting emergency department professionals assessing the satisfaction with the ESI's content, clarity and actual use of the system in everyday emergency departments, and (2) convening focus groups of ED professionals to identify characteristics that might predict uptake and use of this system in participating emergency departments.

Method of Collection

Survey: A randomly selected sample of 600 ED professionals from the database AHRQ maintains of individuals and organizations that requested a copy of the ESI tools will be contacted to participate in the survey. Where a phone number has been provided, we will do a reverse telephone number search to identify the mailing address of the requestor and conduct a mail survey with telephone follow-up. For those who have provided an e-mail address, we will send a link to a web survey. Telephone and e-mail prompts will be sent after two weeks to those who have not yet completed the questionnaire, followed by two additional remainders sent three weeks apart. The expected response rate of 80 percent will result in 480 respondents to the survey with approximately half from ED physicians and half from ED nurses.

Focus Groups: Focus groups will be conducted to gauge ED managers' and clinicians' awareness of the ESI tool as well as AHRQ's role in ED surge planning and preparation. To the extent that we are able to identify a subgroup of ED representatives who are aware of the ESI tool but have chosen not to utilize it in their emergency departments, focus groups may also be useful to gather information on why these organizations opted not to employ the ESI. In order to facilitate communication among focus group participants and ensure that responses address the key issues identified in the focus group guide, we will limit participation in each focus group meeting to between six and eight individuals. A total of four focus group meetings will be held, including two meetings each with ED medical directors, and ED triage nurses.

Estimated Annual Respondent Burden

EXHIBIT 1.—ESTIMATED ANNUALIZED BURDEN HOURS

Data collection effort	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
ED professionals survey	480	1	30/60	240
ED professionals focus groups	32	1	1.5	48
Total	512	na	na	288

EXHIBIT 2.—ESTIMATED ANNUALIZED COST BURDEN

Data collection effort	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
ED professionals survey	480	240	$43.93	$10,544
ED professionals focus groups	32	48	43.93	2,109
Total	512	288	na	12,653

* Based upon the mean of the average wages of ED physicians and nurses, National Compensation Survey: Occupational wages in the United States 2006, "U.S. Department of Labor, Bureau of Labor Statistics."

This information collection will not impose a cost burden on respondents beyond that associated with their time to provide the required data. There will be no additional costs for capital equipment, software, computer services, etc.

Estimated Annual Costs to the Federal Government

Developing and implementing the survey, $183,305.

Developing and conducting focus groups, $69,669.

Analyzing the data and report production, $26,172.

Associated personnel costs, $17,073.

The total cost to the government for this activity is estimated to be $296,219.

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: January 14, 2008.

Carolyn M. Clancy,

Director.

[FR Doc. 08–170 Filed 1–18–08; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Social Services Block Grant (SSBG) Post-expenditure Report.

OMB No.: 0970–0234.

Description: The purpose of this information collection is to (1) extend the collection of post-expenditure data using the current OMB approved reporting form (OMB No. 0970–0234) past the current expiration date of May 31, 2008; and (2) request that States voluntarily use the post-expenditure report format to estimate expenditures and recipients, by service category, as part of the required annual intended use plan.

The Social Services Block Grant program (SSBG) provides funds to assist States in delivering critical services to vulnerable older adults, persons with disabilities, at-risk adolescents and young adults, and children and families in the State. Funds are allocated to the States in proportion to their populations. States have substantial discretion in their use of funds and may determine what services will be provided, who will be eligible, and how funds will be distributed among the various services. State or local SSBG agencies (i.e., county, city, regional offices) may provide the services or may purchase them from qualified agencies, organizations or individuals. States report as recipients of SSBG-funded services any individuals who receive a service funded in whole or in part by SSBG.

States are required to report their annual SSBG expenditures on a standard post-expenditure report. This request seeks approval to continue the use of the current form with no changes. This standard post-expenditure report form includes a yearly total of adults and children served and annual expenditures in each of 29 service categories. The annual report is to be submitted within six months of the end of the period covered by the report, and must address: (1) The number of individuals (as well as number of children and number of adults) who receive services paid for, in whole or in part, with Federal funds under the SSBG; (2) The amount of SSBG funds spent in providing each service; (3) The total amount of Federal, State, and local funds spent in providing each service, including SSBG funds; and (4) The method(s) by which each service is provided, showing separately the services provided by public and private agencies. These reporting requirements can be found at 45 CFR 96.74. Information collected on the post-expenditure report is analyzed and described in an annual report on SSBG expenditures and recipients produced by the Office of Community Services (OCS), Administration for Children and Families (ACF). The information contained in this report is used for program planning and management. The data establish how SSBG funding is used for the provision of services in each State to each of many specific populations of needy individuals.

Federal regulation and reporting requirements for the SSBG also require each State to develop and submit an annual intended use plan that describes how the State plans to administer its SSBG funds for the coming year. This report is to be submitted 30 days prior to the start of the fiscal year (June 1 if the State operates on a July–June fiscal year, or September 1 if the State operates on a Federal fiscal year). No specific format is required for the intended use plan. The intended use of SSBG funds, including the types of activities to be supported and the categories and characteristics of individuals to be served, must be provided. States vary greatly in the information they provide and the structure of the report. States are required to submit a revised intended use plan if the planned use of SSBG funds changes during the year.

In order to provide a more accurate analysis of the extent to which funds are spent ''in a manner consistent'' with each of the States' plan for their use, as required by 42 U.S.C. 1397e(a), ACF is requesting that States voluntarily use the format of the post-expenditure report form to provide estimates of the amount of expenditures and the number of recipients by service category, that the State plans to use SSBG funds to support as part of the intended use plan. Many States are already using the format of the post-expenditure report form as part of their pre-expenditure report.

Respondents: States.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Post-Expenditure Report	56	1	110	6,160
Use of Post-Expenditure Report Form as Part of the Intended Use Plan	56	1	2	112

Estimated Total Annual Burden Hours: 6,272.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Fax:* 202–395–6974, *Attn:* Desk Officer for the Administration for Children and Families.

Dated: January 15, 2008.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. 08–185 Filed 1–18–08: 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request; Proposed Projects

Title: Data Collection Plan for the Customer Satisfaction Evaluation of Child Welfare Information Gateway.

OMB No.: 0970–0303.

Description: The National Clearinghouse on Child Abuse and Neglect Information (NCCAN) and the National Adoption Information Clearinghouse (NAIC) received OMB approval to collect data for a customer satisfaction evaluation under OMB control number 0870–0303. On June 20, 2006, NCCAN and NAIC were consolidated into Child Welfare Information Gateway (CWIG). In response to this consolidation, the proposed information collection activities include revisions to the Customer Satisfaction Evaluation approved under OMB control number 0970–0303.

CWIG is a service of the Children's Bureau, a component within the Administration for Children and Families, and CWIG is dedicated to the mission of connecting professionals and concerned citizens to information on programs, research, legislation, and statistics regarding the safety, permanency, and well-being of children and families. CWIG's main functions are identifying information needs, locating and acquiring information, creating information, organizing and storing information, disseminating information, and facilitating information exchange among professionals and concerned citizens. A number of vehicles are employed to accomplish these activities, including, but not limited to, website hosting, discussions with customers, and dissemination of publications (both print and electronic).

The Customer Satisfaction Evaluation was initiated in response to Executive Order 12862 issued on September 11, 1993. The Order calls for putting customers first and striving for a customer-driven government that matches or exceeds the best service available in the private sector. To that end, CWIG's evaluation is designed to better understand the kind and quality of services customers want, as well as customers' level of satisfaction with existing services. The proposed data collection activities for the evaluation include customer satisfaction surveys, customer comment cards, selected publication surveys, and focus groups.

Respondents: Child Welfare Information Gateway customers.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per survey respondent	Average burden hours per survey response	Total burden hours
Customer Satisfaction Survey—Web Site Delivery	1,545	16	.0048	118.7
Customer Satisfaction Survey—E-mail Delivery	29	14	.0048	1.9
Customer Satisfaction Survey—Print Delivery	31	14	.0048	2.1
Customer Satisfaction Survey—Phone Delivery	171	14	.0063	15.1
Comment Card	264	3	.0048	3.8
Selected Publications Survey	85	11	.0048	4.5
Focus Group Guide	28	16	.0625	28

Estimated total annual burden hours: 174.1.

In compliance with the requirements of Section 3506(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 30 days of this publication.

Dated: January 15, 2008.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. 08–186 Filed 1–18–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2008N–0005]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry on Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical Current Good Manufacturing Practice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of

information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the proposed collection of information resulting from the guidance to manufacturers of veterinary and human drugs, including human biological drug products, on how to resolve disputes of scientific and technical issues relating to current good manufacturing practice (CGMP).

DATES: Submit written or electronic comments on the collection of information by March 24, 2008.

ADDRESSES: Submit electronic comments on the collection of information to: *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4816.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry on Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical Current Good Manufacturing Practice—(OMB Control Number 0910–0563)—Extension

The guidance is intended to provide information to manufacturers of veterinary and human drugs, including human biological drug products, on how to resolve disputes of scientific and technical issues relating to CGMP. Disputes related to scientific and technical issues may arise during FDA inspections of pharmaceutical manufacturers to determine compliance with CGMP requirements, or during FDA's assessment of corrective actions undertaken as a result of such inspections. The guidance provides procedures that encourage open and prompt discussion of disputes and lead to their resolution. The guidance describes procedures for raising such disputes to the Office of Regulatory Affairs (ORA) and center levels and for requesting review by the dispute resolution (DR) Panel (the DR Panel).

When a scientific or technical issue arises during an FDA inspection, the manufacturer should initially attempt to reach agreement on the issue informally with the investigator. Certain scientific or technical issues may be too complex or time-consuming to resolve during the inspection. If resolution of a scientific or technical issue is not accomplished through informal mechanisms prior to the issuance of Form FDA 483, the manufacturer can formally request DR and can use the formal two-tiered DR process described in the guidance.

Tier-one of the formal DR process involves scientific or technical issues raised by a manufacturer to the ORA and center levels. If a manufacturer disagrees with the tier-one decision, tier two of the formal DR process would then be available for appealing that decision to the DR Panel.

The written request for formal DR to the appropriate ORA unit should be made within 30 days of the completion of an inspection, and should include all supporting documentation and arguments for review, as described below. The written request for formal DR to the DR Panel should be made within 60 days of receipt of the tier-one decision, and should include all supporting documentation and arguments, as described in the following paragraphs.

All requests for formal DR should be in writing and include adequate information to explain the nature of the dispute and to allow FDA to act quickly and efficiently. Each request should be sent to the appropriate address listed in the guidance and include the following:

- Cover sheet that clearly identifies the submission as either a request for tier-one DR or a request for tier-two DR;
- Name and address of manufacturer inspected (from Form FDA 483);
- Date of inspection (from Form FDA 483);
- Date the Form FDA 483 issued (from Form FDA 483);
- FEI Number, if available (from Form FDA 483);
- FDA employee names and titles that conducted inspection (from Form FDA 483);
- Office responsible for the inspection, e.g., district office (from Form FDA 483);
- Application number if the inspection was a preapproval inspection;
- Comprehensive statement of each issue to be resolved:
  - Identify the observation in dispute.
  - Clearly present the manufacturer's scientific position or rationale concerning the issue under dispute with any supporting data.
  - State the steps that have been taken to resolve the dispute, including any informal DR that may have occurred before the issuance of Form FDA 483.
  - Identify possible solutions.
  - State expected outcome.
- Name, title, telephone and fax number, and e-mail address (as available) of manufacturer contact.

The guidance was part of the FDA initiative ''Pharmaceutical cGMPs for the 21st Century: A Risk-Based Approach,'' which was announced in August 2002. The initiative focuses on FDA's current CGMP program and covers the manufacture of veterinary and human drugs, including human biological drug products. The agency formed the Dispute Resolution Working Group comprising representatives from ORA, the Center for Drug Evaluation and Research (CDER), the Center for Biologics Evaluation and Research (CBER), and the Center for Veterinary Medicine (CVM). The working group met weekly on issues related to the DR process and met with stakeholders in December 2002 to seek their input.

The guidance was initiated in response to industry's request for a formal DR process to resolve differences

related to scientific and technical issues that arise between investigators and pharmaceutical manufacturers during FDA inspections of foreign and domestic manufacturers. In addition to encouraging manufacturers to use currently available DR processes, the guidance describes the formal two-tiered DR process explained above. The guidance also covers the following topics.

• The suitability of certain issues for the formal DR process, including examples of some issues with a discussion of their appropriateness for the DR process.

• Instructions on how to submit requests for formal DR and a list of the supporting information that should accompany these requests.

• Public availability of decisions reached during the dispute resolution process to promote consistent application and interpretation of drug quality-related regulations.

Description of Respondents: Pharmaceutical manufacturers of veterinary and human drug products and human biological drug products.

Burden Estimate: Based on the number of requests for tier-one and tier-two DR received by FDA since the guidance published in January 2006, FDA estimates that approximately two manufacturers will submit approximately two requests annually for a tier-one DR, and that there will be one appeal of these requests to the DR Panel (request for tier-two DR). FDA estimates that it will take manufacturers approximately 30 hours to prepare and submit each request for a tier-one DR, and approximately 8 hours to prepare and submit each request for a tier-two DR. Table 1 of this document provides an estimate of the annual reporting burden for requests for tier-one and tier-two DRs.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Requests for Tier-One DR	2	1	2	30	60
Requests for Tier-Two DR	1	1	1	8	8
TOTAL					68

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Please note that on January 15, 2008, the FDA Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA through the FDMS only.

Dated: January 14, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–1004 Filed 1–18–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007N–0241]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Institutional Review Boards

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Institutional Review Boards'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4816.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 11, 2007 (72 FR 57948), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0130. The approval expires on December 31, 2010. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain*.

Dated: January 14, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–1005 Filed 1–18–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004N–0408]

Regulatory Site Visit Training Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA's) Center for Biologics Evaluation and Research (CBER) is reannouncing the invitation for participation in its Regulatory Site Visit Training Program (RSVP). This training program is intended to give CBER regulatory review, compliance, and other relevant staff an opportunity to visit biologics facilities. These visits are intended to allow CBER staff to directly observe routine manufacturing practices and to give CBER staff a better understanding of the biologics industry, including its challenges and operations. The purpose of this notice is to invite biologics facilities to contact CBER for more information if they are interested in participating in this program.

DATES: Submit a written or electronic request for participation in this program by February 21, 2008. The request should include a description of your facility relative to products regulated by CBER. Please specify the physical address of the site(s) you are offering. Facilities should also be advised that if a site visit involves a separate physical location of another firm under contract to the applicant that this site must be in agreement to participate in the program, as well as have a satisfactory compliance history.

ADDRESSES: If your biologics facility is interested in offering a site visit or learning more about this training opportunity for CBER staff, or if your

biologics facility responded to a previous RSVP notice announced in the **Federal Register**, you should submit a request to participate in the program to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic requests to *http://www.fda.gov/dockets/ecomments* or *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Lonnie Warren Myers, Division of Manufacturers Assistance and Training, Center for Biologics Evaluation and Research (HFM–49), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–2000, FAX: 301–827–3079, e-mail: *matt@cber.fda.gov*

SUPPLEMENTARY INFORMATION:

I. Background

CBER regulates certain biological products including blood and blood products, vaccines, and cellular, tissue, and gene therapies. CBER is committed to advancing the public health through innovative activities that help ensure the safety, effectiveness, and timely delivery of biological products to patients. To support this primary goal, CBER has initiated various training and development programs to promote high performance of its compliance staff, regulatory review staff, and other relevant staff. CBER seeks to continuously enhance and update review efficiency and quality, and the quality of its regulatory efforts and interactions, by providing CBER staff with a better understanding of the biologics industry and its operations. Further, CBER seeks to improve: (1) Its understanding of current industry practices, and regulatory impacts and needs; and (2) communication between CBER staff and industry. CBER initiated its RSVP in 2005, and through these annual notices, is requesting those firms that have previously applied and are still interested in participating, to reaffirm their interest, as well as encouraging new interested parties to apply.

II. RSVP

A. Regulatory Site Visits

In this program, over a period of time to be agreed upon with the facility, small groups of CBER staff may observe operations of biologics establishments, including for example blood and tissue establishments. The visits may include packaging facilities, quality control and pathology/toxicology laboratories, and regulatory affairs operations. These visits, or any part of the program, are not intended as a mechanism to inspect, assess, judge, or perform a regulatory function, but are meant to improve mutual understanding and to provide an avenue for open dialogue between the biologics industry and CBER.

B. Site Selection

All travel expenses associated with the site visits will be the responsibility of CBER; therefore, selection of potential facilities will be based on the coordination of CBER's priorities for staff training as well as the limited available resources for this program. In addition to logistical and other resource factors to consider, a key element of site selection is a successful compliance record with CBER or another agency for which we have a memorandum of understanding.

Dated: January 11, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–1006 Filed 1–18–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; The Framingham Study

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval the information collection listed below. This proposed information collection was previously published in the **Federal Register** on November 6, 2007, page 62659, and allowed 60 days for public comment. Two comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, any information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: The Framingham Study. *Type of Information Request:* Revision (OMB No. 0925–0216). *Need and Use of Information Collection:* The Framingham Study will conduct examinations and morbidity and mortality follow-up in original, offspring, and third generation participants for the purpose of studying the determinants of cardiovascular disease. *Frequency of response:* Both individuals and physicians will be contacted annually. One response per contact per year is anticipated from physicians and informants; participants will average 1.49 responses to various components within each annual contact. *Affected public:* Individuals or households; businesses or other for profit; small businesses or organizations. *Types of Respondents:* Adult men and women; doctors and staff of hospitals and nursing homes. The annual reporting burden is as follows: *Estimated Number of Respondents:* 5,569 and *Estimated Total Annual Burden Hours Requested:* 5,794.

There are no capital, operating, or maintenance costs to report.

Type of respondents	Number of respondents	Average time per response	Annual hour burden
Individuals (Participants and Informants)	4719	1.107	5224
Physicians	850	0.671	570
Totals	5569		5794

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, *Attention:* Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Paul Sorlie, Epidemiology Branch, Division of Prevention and Population Sciences, NHLBI, NIH, II Rockledge Centre, 6701 Rockledge Drive, Suite 10210, MSC # 7936, Bethesda, MD, 20892–7936, or call 301–435–0456 (non-toll-free number), or e-mail your request, including your address to: *SorlieP@NHLBI.NIH.GOV.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: January 8, 2008.

Mike Lauer,

Director, Division of Prevention and Population Sciences, NHLBI, National Institutes of Health.

Dated: January 8, 2008.

Suzanne Freeman,

OMB Clearance Officer, NHLBI, National Institutes of Health.

[FR Doc. E8–478 Filed 1–18–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Neuroscience and Disease.

Date: February 4–5, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn San Francisco-Fisherman's Wharf, 1300 Columbus Avenue, San Francisco, CA 94133.

Contact Person: Jerry L. Taylor, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301–435–1175, *taylorje@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group, Behavioral Genetics and Epidemiology Study Section.

Date: February 7–8, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Guest Sites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.

Contact Person: Elisabeth Koss, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockeldge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, (301) 435–1721, *kosse@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Molecular Neurogenetics: Quorum.

Date: February 7, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Grand Hyatt Washington, 1000 H Street, NW., Washington, DC 20001.

Contact Person: Robert C. Elliott, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group, Cellular and Molecular Immunology—A Study Section.

Date: February 7–8, 2008.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marina del Rey Hotel, 13534 Bali Way, Marina del Rey, CA 90292.

Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892, (301) 435–1152, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Psychiatric Genetics.

Date: February 8, 2008.

Time: 8:30 a.m. to 9 a.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Cheryl M. Corsaro, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, SMEP SBIR.

Date: February 10, 2008.

Time: 7:30 p.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Richard J. Bartlett, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, (301) 435–6809, *bartletr@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Radiation Therapeutics and Biology Study Section.

Date: February 11–12, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bo Hong, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, (301) 435–5879, *hongb@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Cancer Genetics Study Section.

Date: February 11–12, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Zhiqiang Zou, PhD, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, MSC 7804, Bethesda, MD 20892, (301) 451–0132, *zouzhiq@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Software Maintenance and Extension.

Date: February 11, 2008.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Fairmont Washington, DC Hotel, 2401 M Street, NW., Washington, DC 20037.

Contact Person: George W. Chacko, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7849, Bethesda, MD 20892, 301–435–1245, *chackoge@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis panel, Neurotechnology: Quorum.

Date: February 12–13, 2008.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Robert C. Elliott, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Vector Biology Study Section.

Date: February 13, 2008.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sir Francis Drake Hotel, 450 Powell Street, San Francisco, CA 94102.

Contact Person: John C. Pugh, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1206, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group, Social Sciences and Population Studies Study Section.

Date: February 14, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bob Weller, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, (301) 435–0694, *wellerr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Post-Translational Modificational Networks.

Date: February 14, 2008.

Time: 8 a.m. to 11:59 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Barbara J. Thomas, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2218, MSC 7890, Bethesda, MD 20892, 301–435–0603, *bthomas@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group, Electrical Signaling, Ion Transport, and Arrhythmias Study Section.

Date: February 18, 2008.

Time: 8 a.m. to 6.30 p.m.

Agenda: To review and evaluate grant applications.

Place: Sir Frances Drake Hotel, 450 Powell Street, San Francisco, CA 94102.

Contact Person: Rajiv Kumar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Medical Imaging.

Date: February 19–20, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bahia Resort Hotel, 998 West Mission Bay Drive, San Diego, CA 92109.

Contact Person: Leonid V. Tsap, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7854, Bethesda, MD 20892, (301) 435–2507, *tsapl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiovascular Disease Genetics and Epidemiology.

Date: February 19–20, 2008.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–435–1262, *chanetsaf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Addiction and Stress.

Date: February 20–21, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian Hoshaw, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7844, Bethesda, MD 20892, 301–435–1033, *hoshawb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, SBIR: Risk Prevention and Health Behavior Across the Lifespan.

Date: February 21–22, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

Contact Person: Claire E. Gutkin, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7759, Bethesda, MD 20892, (301) 594–3139, *gutkincl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Shared Highend NMR Spectrometer.

Date: February 21–22, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David R. Jollie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7806, Bethesda, MD 20892, (301) 435–1722, *jollieda@csr.nih.gov.*

Name of Committee: Hematology Integrated Review Group, Hemostasis and Thrombosis Study Section.

Date: February 21, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Bukhtiar H. Shah, PhD, DVM, Scientific Review Office, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4213, MSC 7802, Bethesda, MD 20892, (301) 435–1233, *shahb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Special Emphasis Panel in Digestive Sciences.

Date: February 21, 2008.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma Begum, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892, (301) 435–1243, *begumn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Genetics and Epidemiology.

Date: February 21–22, 2008.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–435–1262, *chanetsaf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiovascular Sciences Small Business Activities.

Date: February 22, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Lawrence E. Boerboom, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7814, Bethesda, MD 20892, (301) 435–8367, *boerboom@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Biostatistics and Bioinformatics.

Date: February 22, 2008.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Richard Panniers, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Developmental Disabilities, Communication and Science Education.

Date: February 22, 2008.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Villa Florence Hotel, 225 Powell Street, San Francisco, CA 94102.

Contact Person: Thomas A. Thatham, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 594–6836, *tathamt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, SAT/BTSS Member Conflict.

Date: February 22, 2008.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Roberto J. Matus, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–2204, *matusr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Biomedical Devices and Bioengineering.

Date: February 25, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Guo Feng Xu, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–435–1032, *xuguofen@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Genes, Genomes, and Genetics Specials.

Date: February 25–26, 2008.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

Contact Person: Michael A. Marino, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2216, MSC 7890, Bethesda, MD 20892, (301) 435–0601, *marinomi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Cell Biology.

Date: February 25–26, 2008.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jonathan Arias, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840. Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiac Hypertrophy, Regeneration and Development.

Date: February 25–26, 2008.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Rajiv Kumar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892, (301–435–1212, *kumarra@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Psychopathology and Adult Disorders.

Date: February 25, 2008.

Time: 11:30 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, 301–435–2309, *pluded@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Synthetic and Biological Chemistry Special Emphasis Panel.

Date: February 26, 2008.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Kathryn M. Koeller, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–2681, *koellerk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Health Disparities PARs.

Date: February 27–29, 2008.

Time: 2:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Gabriel B. Fosu, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3215, MSC 7808, Bethesda, MD 20892, (301) 435–3562, *fosug@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts of Biological Chemistry and Macromolecular Biophysics.

Date: February 28–29, 2008.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Donald L. Schneider, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7806, Bethesda, MD 20892, (301) 435–1727, *schneidd@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 14, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–175 Filed 1–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee H—Clinical Groups, Subcommittee H

Date: February 25–26, 2008.

Time: 2:30 p.m. to 4:45 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Timothy C. Meeker, MD, PhD, Scientific Review Administrator, Resources and Training Review Branch,

Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8103, Bethesda, MD 20892, (301) 594–1279, *meekert@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 14, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–173 Filed 1–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Eye Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Eye Council.

Date: January 24, 2008.

Closed: 8:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Center, Bethesda, MD 20892.

Open: 1:30 p.m. to 5 p.m.

Agenda: Following opening remarks by the Director, NEI there will be presentations by the staff of the Institute and discussions concerning Institute programs.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Center, Bethesda, MD 20892.

Contact Person: Lore Anne McNicol, PhD, Director, Division of Extramural Research, National Eye Institute, National Institutes of Health, Bethesda, MD 20892, (301) 451–2020.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.nei.nih.gov*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: January 14, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–176 Filed 1–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the National Advisory Neurological Disorders and Stroke Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Neurological Disorders and Stroke Council, Training, Career Development, and Special Programs Subcommittee.

Date: February 6, 2008.

Open: 8 p.m. to 9:45 p.m.

Agenda: To discuss the training programs of the Institute.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: 9:45 p.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Stephen J. Korn, PhD, Training and Special Programs Officer, National Institute of Neurological, Disorders and Stroke, National Institutes of Health, 6001 Executive Blvd., Suite 2154, MSC 9527, Bethesda, MD 20892–9527, (301) 496–4188.

Name of Committee: National Advisory Neurological Disorders and Stroke Council, Clinical Trials Subcommittee.

Date: February 7, 2008.

Closed: 8 a.m. to 9 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, Conference 10, Bethesda, MD 20892.

Open: 9 a.m. to 10 a.m.

Agenda: To discuss clinical trials policy.

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, Conference 10, Bethesda, MD 20892.

Contact Person: John Marler, MD, Associate Director for Clinical Trials, National Institute of Neurological Disorders and Stroke, National Institutes of Health, 6001 Executive Blvd., Suite 2216, Bethesda, MD 20892, (301) 496–9135, *jm137f@nih.gov*.

Name of Committee: National Advisory Neurological Disorders and Stroke Council, Basic and Preclinical Programs Subcommittee.

Date: February 7, 2008.

Time: 8 a.m. to 10 a.m.

Agenda: To discuss basic and preclinical programs policy.

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, Conference Room 7, Bethesda, MD 20892.

Contact Person: Jill E. Heemskerk, PhD, Acting Associate Director for Technology Development, National Institute of Neurological Disorders and Stroke, National Institutes of Health, 6001 Executive Boulevard, Suite 2229, MSC 9527, Bethesda, MD 20892–9527, (301) 496–1779, *jh440o@nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.ninds.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: January 14, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–177 Filed 1–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stoke Special Emphasis Panel, Language Development.

Date: February 28, 2008.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Richard D. Crosland, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–594–0635, *rc218u@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: January 14, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–178 Filed 1–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Epidemiology, Prevention and Behavior Research Review Subcommittee.

Date: March 26–27, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel and Executive Meeting Center, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lorraine Gunzerath, PhD, MBA, Scientific Review Administrator, National Institute On Alcohol Abuse And Alcoholism, Office Of Extramural Activities, Extramural Project Review Branch, 5635 Fishers Lane, Room 3043, Bethesda, MD 20892–9304, 301–443–2369, *lgunzera@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS).

Dated: January 14, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–179 Filed 1–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Biomedical Research Review Subcommittee.

Date: February 25–26, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Philippe Marmillot, PhD, Scientific Review Administrator, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Rm 3045, Bethesda, MD 20892, 301–443–2861, *marmillotp@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: January 14, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–180 Filed 1–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice

is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Exposure, Immune and Genetic Mechanisms of Beryllium.

Date: February 13, 2008.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate program documents.

Place: Hilton Garden Inn, 7007 Fayetteville Road, Durham, NC 27713.

Contact Person: Teresa Nesbitt, PhD, DVM, Chief, Scientific Review Branch, DEA, National Inst. of Environmental Health Sciences, National Institutes of Health, 79 T.W. Alexander Drive, Research Triangle Park, NC 27709, 919/541–7571, *nesbittt@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 14, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–181 Filed 1–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Neuroscience Research Review.

Date: March 17–18, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Beata Buzas, PhD, Scientific Review Administrator, National Institute on Alcohol Abuse, and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm 3041, Rockville, MD 20852, 301–443–080, *bbuzas@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: January 14, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–182 Filed 1–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, RFA AA–08–001/002: The Role of Mitochondria in Alcohol-Induced Tissue Injury.

Date: March 17–18, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.

Contact Person: Philippe Marmillot, PhD, Scientific Review Administrator, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Rm 3045, Bethesda, MD 20892, 301–443–2861, *marmillotp@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: January 14, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–183 Filed 1–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Office for Civil Rights and Civil Liberties; DHS Individual Complaint of Employment Discrimination

AGENCY: Office for Civil Rights and Civil Liberties, DHS.

ACTION: 60-Day Notice and request for comments; Extension of an existing information collection 1610–0001, DHS Form 3090–1.

SUMMARY: The Department of Homeland Security, Office for Civil Rights and Civil Liberties, submits this extension for the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). The Office for Civil Rights and Civil Liberties is soliciting comments concerning an extension to an existing information collection, DHS Individual Complaint of Employment Discrimination Form, DHS 3090–1.

DATES: Comments are encouraged and will be accepted until March 24, 2008. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland

Security (DHS), Office for Civil Rights and Civil Liberties, Mail Stop 0800, 245 Murray Lane, SW., Bldg 110, Washington, DC 20528. Comments may also be submitted to DHS via facsimile to (202) 357–8298 or via e-mail at *Civil.Liberties@HQ.DHS.GOV.*

FOR FURTHER INFORMATION CONTACT: If additional information is required contact: the Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties, Mail Stop 0800, 245 Murray Lane, SW., Bldg 110, Washington, DC 20528, (202) 401–1474, (202) 401–0470 (TTY).

SUPPLEMENTARY INFORMATION: This form will allow a complainant to submit required information used by the Department to process an employment discrimination complaint with the Department of Homeland Security. The information contained in this form will allow the Department to accept, investigate and further process, or to dismiss issues.

The Office of Management and Budget is particularly interested in comments which:

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 submissions of responses.

Analysis:

Agency: Department of Homeland Security, Office for Civil Rights and Civil Liberties.

Title: DHS Individual Complaint of Employment Discrimination Form.

OMB Number: 1610–0001.

Frequency: On occasion.

Affected Public: Federal Government and Individuals or Households. Information collection is necessary for DHS CRCL to identify problem areas, propose changes, and assist individuals experiencing problems during the filing of a formal EEO complaint with DHS.

Number of Respondents: 1,200 respondents.

Estimated Time per Respondent: 30 minutes per response.

Total Burden Hours: 600 annual burden hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintaining): None.

Scott Charbo,

Chief Information Officer.

[FR Doc. E8–937 Filed 1–18–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5182–N–01]

Section 8 Housing Assistance Payments Program—Contract Rent Annual Adjustment Factors, Fiscal Year 2008

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Revised Contract Rent Annual Adjustment Factors.

SUMMARY: This notice announces revised Annual Adjustment Factors (AAFs) that are applied to Section 8 contract rents for specific programs. These factors are applied at Housing Assistance Payment (HAP) contract anniversaries for those calendar months commencing after the effective date of this notice. The AAFs are based on residential rent and utilities time-series cost indices from the Bureau of Labor Statistics Consumer Price Index (CPI) surveys.

DATES: *Effective Date:* January 22, 2008.

FOR FURTHER INFORMATION: David Vargas, Senior Advisor, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, (202) 708–0477 can respond to questions relating to the Section 8 Voucher, Certificate, and Moderate Rehabilitation programs; Mark Johnston, Office of Special Needs Assistance Programs, Office of Community Planning and Development, (202) 708–1234 for questions regarding the Single Room Occupancy Moderate Rehabilitation program; Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, (202) 708–3000, for questions relating to all other Section 8 programs. Marie L. Lihn, Economic and Market Analysis Division, Office of Policy Development and Research (202) 708–0590, is the contact for technical information regarding the development of the factors for specific areas or the methods used for calculating the AAFs. Mailing address for above persons: Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Hearing- or speech-impaired persons may contact the Federal Information Relay Service at (800) 877–8339 (TTY). (Other than the ''800'' TTY number, the above-listed telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In addition to being published in the **Federal Register**, these data will be available electronically from the HUD data information page: *http://www.huduser.org/datasets/aaf.html.*

I. Methodology

AAFs are calculated using CPI data on rents and utilities for all metropolitan areas that are specifically surveyed for the CPI. AAFs for other areas use the more general CPI for rents and utilities calculated for the four Census Regions, Northeast, South, Midwest, and West. AAFs are rent change factors. Two types of AAFs are calculated. One type is a gross rent change factor that should be used when the primary utility (normally heating) is included in the rent. The other type is a shelter rent (i.e., rents without utilities) factor that should be used when the primary utility is not included in rent. In the past, decennial census data were used to establish the relationship between gross rents and shelter rents. This relationship was updated each year based on census data revealing the percentage of renters paying for heat by area. This update process is no longer necessary. Beginning with the fiscal year (FY) 2008 AAFs, the American Community Survey (ACS) data was used to re-establish the relationship between gross rents and shelter rents. Each year annual ACS data will be used to revise this relationship. The annual ACS data, however, only provides coverage for large metropolitan areas, those with a population of more than 65,000.[1]

CPI Surveys

For specific metropolitan areas where CPI surveys are conducted, changes in the shelter rent and utilities components are calculated based on the most recent CPI annual average change data. In this publication, the rent and utility CPIs for metropolitan areas are based on changes in the index from 2005 to 2006. The ''Highest Cost Utility Included'' column in Schedule C is calculated by weighting the rent and utility change

[1] Three nonmetropolitan counties that did not have American Community Survey data, but are included under the old area definitions of the Consumer Price Index (CPI), will have to use regional CPI data. These Counties are Hood County, Texas; Culpeper County, Virginia; and King George County, Virginia.

factors using the corresponding components of gross rent in a particular area as calculated in the 2005 ACS. The ''Highest Cost Utility Excluded'' column in Schedule C is calculated by eliminating the utility portion of the gross rent change factor.

For areas not covered by a specific metropolitan CPI surveys, HUD uses the CPI surveys for the Northeast, South, Midwest, or West region, as appropriate. Rent and utility change factors are calculated from 2005 to 2006. For areas assigned Census Region CPI factors, both metropolitan and non-metropolitan areas received the same factor.

Geographic Areas

Each metropolitan area or county that uses local CPI update factors is listed alphabetically in the tables, by state and according to the metropolitan area where appropriate. Each AAF applies to a specified geographic area and to units of all bedroom sizes. AAFs are provided:

- For separate metropolitan areas, including counties that are currently designated as non-metropolitan, but are part of the metropolitan area defined in the local CPI survey.
- For the four Census Regions for those metropolitan and non-metropolitan areas that are not covered by the local CPI surveys.

The AAFs shown in Schedule C use the same Office of Management and Budget (OMB) metropolitan area definitions, as revised by HUD, that are used in the FY2008 Fair Market Rents.

Area Definitions in Schedule C

To make certain that they are using the correct AAFs, users should refer to the area definitions section at the end of Schedule C. For units located in metropolitan areas with a local CPI survey, AAFs are listed separately. For units located in areas without a local CPI survey, the metropolitan or nonmetropolitan counties receive the regional CPI for that Census Region.

The AAF area definitions shown in Schedule C are listed in alphabetical order by state. The associated CPI division is shown next to each state name. Areas whose AAFs are determined by local CPI surveys are listed first. All metropolitan areas with local CPI surveys have separate AAF schedules and are shown with their corresponding county definitions or as metropolitan counties. In the six New England states, the listings are for counties or parts of counties as defined by towns or cities. The remaining counties use the CPI for the Census Region and are not specifically listed on Schedule C or the area file.

Puerto Rico and the Virgin Islands use the South Region AAFs. All areas in Hawaii use the AAFs identified in the Table as ''STATE: Hawaii,'' which are based on the CPI survey for the Honolulu metropolitan area. The Pacific Islands use the West Region AAFs.

II. Applying AAFs to Various Section 8 Programs

AAFs established by this notice are used to adjust contract rents for units assisted in certain Section 8 housing assistance payments programs during the initial (i.e., pre-renewal) term of the HAP contract. Three categories of Section 8 programs use the AAFs:

Category 1—The Section 8 New Construction and Substantial Rehabilitation programs and the Section 8 Moderate Rehabilitation program.

Category 2—The Section 8 Loan Management (LM) and Property Disposition (PD) programs.

Category 3—The Section 8 Project-based Certificate (PBC) program.

Each Section 8 program category uses the AAFs differently. The specific HAP contract, program regulation, program requirement, or law determines the application of the AAFs. Restrictions to the use of AAF are discussed below:

Renewal Rents. AAFs are not used to determine renewal rents after expiration of the original Section 8 HAP contract (either for projects where the Section 8 HAP contract is renewed under a restructuring plan adopted under 24 CFR part 401; or renewed without restructuring under 24 CFR part 402). In general, renewal rents are determined by applying a state-by-state operating cost adjustment factor (OCAF) published by HUD.

Budget-based Rents. AAFs are not used for budget-based rent adjustments. For projects receiving Section 8 subsidies under the LM program (24 CFR part 886, subpart A) or under the PD program (24 CFR part 886, subpart C), contract rents are adjusted, at HUD's option, either by applying the AAFs, or by budget-based adjustments in accordance with 24 CFR 886.112 and 24 CFR 886.132. Budget-based adjustments are used for most Section 8/202 projects.

Certificate Program. In the past, AAFs were used to adjust the contract rent (including manufactured home space rentals) in both the tenant-based and project-based certificate programs. The tenant-based certificate program has been terminated and all tenancies in the tenant-based certificate program have been converted to the Housing Choice Voucher Program, which does not use AAFs to adjust rents. All tenancies remaining in the project-based certificate program continue to use AAFs to adjust contract rent for outstanding HAP contracts.

Moderate Rehabilitation Program. Under the Section 8 Moderate Rehabilitation program (both the regular program and the single room occupancy program), the public housing agency (PHA) applies the AAF to the base rent component of the contract rent, not the full contract rent. For the other covered programs, the AAF is applied to the whole amount of the pre-adjustment contract rent.

III. Adjustment Procedures

This section of the notice provides a broad description of procedures for adjusting the contract rent. Technical details and requirements are described in HUD notices, issued by the Office of Housing and the Office of Public and Indian Housing.

Because of statutory and structural distinctions among the various Section 8 programs, there are separate rent adjustment procedures for the three program categories:

Category 1: Section 8 New Construction, Substantial Rehabilitation, and Moderate Rehabilitation Programs

In the Section 8 New Construction and Substantial Rehabilitation programs, the published AAF factor is applied to the pre-adjustment contract rent. In the Section 8 Moderate Rehabilitation program, the published AAF is applied to the pre-adjustment base rent.

For category 1 programs, the Table 1 AAF factor is applied before determining comparability (rent reasonableness). Comparability applies if the pre-adjustment gross rent (pre-adjustment contract rent plus any allowance for tenant-paid utilities) is above the published FMR.

If the comparable rent level (plus any initial difference) is lower than the contract rent as adjusted by application of the Table 1 AAF, the comparable rent level (plus any initial difference) will be the new contract rent. However, the pre-adjustment contract rent will not be decreased by application of comparability.

In all other cases (i.e., unless the contract rent is reduced by comparability):

- The Table 1 AAF is used for a unit occupied by a new family since the last annual contract anniversary.
- The Table 2 AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

Category 2: The Loan Management Program (24 CFR Part 886, Subpart A) and Property Disposition Program (24 CFR Part 886, Subpart C)

At this time, rent adjustment by the AAF in the Category 2 programs is not subject to comparability. (Comparability will again apply if HUD establishes regulations for conducting comparability studies under 42 U.S.C. 1437f(c)(2)(C).). Rents are adjusted by applying the full amount of the applicable AAF under this notice.

The applicable AAF is determined as follows:

- The Table 1 AAF is used for a unit occupied by a new family since the last annual contract anniversary.
- The Table 2 AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

Category 3: Section 8 Certificate Project-Based Certificate Program

The following procedures are used to adjust contract rent for outstanding HAP contracts in the Section 8 PBC program:

- The Table 2 AAF is always used. The Table 1 AAF is not used.
- The Table 2 AAF is always applied before determining comparability (rent reasonableness).
- Comparability always applies. If the comparable rent level is lower than the rent to owner (contract rent) as adjusted by application of the Table 2 AAF, the comparable rent level will be the new rent to owner.

IV. When To Use Reduced AAFs (From AAF Table 2)

In accordance with Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), the AAF is reduced by 0.01:

- For all tenancies assisted in the Section 8 Project-Based Certificate program.
- In other Section 8 programs, for a unit occupied by the same family at the time of the last annual rent adjustment (and where the rent is not reduced by application of comparability (rent reasonableness)).

The law provides that:

Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area. 42 U.S.C. 1437f(c)(2)(A).

To implement the law, HUD publishes two separate AAF Tables, contained in Schedule C, Tables 1 and 2 of this notice. The difference between Table 1 and Table 2 is that each AAF in Table 2 is 0.01 less than the corresponding AAF in Table 1. Where an AAF in Table 1 would otherwise be less than 1.0, it is set at 1.0, as required by statute; the corresponding AAF in Table 2 will also be set at 1.0, as required by statute.

V. How To Find the AAF

The AAFs are contained in Schedule C, Tables 1 and 2 of this notice. There are two columns in each table. The first column is used to adjust contract rent for units where the highest cost utility is included in the contract rent, i.e., where the owner pays for the highest cost utility. The second column is used where the highest cost utility is not included in the contract rent, i.e., where the tenant pays for the highest cost utility.

The applicable AAF is selected as follows:

- Determine whether Table 1 or Table 2 is applicable. In Table 1 or Table 2, locate the AAF for the geographic area where the contract unit is located.
- Determine whether the highest cost utility is or is not included in contract rent for the contract unit.
- If highest cost utility is included, select the AAF from the column for ''highest cost included.'' If highest cost utility is not included, select the AAF from the column for ''utility excluded.''

Accordingly, HUD publishes these Annual Adjustment Factors for the Section 8 Housing Assistance Payments programs as set forth in the Tables.

Dated: January 14, 2008.

Darlene F. Williams,

Assistant Secretary for Policy Development and Research.

SCHEDULE C—TABLE 1.—2008 CONTRACT RENT AAFS

	Highest cost utility	
	Included	Excluded
Midwest Region	1.020	1.010
Northeast Region	1.048	1.028
South Region	1.050	1.039
West Region	1.045	1.037
Akron, OH MSA	1.014	1.009
Anchorage, AK MSA	1.038	1.020
Metropolitan Area Components:		
Anchorage, AK HMFA.		
Matanuska-Susitna Borough, AK HMFA.		
Ann Arbor, MI MSA	1.040	1.028
Ashtabula County, OH	1.016	1.008
Atlanta-Sandy Springs-Marietta, GA MSA	1.015	1.012
Metropolitan Area Components:		
Atlanta-Sandy Springs-Marietta, GA HMFA.		
Butts County, GA HMFA.		
Haralson County, GA HMFA.		
Lamar County, GA HMFA.		
Meriwether County, GA HMFA.		
Atlantic City, NJ MSA	1.056	1.031
Baltimore-Towson, MD MSA	1.052	1.046
Metropolitan Area Components:		
Baltimore-Towson, MD HMFA.		
Columbia City, MD HMFA.		

SCHEDULE C—TABLE 1.—2008 CONTRACT RENT AAFS—Continued

	Highest cost utility	
	Included	Excluded
Boston-Cambridge-Quincy, MA-NH MSA	1.033	1.004
Metropolitan Area Components:		
Boston-Cambridge-Quincy, MA-NH HMFA.		
Brockton, MA HMFA.		
Lawrence, MA-NH HMFA.		
Lowell, MA HMFA.		
Portsmouth-Rochester, NH HMFA.		
Western Rockingham County, NH HMFA.		
Boulder, CO MSA	1.001	1.004
Bremerton-Silverdale, WA MSA	1.044	1.041
Bridgeport-Stamford-Norwalk, CT MSA	1.054	1.048
Metropolitan Area Components:		
Bridgeport, CT HMFA.		
Danbury, CT HMFA.		
Stamford-Norwalk, CT HMFA.		
Chicago-Naperville-Joliet, IL-IN-WI MSA	1.014	1.026
Metropolitan Area Components:		
Chicago-Naperville-Joliet, IL HMFA.		
DeKalb County, IL HMFA.		
Gary, IN HMFA.		
Grundy County, IL HMFA.		
Jasper County, IN HMFA.		
Kendall County, IL HMFA.		
Kenosha County, WI HMFA.		
Cincinnati-Middletown, OH-KY-IN MSA	1.057	1.027
Metropolitan Area Components:		
Brown County, OH HMFA.		
Cincinnati-Middleton, OH-KY-IN HMFA.		
Grant County, KY HMFA.		
Cleveland-Elyria-Mentor, OH MSA	1.014	1.009
Dallas-Fort Worth-Arlington, TX MSA	1.037	1.015
Metropolitan Area Components:		
Dallas, TX HMFA.		
Fort Worth-Arlington, TX HMFA.		
Wise County, TX HMFA.		
Denver-Aurora, CO MSA	1.000	1.004
Detroit-Warren-Livonia, MI MSA	1.043	1.026
Metropolitan Area Components:		
Detroit-Warren-Livonia, MI HMFA.		
Livingston County, MI HMFA.		
Flint, MI MSA	1.048	1.025
Greeley, CO MSA	1.000	1.004
HAWAII	1.105	1.102
Hagerstown-Martinsburg, MD-WV MSA	1.053	1.046
Metropolitan Area Components:		
Hagerstown, MD HMFA.		
Martinsburg, WV HMFA.		
Henderson County, TX	1.047	1.014
Houston-Sugar Land-Baytown, TX MSA	1.062	1.014
Metropolitan Area Components:		
Austin County, TX HMFA.		
Brazoria County, TX HMFA.		
Houston-Baytown-Sugar Land, TX HMFA.		
Island County, WA	1.045	1.041
Kankakee-Bradley, IL MSA	1.011	1.027
Kansas City, MO-KS MSA	1.013	1.008
Metropolitan Area Components:		
Bates County, MO HMFA.		
Franklin County, KS HMFA.		
Kansas City, MO-KS HMFA.		
Lenawee County, MI	1.048	1.024
Los Angeles-Long Beach-Santa Ana, CA MSA	1.066	1.057
Metropolitan Area Components:		
Los Angeles-Long Beach, CA HMFA.		
Orange County, CA HMFA.		
Manchester-Nashua, NH MSA	1.034	1.004
Metropolitan Area Components:		
Hillsborough County, NH (part) HMFA.		
Manchester, NH HMFA.		
Nashua, NH HMFA.		

SCHEDULE C—TABLE 1.—2008 CONTRACT RENT AAFS—Continued

	Highest cost utility	
	Included	Excluded
Miami-Fort Lauderdale-Pompano Beach, FL MSA	1.090	1.070
Metropolitan Area Components:		
Fort Lauderdale, FL HMFA.		
Miami-Miami Beach-Kendall, FL HMFA.		
West Palm Beach-Boca Raton, FL HMFA.		
Milwaukee-Waukesha-West Allis, WI MSA	1.021	1.011
Minneapolis-St. Paul-Bloomington, MN-WI MSA	1.000	1.000
Monroe, MI MSA	1.046	1.026
Napa, CA MSA	1.025	1.014
New Haven-Milford, CT MSA	1.055	1.048
Metropolitan Area Components:		
Milford-Ansonia-Seymour, CT HMFA.		
New Haven-Meriden, CT HMFA.		
Waterbury, CT HMFA.		
New York-Northern New Jersey-Long Island, NY-NJ-PA MSA	1.054	1.048
Metropolitan Area Components:		
Bergen-Passaic, NJ HMFA.		
Jersey City, NJ HMFA.		
Middlesex-Somerset-Hunterdon, NJ HMFA.		
Monmouth-Ocean, NJ HMFA.		
Nassau-Suffolk, NY HMFA.		
New York, NY HMFA.		
Newark, NJ HMFA.		
Pike County, PA HMFA.		
Westchester County, NY Statutory Exception Area.		
Ocean City, NJ MSA	1.059	1.030
Olympia, WA MSA	1.044	1.041
Oxnard-Thousand Oaks-Ventura, CA MSA	1.065	1.057
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	1.055	1.031
Phoenix-Mesa-Scottsdale, AZ MSA	1.043	1.043
Pittsburgh, PA MSA	1.041	1.029
Metropolitan Area Components:		
Armstrong County, PA HMFA.		
Pittsburgh, PA HMFA.		
Portland-Vancouver-Beaverton, OR-WA MSA	1.029	1.025
Poughkeepsie-Newburgh-Middletown, NY MSA	1.055	1.048
Racine, WI MSA	1.022	1.011
Riverside-San Bernardino-Ontario, CA MSA	1.070	1.057
Salem, OR MSA	1.029	1.025
San Diego-Carlsbad-San Marcos, CA MSA	1.041	1.036
San Francisco-Oakland-Fremont, CA MSA	1.024	1.014
Metropolitan Area Components:		
Oakland-Fremont, CA HMFA.		
San Francisco, CA HMFA.		
San Jose-Sunnyvale-Santa Clara, CA MSA	1.023	1.014
Metropolitan Area Components:		
San Benito County, CA HMFA.		
San Jose-Sunnyvale-Santa Clara, CA HMFA.		
Santa Cruz-Watsonville, CA MSA	1.028	1.014
Santa Rosa-Petaluma, CA MSA	1.027	1.014
Seattle-Tacoma-Bellevue, WA MSA	1.044	1.041
Metropolitan Area Components:		
Seattle-Bellevue, WA HMFA.		
Tacoma, WA HMFA.		
St. Louis, MO-IL MSA	1.040	1.018
Metropolitan Area Components:		
Bond County, IL HMFA.		
Macoupin County, IL HMFA.		
St. Louis, MO-IL HMFA.		
Washington County, MO HMFA.		
Tampa-St. Petersburg-Clearwater, FL MSA	1.067	1.059
Trenton-Ewing, NJ MSA	1.054	1.048
Vallejo-Fairfield, CA MSA	1.027	1.014
Vineland-Millville-Bridgeton, NJ MSA	1.061	1.029
Washington-Arlington-Alexandria, DC-VA-MD-WV MSA	1.051	1.047
Metropolitan Area Components:		
Jefferson County, WV HMFA.		
Warren County, VA HMFA.		
Washington-Arlington-Alexandria, DC-VA-MD HMFA.		
Worcester, MA MSA	1.038	1.002

SCHEDULE C—TABLE 1.—2008 CONTRACT RENT AAFS—Continued

	Highest cost utility	
	Included	Excluded
Metropolitan Area Components:		
Eastern Worcester County, MA HMFA.		
Fitchburg-Leominster, MA HMFA.		
Western Worcester County, MA HMFA.		
Worcester, MA HMFA.		

SCHEDULE C—TABLE 2.—2008 CONTRACT RENT AAFS

	Highest cost utility	
	Included	Excluded
Midwest Region	1.010	1.000
Northeast Region	1.038	1.018
South Region	1.040	1.029
West Region	1.035	1.027
Akron, OH MSA	1.004	1.000
Anchorage, AK MSA	1.028	1.010
Metropolitan Area Components:		
Anchorage, AK HMFA.		
Matanuska-Susitna Borough, AK HMFA.		
Ann Arbor, MI MSA	1.030	1.018
Ashtabula County, OH	1.006	1.000
Atlanta-Sandy Springs-Marietta, GA MSA	1.005	1.002
Metropolitan Area Components:		
Atlanta-Sandy Springs-Marietta, GA HMFA.		
Butts County, GA HMFA.		
Haralson County, GA HMFA.		
Lamar County, GA HMFA.		
Meriwether County, GA HMFA.		
Atlantic City, NJ MSA	1.046	1.021
Baltimore-Towson, MD MSA	1.042	1.036
Metropolitan Area Components:		
Baltimore-Towson, MD HMFA.		
Columbia City, MD HMFA.		
Boston-Cambridge-Quincy, MA-NH MSA	1.023	1.000
Metropolitan Area Components:		
Boston-Cambridge-Quincy, MA-NH HMFA.		
Brockton, MA HMFA.		
Lawrence, MA-NH HMFA.		
Lowell, MA HMFA.		
Portsmouth-Rochester, NH HMFA.		
Western Rockingham County, NH HMFA.		
Boulder, CO MSA	1.000	1.000
Bremerton-Silverdale, WA MSA	1.034	1.031
Bridgeport-Stamford-Norwalk, CT MSA	1.044	1.038
Metropolitan Area Components:		
Bridgeport, CT HMFA.		
Danbury, CT HMFA.		
Stamford-Norwalk, CT HMFA.		
Chicago-Naperville-Joliet, IL-IN-WI MSA	1.004	1.016
Metropolitan Area Components:		
Chicago-Naperville-Joliet, IL HMFA.		
DeKalb County, IL HMFA.		
Gary, IN HMFA.		
Grundy County, IL HMFA.		
Jasper County, IN HMFA.		
Kendall County, IL HMFA.		
Kenosha County, WI HMFA.		
Cincinnati-Middletown, OH-KY-IN MSA	1.047	1.017
Metropolitan Area Components:		
Brown County, OH HMFA.		
Cincinnati-Middleton, OH-KY-IN HMFA.		
Grant County, KY HMFA.		
Cleveland-Elyria-Mentor, OH MSA	1.004	1.000
Dallas-Fort Worth-Arlington, TX MSA	1.027	1.005
Metropolitan Area Components:		
Dallas, TX HMFA.		
Fort Worth-Arlington, TX HMFA.		
Wise County, TX HMFA.		

SCHEDULE C—TABLE 2.—2008 CONTRACT RENT AAFS—Continued

	Highest cost utility	
	Included	Excluded
Denver-Aurora, CO MSA	1.000	1.000
Detroit-Warren-Livonia, MI MSA	1.033	1.016
Metropolitan Area Components:		
Detroit-Warren-Livonia, MI HMFA.		
Livingston County, MI HMFA.		
Flint, MI MSA	1.038	1.015
Greeley, CO MSA	1.000	1.000
HAWAII	1.095	1.092
Hagerstown-Martinsburg, MD-WV MSA	1.043	1.036
Metropolitan Area Components:		
Hagerstown, MD HMFA.		
Martinsburg, WV HMFA.		
Henderson County, TX	1.037	1.004
Houston-Sugar Land-Baytown, TX MSA	1.052	1.004
Metropolitan Area Components:		
Austin County, TX HMFA.		
Brazoria County, TX HMFA.		
Houston-Baytown-Sugar Land, TX HMFA.		
Island County, WA	1.035	1.031
Kankakee-Bradley, IL MSA	1.001	1.017
Kansas City, MO-KS MSA	1.003	1.000
Metropolitan Area Components:		
Bates County, MO HMFA.		
Franklin County, KS HMFA.		
Kansas City, MO-KS HMFA.		
Lenawee County, MI	1.038	1.014
Los Angeles-Long Beach-Santa Ana, CA MSA	1.056	1.047
Metropolitan Area Components:		
Los Angeles-Long Beach, CA HMFA.		
Orange County, CA HMFA.		
Manchester-Nashua, NH MSA	1.024	1.000
Metropolitan Area Components:		
Hillsborough County, NH (part) HMFA.		
Manchester, NH HMFA.		
Nashua, NH HMFA.		
Miami-Fort Lauderdale-Pompano Beach, FL MSA	1.080	1.060
Metropolitan Area Components:		
Fort Lauderdale, FL HMFA.		
Miami-Miami Beach-Kendall, FL HMFA.		
West Palm Beach-Boca Raton, FL HMFA.		
Milwaukee-Waukesha-West Allis, WI MSA	1.011	1.001
Minneapolis-St. Paul-Bloomington, MN-WI MSA	1.000	1.000
Monroe, MI MSA	1.036	1.016
Napa, CA MSA	1.015	1.004
New Haven-Milford, CT MSA	1.045	1.038
Metropolitan Area Components:		
Milford-Ansonia-Seymour, CT HMFA.		
New Haven-Meriden, CT HMFA.		
Waterbury, CT HMFA.		
New York-Northern New Jersey-Long Island, NY-NJ-PA MSA	1.044	1.038
Metropolitan Area Components:		
Bergen-Passaic, NJ HMFA.		
Jersey City, NJ HMFA.		
Middlesex-Somerset-Hunterdon, NJ HMFA.		
Monmouth-Ocean, NJ HMFA.		
Nassau-Suffolk, NY HMFA.		
New York, NY HMFA.		
Newark, NJ HMFA.		
Pike County, PA HMFA.		
Westchester County, NY Statutory Exception Area.		
Ocean City, NJ MSA	1.049	1.020
Olympia, WA MSA	1.034	1.031
Oxnard-Thousand Oaks-Ventura, CA MSA	1.055	1.047
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	1.045	1.021
Phoenix-Mesa-Scottsdale, AZ MSA	1.033	1.033
Pittsburgh, PA MSA	1.031	1.019
Metropolitan Area Components:		
Armstrong County, PA HMFA.		
Pittsburgh, PA HMFA.		
Portland-Vancouver-Beaverton, OR-WA MSA	1.019	1.015

SCHEDULE C—TABLE 2.—2008 CONTRACT RENT AAFS—Continued

	Highest cost utility	
	Included	Excluded
Poughkeepsie-Newburgh-Middletown, NY MSA	1.045	1.038
Racine, WI MSA	1.012	1.001
Riverside-San Bernardino-Ontario, CA MSA	1.060	1.047
Salem, OR MSA	1.019	1.015
San Diego-Carlsbad-San Marcos, CA MSA	1.031	1.026
San Francisco-Oakland-Fremont, CA MSA	1.014	1.004
Metropolitan Area Components:		
Oakland-Fremont, CA HMFA.		
San Francisco, CA HMFA.		
San Jose-Sunnyvale-Santa Clara, CA MSA	1.013	1.004
Metropolitan Area Components:		
San Benito County, CA HMFA.		
San Jose-Sunnyvale-Santa Clara, CA HMFA.		
Santa Cruz-Watsonville, CA MSA	1.018	1.004
Santa Rosa-Petaluma, CA MSA	1.017	1.004
Seattle-Tacoma-Bellevue, WA MSA	1.034	1.031
Metropolitan Area Components:		
Seattle-Bellevue, WA HMFA.		
Tacoma, WA HMFA.		
St. Louis, MO-IL MSA	1.030	1.008
Metropolitan Area Components:		
Bond County, IL HMFA.		
Macoupin County, IL HMFA.		
St. Louis, MO-IL HMFA.		
Washington County, MO HMFA.		
Tampa-St. Petersburg-Clearwater, FL MSA	1.057	1.049
Trenton-Ewing, NJ MSA	1.044	1.038
Vallejo-Fairfield, CA MSA	1.017	1.004
Vineland-Millville-Bridgeton, NJ MSA	1.051	1.019
Washington-Arlington-Alexandria, DC-VA-MD-WV MSA	1.041	1.037
Metropolitan Area Components:		
Jefferson County, WV HMFA.		
Warren County, VA HMFA.		
Washington-Arlington-Alexandria, DC-VA-MD HMFA.		
Worcester, MA MSA	1.028	1.000
Metropolitan Area Components:		
Eastern Worcester County, MA HMFA.		
Fitchburg-Leominster, MA HMFA.		
Western Worcester County, MA HMFA.		
Worcester, MA HMFA.		

SCHEDULE C.—CONTRACT RENT ANNUAL ADJUSTMENT FACTORS—AREA DEFINITIONS

	Counties/towns
ALABAMA (SOUTH)	
All Counties in Alabama use the South Region AAF.	
ALASKA (WEST)	
CPI AREAS:	
Anchorage, AK MSA.	
Metropolitan Area Components:	
Anchorage, AK HMFA	Anchorage.
Matanuska-Susitna Borough, AK HMFA	Matanuska-Susitna.
All other Boroughs use the West Region AAF.	
ARIZONA (WEST)	
CPI AREAS:	
Phoenix-Mesa-Scottsdale, AZ MSA	Maricopa, Pinal.
All other Counties use the West Region AAF.	
ARKANSAS (SOUTH)	
All Counties in Arkansas use the South Region AAF.	
CALIFORNIA (WEST)	
CPI AREAS:	
Los Angeles-Long Beach-Santa Ana, CA MSA.	
Metropolitan Area Components:	
Los Angeles-Long Beach, CA HMFA	Los Angeles.
Orange County, CA HMFA	Orange.
Napa, CA MSA	Napa.
Oxnard-Thousand Oaks-Ventura, CA MSA	Ventura.
Riverside-San Bernardino-Ontario, CA MSA	Riverside, San Bernardino.

SCHEDULE C.—CONTRACT RENT ANNUAL ADJUSTMENT FACTORS—AREA DEFINITIONS—Continued

	Counties/towns
San Diego-Carlsbad-San Marcos, CA MSA	San Diego.
San Francisco-Oakland-Fremont, CA MSA.	
Metropolitan Area Components:	
Oakland-Fremont, CA HMFA	Alameda, Contra Costa.
San Francisco, CA HMFA	Marin, San Francisco, San Mateo.
San Jose-Sunnyvale-Santa Clara, CA MSA.	
Metropolitan Area Components:	
San Benito County, CA HMFA	San Benito.
San Jose-Sunnydale-Santa Clara, CA HMFA	Santa Clara.
Santa Cruz-Watsonville, CA MSA	Santa Cruz.
Santa Rosa-Petaluma, CA MSA	Sonoma.
Vallejo-Fairfield, CA MSA	Solano.
All other Counties in California use the West Region AAF.	
COLORADO (WEST)	
CPI AREAS:	
Boulder, CO MSA	Boulder.
Denver-Aurora, CO MSA	Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Elbert, Gilpin, Jefferson, Park.
Greeley, CO MSA	Weld.
All other Counties in Colorado use the West Region AAF.	
CONNECTICUT (NORTHEAST)	
CPI AREAS:	
Bridgeport-Stamford-Norwalk, CT MSA.	
Metropolitan Area Components:	
Bridgeport, CT HMFA	Fairfield County towns of Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull.
Danbury, CT HMFA	Fairfield County towns of Bethel, Brookfield, Danbury, New Fairfield, Newtown, Redding, Ridgefield, Sherman.
Stamford-Norwalk, CT HMFA	Fairfield County towns of Darien, Greenwich, New Canaan, Norwalk, Stamford, Weston, Westport, Wilton.
New Haven-Milford, CT MSA.	
Metropolitan Area Components:	
Milford-Ansonia-Seymour, CT HMFA	New Haven County towns of Ansonia, Beacon Falls, Derby, Milford, Oxford, Seymour.
New Haven-Meriden, CT HMFA	New Haven County towns of Bethany, Branford, Cheshire, East Haven, Guilford, Hamden, Madison, Meriden, New Haven, North Branford, North Haven, Orange, Wallingford, West Haven, Woodbridge.
Waterbury, CT HMFA	New Haven County towns of Middlebury, Naugatuck, Prospect, Southbury, Waterbury, Wolcott.
All other Counties/Towns in Connecticut use the Northeast Region AAF.	
DELAWARE (SOUTH)	
CPI AREAS:	
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	New Castle.
All other Counties in Delaware use the South Region AAF.	
DIST. OF COLUMBIA (SOUTH)	
CPI AREAS:	
Washington-Arlington-Alexandria, DC-VA-MD HMFA	District of Columbia.
FLORIDA (SOUTH)	
CPI AREAS:	
Miami-Fort Lauderdale-Pompano Beach, FL MSA:	
Metropolitan Area Components:	
Fort Lauderdale, FL HMFA	Broward.
Miami-Miami Beach-Kendall, FL HMFA	Miami-Dade.
West Palm Beach-Boca Raton, FL HMFA	Palm Beach.
Tampa-St. Petersburg-Clearwater, FL MSA	Hernando, Hillsborough, Pasco, Pinellas.
All other Counties in Florida use the South Region AAF.	
GEORGIA (SOUTH)	
CPI AREAS:	
Atlanta-Sandy Springs-Marietta, GA MSA.	
Metropolitan Area Components:	
Atlanta-Sandy Springs-Marietta, GA HMFA	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Heard, Henry, Jasper, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, Walton.
Butts County, GA HMFA	Butts.
Haralson County, GA HMFA	Haralson.
Lamar County, GA HMFA	Lamar.
Meriwether County, GA HMFA	Meriwether.
All other Counties in Georgia use the South Region AAF.	
HAWAII (WEST)	
CPI AREAS:	
STATE Hawaii	Hawaii, Honolulu, Kalawao, Kauai, Maui.

SCHEDULE C.—CONTRACT RENT ANNUAL ADJUSTMENT FACTORS—AREA DEFINITIONS—Continued

	Counties/towns
IDAHO (WEST)	
All Counties in Idaho use the West Region AAF.	
ILLINOIS (MIDWEST)	
CPI AREAS:	
Chicago-Naperville-Joliet, IL-IN-WI MSA.	
Metropolitan Area Components:	
Chicago-Naperville-Joliet, IL HMFA	Cook, DuPage, Kane, Lake, McHenry, Will.
De Kalb County, IL HMFA	DeKalb.
Grundy County, IL	Grundy.
Kendall County, IL	Kendall.
Kankakee-Bradley, IL MSA	Kankakee.
St. Louis, MO-IL MSA.	
Metropolitan Area Components:	
Bond County, IL HMFA	Bond.
Macoupin County, IL HMFA	Macoupin.
St. Louis, MO-IL HMFA	Calhoun, Clinton, Jersey, Madison, Monroe, St. Clair.
All other Counties in Illinois use the Midwest Region AAF.	
INDIANA (MIDWEST)	
CPI AREAS:	
Chicago-Naperville-Joliet, IL-IN-WI MSA.	
Metropolitan Area Components:	
Gary, IN HMFA	Lake, Newton, Porter.
Jasper County, IN MFA	Jasper.
Cincinnati-Middleton, OH-KY-IN HMFA	Dearborn, Franklin, Ohio.
All other Counties in Indiana use the Midwest Region AAF.	
IOWA (MIDWEST)	
All Counties in Iowa use the Midwest Region AAF.	
KANSAS (MIDWEST)	
CPI AREAS:	
Kansas City, MO-KS MSA.	
Metropolitan Area Components:	
Franklin County, KS HMFA	Franklin.
Kansas City, MO-KS HMFA	Johnson, Leavenworth, Linn, Miami, Wyandotte.
All other Counties in Kansas use the Midwest Region AAF.	
KENTUCKY (SOUTH)	
CPI AREAS:	
Cincinnati-Middleton, OH-KY-IN MSA.	
Metropolitan Area Components:	
Cincinnati-Middleton OH-KY-IN HMFA	Boone, Bracken, Campbell, Gallatin, Kenton, Pendleton.
Grant County, KY HMFA	Grant.
All other Counties in Kentucky use the South Region AAF.	
LOUISIANA (SOUTH)	
All Parishes in Louisiana use the South Region AAF.	
MAINE (NORTHEAST)	
All Counties in Maine use the Northeast Region AAF.	
MARYLAND (SOUTH)	
CPI AREAS:	
Baltimore-Towson, MD MSA.	
Metropolitan Area Components:	
Baltimore-Towson, MD HMFA	Anne Arundel, Baltimore, Carroll, Harford, Howard, Queen Anne's, Baltimore city.
Columbia City, MD MSA.	
Hagerstown-Martinsburg, MD-WV MSA	Washington.
Washington-Arlington-Alexandria, DC-VA-MD HMFA	Calvert, Charles, Frederick, Montgomery, Prince George's.
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	Cecil.
All other Counties in Maryland use the South AAF.	
MASSACHUSETTS (NORTHEAST)	
CPI AREAS:	
Boston-Cambridge-Quincy, MA-NH MSA.	
Metropolitan Area Components:	
Boston-Cambridge-Quincy, MA-NH HMFA	Essex County towns of Amesbury, Beverly city, Danvers, Essex, Gloucester city, Hamilton, Ipswich, Lynn city, Lynnfield, Manchester-by-the-Sea, Marblehead, Middleton, Nahant, Newbury, Newburyport city, Peabody city, Rockport, Rowley, Salem city, Salisbury, Saugus, Swampscott, Topsfield, Wenham.

SCHEDULE C.—CONTRACT RENT ANNUAL ADJUSTMENT FACTORS—AREA DEFINITIONS—Continued

	Counties/towns
	Middlesex County towns of Acton, Arlington, Ashby, Ashland, Ayer, Bedford, Belmont, Boxborough, Burlington, Cambridge city, Carlisle, Concord, Everett city, Framingham, Holliston, Hopkinton, Hudson, Lexington, Lincoln, Littleton, Malden city, Marlborough city, Maynard, Medford city, Melrose city, Natick, Newton city, North Reading, Reading, Sherborn, Shirley, Somerville, Stoneham, Stow, Sudbury, Townsend, Wakefield, Waltham city, Watertown city, Wayland, Weston, Wilmington, Winchester, Woburn city.
	Norfolk County towns of Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Foxborough, Franklin city, Holbrook, Medfield, Medway, Millis, Milton, Needham, Norfolk, Norwood, Plainville, Quincy city, Randolph, Sharon, Stoughton, Walpole, Wellesley, Westwood, Weymouth, Wrentham.
Boston-Cambridge-Quincy, MA-NH MSA.	
Metropolitan Area Components:	
Boston-Cambridge-Quincy, MA-NH HMFA	Plymouth County towns of Carver, Duxbury, Hanover, Hingham, Hull, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Rockland, Scituate, Wareham.
	Suffolk county towns of Boston city, Chelsea city, Revere city, Winthrop.
Brockton, MA HMFA	Norfolk County town of Avon.
	Plymouth County towns of Abington, Bridgewater, Brockton city, East Bridgewater, Halifax, Hanson, Lakeville, Marion, Mattapoisett, Middleborough, Plympton, Rochester, West Bridgewater town, Whitman.
Lawrence, MA-NH HMFA	Essex County towns of Andover, Boxford, Georgetown, Groveland, Haverhill city, Lawrence city, Merrimac, Methuen city, North Andover, West Newbury.
Lowell, MA HMFA	Middlesex County town of Billerica, Chelmsford, Dracut, Dunstable, Groton, Lowell city, Pepperell, Tewksbury, Tyngsborough, Westford.
Worcester, MA MSA.	
Metropolitan Area Components:	
Eastern Worcester County, MA HMFA	Worcester County towns of Berlin, Blackstone, Bolton, Harvard, Hopedale, Lancaster, Mendon, Milford, Millville, Southborough, Upton.
Fitchburg-Leominster, MA HMFA	Worcester County towns of Ashburnham, Fitchburg, Gardner, Leominster, Lunenburg, Templeton, Westminster, Winchendon.
Western Worcester County, MA HMFA	Worcester County towns of Athol, Hardwick, Hubbardston, New Braintree, Petersham, Phillipston, Royalston, Warren.
Worcester, MA HMFA	Worcester County towns of Auburn, Barre, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, East Brookfield, Grafton, Holden, Leicester, Millbury, Northborough, Northbridge, North Brookfield, Oakham, Oxford, Paxton, Princeton, Rutland, Shrewsbury, Southbridge, Spencer, Sterling, Sturbridge, Sutton, Uxbridge, Webster, Westborough, West Boylston, West Brookfield, Worcester.
All other Counties/Towns in Massachusetts use the Northeast Region AAF.	
MICHIGAN (MIDWEST)	
CPI AREAS:	
Ann Arbor, MI MSA	Washtenaw.
Detroit-Warren-Livonia, MI MSA.	
Metropolitan Area Components:	
Detroit-Warren-Livonia, MI HMFA	Lapeer, Macomb, Oakland, St. Clair, Wayne.
Livingston County, MI HMFA	Livingston.
Flint, MI MSA	Genesee.
Lenawee County, MI	Lenawee.
Monroe, MI MSA	Monroe.
All other Counties in Michigan use the Midwest Region AAF.	
MINNESOTA (MIDWEST)	
CPI AREAS:	
Minneapolis-St. Paul-Bloomington, MN-WI MSA	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, Wright.
All other Counties in Minnesota use the Midwest Region AAF.	
MISSISSIPPI (SOUTH)	
All Counties in Mississippi use the South Region AAF.	
MISSOURI (MIDWEST)	
CPI AREAS:	
Kansas City, MO-KS MSA.	
Metropolitan Area Components:	
Bates County, MO HMFA	Bates.
Kansas City, MO-KS HMFA	Caldwell, Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray.
St. Louis, MO-IL MSA.	

SCHEDULE C.—CONTRACT RENT ANNUAL ADJUSTMENT FACTORS—AREA DEFINITIONS—Continued

	Counties/towns
Metropolitan Area Components:	
St. Louis, MO-IL HMFA	Sullivan city part of Crawford, Franklin, Jefferson, Lincoln, St. Charles, St. Louis, Warren, St. Louis city.
Washington County, MO HMFA	Washington.
All other Counties in Missouri (including the rest of Crawford County) use the Midwest Region AAF.	
MONTANA (WEST)	
All Counties in Montana use the West Region AAF.	
NEBRASKA (MIDWEST)	
All Counties in Nebraska use the Midwest Region AAF.	
NEVADA (WEST)	
All Counties in Nevada use Midwest Region AAF.	
NEW HAMPSHIRE (NORTHEAST)	
CPI AREAS:	
Boston-Cambridge-Quincy, MA-NH MSA.	
Metropolitan Area Components:	
Boston-Cambridge-Quincy, MA-NH HMFA	Rockingham County towns of Seabrook, South Hampton.
Lawrence, MA-NH HMFA	Rockingham County towns of Atkinson, Chester, Danville, Derry, Fremont, Hampstead, Kingston, Newton, Plaistow, Raymond, Salem, Sandown, Windham.
Portsmouth-Rochester, NH HMFA	Rockingham County towns of Brentwood, East Kingston, Epping, Exeter, Greenland, Hampton, Hampton Falls, Kensington, New Castle, Newfields, Newington, Newmarket, North Hampton, Portsmouth, Rye, Stratham. Strafford County towns of Barrington, Dover, Durham, Farmington, Lee, Madbury, Middleton, Milton, New Durham, Rochester, Rollinsford, Somersworth, Strafford.
Western Rockingham County, NH HMFA	Rockingham County towns of Auburn, Candia, Deerfield, Londonderry, Northwood, Nottingham.
Manchester-Nashua, NH MSA.	
Metropolitan Area Components:	
Hillsborough County, NH (part) HMFA	Hillsborough County towns of Antrim, Bennington, Deering, Francestown, Greenfield, Hancock, Hillsborough, Lyndeborough, New Boston, Peterborough, Sharon, Temple, Windsor.
Manchester, NH HMFA	Hillsborough County towns of Bedford, Goffstown, Manchester, Weare.
Nashua, NH HMFA	Hillsborough County towns of Amherst, Brookline, Greenville, Hollis, Hudson, Litchfield, Mason, Merrimack, Milford, Mont Vernon, Nashua, New Ipswich, Pelham, Wilton.
All other Counties/Towns in New Hampshire use Northeast Region AAF.	
NEW JERSEY (NORTHEAST)	
CPI AREAS:	
Atlantic City, NJ MSA	Atlantic.
New York-Northern New Jersey-Long Island, NY-NJ-PA MSA.	
Metropolitan Area Components:	
Bergen-Passaic, NJ HMFA	Bergen, Passaic.
Jersey City, NJ HMFA	Hudson.
Middlesex-Somerset-Hunterdon, NJ HMFA	Hunterdon, Middlesex, Somerset.
New York-Monmouth-Ocean, NY-NJ HMFA	Monmouth, Ocean.
Newark, NJ HMFA	Essex, Morris, Sussex, Union.
Ocean City, NJ MSA	Cape May.
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	Burlington, Camden, Gloucester, Salem.
Trenton-Ewing, NJ MSA	Mercer.
Vineland-Millville-Bridgeton, NJ MSA	Cumberland.
Warren County uses the Northeast Region AAF.	
NEW MEXICO (WEST)	
All Counties in New Mexico use the West Region AAF.	
NEW YORK (NORTHEAST)	
CPI AREAS:	
New York-Northern New Jersey-Long Island, NY-NJ-PA MSA.	
Metropolitan Area Components:	
Nassau-Suffolk, NY HMFA	Nassau, Suffolk.
New York-Monmouth-Ocean, NY-NJ HMFA	Bronx, Kings, New York, Putnam, Queens, Richmond, Rockland.
Westchester County, NY HMFA	Westchester.
Poughkeepsie-Newburgh-Middletown, NY MSA	Dutchess, Orange.
All other Counties in New York use the Northeast Region AAF.	
NORTH CAROLINA (SOUTH)	
All Counties in North Carolina use the South Region AAF.	
NORTH DAKOTA (MIDWEST)	
All Counties in North Dakota use the Midwest Region AAF.	
OHIO (MIDWEST)	
CPI AREAS:	

SCHEDULE C.—CONTRACT RENT ANNUAL ADJUSTMENT FACTORS—AREA DEFINITIONS—Continued

	Counties/towns
Akron, OH MSA	Portage, Summit.
Ashtabula County, OH	Ashtabula.
Cincinnati-Middleton, OH-KY-IN MSA.	
Metropolitan Area Components:	
Brown County, OH HMFA	Brown.
Cincinnati-Middleton OH-KY-IN HMFA	Butler, Clermont, Hamilton, Warren.
Cleveland-Elyria-Mentor, OH	Cuyahoga, Geauga, Lake, Lorain, Medina.
All other Counties in Ohio use the Midwest Region AAF.	
OKLAHOMA (SOUTH)	
All Counties in Oklahoma use the South Region AAF.	
OREGON (WEST)	
CPI AREAS:	
Portland-Vancouver-Beaverton, OR-WA MSA	Clackamas, Columbia, Multnomah, Washington, Yamhill.
Salem, OR MSA	Marion, Polk.
All other Counties in Oregon use the West Region AAF.	
PENNSYLVANIA (NORTHEAST)	
CPI AREAS:	
New York-Northern New Jersey-Long Island, NY-NJ-PA MSA.	
Metropolitan Area Components:	
Pike County, PA HMFA	Pike.
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	Bucks, Chester, Delaware, Montgomery, Philadelphia.
Pittsburgh, PA MSA.	
Metropolitan Area Components:	
Armstrong County, PA HMFA	Armstrong.
Pittsburgh, PA HMFA	Allegheny, Beaver, Butler, Fayette, Washington, Westmoreland.
All other Counties in Pennsylvania use the Northeast Region AAF.	
RHODE ISLAND (NORTHEAST)	
All Counties/Towns in Rhode Island use the Northeast Region AAF.	
SOUTH CAROLINA (SOUTH)	
All Counties in South Carolina use the South Region AAF.	
SOUTH DAKOTA (MIDWEST)	
All Counties in South Dakota use the Midwest Region AAF.	
TENNESSEE (SOUTH)	
All Counties in Tennessee use the South Region AAF.	
TEXAS (SOUTH)	
CPI AREAS:	
Dallas-Fort Worth-Arlington, TX MSA.	
Metropolitan Area Components:	
Dallas, TX HMFA	Collin, Dallas, Delta, Denton, Ellis, Hunt, Kaufman, Rockwall.
Fort Worth-Arlington, TX HMFA	Johnson, Parker, Tarrant.
Wise County, TX HMFA	Wise.
Henderson County, TX	Henderson.
Houston-Sugar Land-Baytown, TX MSA.	
Metropolitan Area Components:	
Austin, County, TX HMFA	Austin.
Brazoria County, TX HMFA	Brazoria.
Houston-Baytown-Sugar Land, TX HMFA	Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, San Jacinto, Waller.
All other Counties in Texas use the South Region AAF.	
UTAH (WEST)	
All Counties in Utah use the West Region AAF.	
VERMONT (NORTHEAST)	
All Counties/Towns in Vermont use the Northeast Region AAF.	
VIRGINIA (SOUTH)	
CPI AREAS:	
Washington-Arlington-Alexandria, DC-VA-MD-WV MSA.	
Metropolitan Area Components:	
Warren County, VA HMFA	Warren.
Washington-Arlington-Alexandria, DC-VA-MD HMFA	Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, Spotsylvania, Stafford, Alexandria city, Fairfax city, Falls Church city, Fredericksburg city, Manassas Park city, Manassas city.
All other Counties/Cities in Virginia use the South Region AAF.	
WASHINGTON (WEST)	
CPI AREAS:	
Bremerton-Silverdale, WA MSA	Kitsap.
Island County, WA	Island.
Olympia, WA MSA	Thurston.
Portland-Vancouver, OR-WA MSA	Clark, Skamania.
Seattle-Tacoma-Bellevue, WA MSA.	
Metropolitan Area Components:	
Seattle-Bellevue, WA HMFA	King, Snohomish.
Tacoma, WA HMFA	Pierce.

SCHEDULE C.—CONTRACT RENT ANNUAL ADJUSTMENT FACTORS—AREA DEFINITIONS—Continued

	Counties/towns
All other Counties in Washington use the West Region AAF.	
WEST VIRGINIA (SOUTH)	
CPI AREAS:	
Hagerstown-Martinsburg, MD-WV MSA	Berkeley, Morgan.
Washington-Arlington-Alexandria, DC-VA-MD-WV MSA.	
Metropolitan Area Components:	
Jefferson County, WV HMFA	Jefferson.
All other Counties in West Virginia use the South Region AAF.	
WISCONSIN (MIDWEST)	
CPI AREAS:	
Milwaukee-Waukesha-West Allis, WI MSA	Milwaukee, Ozaukee, Washington, Waukesha.
Minneapolis-St. Paul-Bloomington, MN-WI MSA	Pierce, St. Croix.
Racine, WI MSA	Racine.
All other areas of Wisconsin use the Midwest Region AAF.	
WYOMING (WEST)	
All Counties in Wyoming use the West Region AAF.	
PACIFIC ISLANDS (WEST)	
The American Samoa, Guam, Northern Mariana Islands, and Palau use the West Region AAF.	
PUERTO RICO (SOUTH)	
All Municipios use the South Region AAF.	
VIRGIN ISLANDS (SOUTH)	
The U.S. Virgin Islands uses the South Region AAF.	

[FR Doc. E8–934 Filed 1–18–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Information Collection; Alaska Guide Service Evaluation

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: You must submit comments on or before March 24, 2008.

ADDRESSES: Send your comments on the IC to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); *hope_grey@fws.gov* (e-mail); or (703) 358–2269 (fax).

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey by mail, fax, or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Wildlife Refuge Administration Act of 1966, as amended (16 U.S.C. 668dd-ee), authorizes us to permit uses, including commercial visitor services, on national wildlife refuges only when we find the activity to be compatible with the purposes for which the refuge was established. With the objective of making available a variety of quality visitor services for wildlife dependent recreation on National Wildlife Refuge System lands, we issue permits for commercial guide services, including big game hunting, sport fishing, wildlife viewing, river trips, and other guided activities. We plan to use FWS Form 3–2349 (Alaska Guide Service Evaluation) as a method to:

(1) Monitor the quality of services provided by commercial guides.

(2) Gauge client satisfaction with the services.

(3) Assess the impacts of the activity on refuge resources.

The client is the best source of information on the quality of commercial guiding services. The information that we plan to collect, in combination with required guide activity reports and contacts with guides and clients in the field, provides a comprehensive method for monitoring permitted commercial guide activities. A regular program of client evaluation will help refuge managers detect potential problems with guide services so that corrective actions can be taken promptly. In addition, we will use this information during the competitive selection process for big game and sport fishing guides to evaluate an applicant's ability to provide a quality guiding service.

We will provide the evaluation form to clients by one of several methods:

(1) The refuge may mail the form to the clients of big game guides using contact information provided by the guides as required under their permits.

(2) On websites of refuges where guide services are permitted.

(3) Upon request.

II. Data

OMB Control Number: None. This is a new collection.

Title: Alaska Guide Service Evaluation.

Service Form Number(s): 3–2349.

Type of Request: New collection.

Affected Public: Clients of permitted commercial guide service providers.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time following use of commercial guiding services.

Estimated Annual Number of Respondents: 1,000

Estimated Total Annual Responses: 1,000

Estimated Time Per Response: 15 min.

Estimated Total Annual Burden Hours: 250.

III. Request for Comments

We invite comments concerning this IC on:

(1) whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) the accuracy of our estimate of the burden for this collection of information;

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

(4) ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include and/or summarize each comment in our request to OMB to approve this IC. 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.

Dated: December 6, 2007.

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

FR Doc. E8–989 Filed 1–18–08;am

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Lake Champlain Sea Lamprey Control Alternatives Workgroup

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a meeting of the Lake Champlain Sea Lamprey Control Alternatives Workgroup (Workgroup). The Workgroup's purpose is to provide, in an advisory capacity, recommendations and advice on research and implementation of sea lamprey control techniques alternative to lampricide that are technically feasible, cost effective, and environmentally safe. The primary objective of the meeting will be to discuss potential research initiatives that may enhance alternative sea lamprey control techniques. The meeting is open to the public.

DATES: The Workgroup will meet on Thursday, March 6, 2008, from 9:30 a.m. to 12:30 p.m., with an alternate date of Thursday, March 20, 2008, from 9:30 a.m. to 12:30 p.m., should the meeting need to be cancelled due to inclement weather. Any member of public who wants to find out whether the meeting has been postponed may contact Stefi Flanders of the U.S. Fish and Wildlife Service at 802–872–0629 ext. 10 (telephone); or *Stefi_Flanders@fws.gov* (electronic mail) during regular business hours on the primary meeting date.

ADDRESSES: The meeting will be held at the Lake Champlain Basin Program main office in the Gordon-Center House, 54 West Shore Road (Route 314), Grand Isle, VT; telephone 802–372–3213.

FOR FURTHER INFORMATION CONTACT: Dave Tilton, Designated Federal Officer, Lake Champlain Sea Lamprey Control Alternatives Workgroup, Lake Champlain Fish and Wildlife Resources Office, U.S. Fish and Wildlife Service, 11 Lincoln Street, Essex Junction, VT 05452 (U.S. mail); 802–872–0629 (telephone); or *Dave_Tilton@fws.gov* (electronic mail).

SUPPLEMENTARY INFORMATION: We publish this notice under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.). The Workgroup's specific responsibilities are to provide advice regarding the implementation of sea lamprey control methods alternative to lampricides, to recommend priorities for research to be conducted by cooperating organizations and demonstration projects to be developed and funded by State and Federal agencies, and to assist Federal and State agencies with the coordination of alternative sea lamprey control research to advance the state of the science in Lake Champlain and the Great Lakes.

Dated: December 28, 2007.

Wendi Weber,

Acting Regional Director, U.S. Fish and Wildlife Service, Hadley, Massachusetts.

[FR Doc. E8–929 Filed 1–18–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C0–100–07–0777–XX]

Notice of Public Meetings, Northwest Colorado Resource Advisory Council Meetings

AGENCY: Bureau of Land Management.

ACTION: Notice of Public Meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest Colorado Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Northwest Colorado RAC has scheduled meetings for February 14, 2008; May 22, 2008; August 21, 2008; and December 4, 2008.

ADDRESSES: The Northwest Colorado RAC meetings will be held February 14, 2008, in Glenwood Springs, CO, at the Glenwood Springs Community Center, 100 Wulfsohn Road; May 22, 2007, in Steamboat Springs, CO, at Citizen's Hall 124 10th St.; and August 21, 2008, in Kremmling, CO, at the Chamber of Commerce, 203 Park Avenue. The December 4, 2008 meeting will be held at a location to be determined within Grand Junction Field Office. An additional **Federal Register** Notice will be issued announcing that meeting.

All Northwest Colorado RAC meetings will begin at 8 a.m. and adjourn at approximately 3 p.m., with public comment periods regarding matters on the agenda at 10 a.m. and 2 p.m.

FOR FURTHER INFORMATION CONTACT: Jamie Connell, BLM Glenwood Springs Field Manager, 50629 Hwy. 6&24, Glenwood Springs, CO; telephone 970–947–2800; or David Boyd, Public Affairs Specialist, 50629 Hwy. 6&24, Glenwood Springs, CO; telephone 970–947–2832.

SUPPLEMENTARY INFORMATION: The Northwest Colorado RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of public land issues in Colorado.

Topics of discussion during Northwest Colorado RAC meetings may include the BLM National Sage Grouse Conservation Strategy, working group reports, recreation, fire management, land use planning, invasive species management, energy and minerals management, travel management, wilderness, wild horse herd management, land exchange proposals, cultural resource management, and other issues as appropriate.

These meetings are open to the public. The public may present written comments to the RACS. Each formal RAC meeting will also have time, as identified above, allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

Dated: January 10, 2008

David Boyd,

Acting Glenwood Springs Field Manager, Lead Designated Federal Officer for the Northwest Colorado RAC.

[FR Doc. 08–169 Filed 1–18–08; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–060–1430–ET; MTM 68761]

Notice of Proposed Withdrawal Extension and Opportunity for Public Meeting; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior proposes to extend the duration of Public Land Order (PLO) No. 6674 for an additional 20-year term. PLO No. 6674 withdrew 320 acres of public lands in Fergus County, Montana, from settlement, sale, location, or entry under the general land laws, including the United States mining laws to protect the Bureau of Land Management (BLM) Blacktail Creek Paleontological Site. This notice also gives an opportunity to comment on the proposed action and to request a public meeting. The lands have been and will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by April 21, 2008.

ADDRESSES: Comments and meeting requests should be sent to the BLM Lewistown Field Manager, P.O. Box 1160, Lewistown, Montana 59457.

FOR FURTHER INFORMATION CONTACT: Debbie Tucek, BLM, Lewistown Field Office, (406) 538–1931, or at the above address, or Sandra Ward, BLM, Montana State Office, (406) 896–5052, or at 5001 Southgate Drive, Billings, Montana 59101–4669.

SUPPLEMENTARY INFORMATION: The withdrawal created by PLO No. 6674 (53 FR 15041) will expire April 26, 2008, unless extended. The Assistant Secretary for Land and Minerals Management has approved the BLM petition to file an application to extend PLO No. 6674 for an additional 20-year period. The withdrawal was made to protect the Blacktail Creek Paleontological Site on public lands described as follows:

Principal Meridian, Montana

T. 13 N., R. 22 E.,
Sec. 6, W½SE¼;
Sec. 8, SW¼NW¼.
T. 14 N., R. 22 E.,
Sec. 33, N½SE¼;
Sec. 34, N½SW¼ and SE¼NE¼.

The areas described aggregate 320 acres in Fergus County.

The purpose of the proposed extension is to continue the withdrawal created by PLO No. 6674 for an additional 20-year term to protect the paleontological resources of the Blacktail Creek Paleontological Site.

As extended, the withdrawal would not alter the applicability of those public land laws governing the use of lands under lease, license, or permit or governing the disposal of the mineral or vegetative resources other than under the mining laws.

The use of a right-of-way or interagency or cooperative agreement would not adequately protect the paleontological resources in the area.

There are no suitable alternative sites available. Significant paleontological resources are located at the Blacktail Creek Paleontological Site on the above-described public lands.

Water will not be needed to fulfill the purpose of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal extension may present their views in writing to the BLM Lewistown Field Office at the address noted above.

Comments, including names and street addresses of respondents, will be available for public review at the BLM Lewistown Field Office at the address noted above during regular business hours 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comments, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal extension. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal extension must submit a written request to the BLM Lewistown Field Manager within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting. This withdrawal extension proposal will be processed in accordance with the applicable regulations set forth in 43 CFR 2310.4.

(Authority: 43 CFR 2310.3–1)

Dated: January 14, 2008.

Theresa M. Hanley,

Deputy State Director, Division of Resources.

[FR Doc. E8–953 Filed 1–18–08; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before January 5, 2008. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th Floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by February 6, 2008.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

LOUISIANA

Avoyelles Parish

Moreauville High School, 287 Main St., Moreauville, 08000019

MISSOURI

Jackson County

Gary, Hunter, House, 1228 E. 56th St., Kansas City, 08000022

Warren County

Marthasville Hardware Building, 203 Depot St., Marthasville, 08000020

NEW YORK

Greene County

Hathaway, 781 Co. Rd. 25, Tannersville, 08000023

Jefferson County

Smith—Ripley House, 29 E. Church St., Adams, 08000021

Monroe County

Christ Church, 141 E. Ave., Monroe, 08000024

Schoharie County

Colyer House, The, 5729 NY 30, Schoharie, 08000025

VIRGINIA

Harrisonburg Independent City

Old Town Historic District, Roughly bounded by Cantrell Ave., Ott, Water & S. Main Sts., Harrisonburg (Independent City), 08000026

WISCONSIN

Ashland County

MARQUETTE (shipwreck), (Great Lakes Shipwreck Sites of Wisconsin MPS) 5 mi. E. of Michigan Island, Lake Superior, La Pointe, 08000027

Milwaukee County

Hunt, W. Ben, Cabin, 5885 S. 116th St., Hales Corners, 08000028

[FR Doc. 08–194 Filed 1–18–08; 8:45 am]

BILLING CODE 4312–51–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1933—Advanced Media Workflow Association Inc. (Formerly AAF Association, Inc.)

Notice is hereby given that, on December 18, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* (''the Act''), Advanced Media Workflow Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Comission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ad-ID, New York, NY; Blue Order, Kaiserlautern, GERMANY; BT Media & Broadcast, Broomfield, CO; Cinegy GmbH, Munich, GERMANY; NBC Universal, London, UNITED KINGDOM; PBS, Arlington, VA; Craig Beckman (individual member), Lorton, VA; Peter Riordan (individual member), Olney, MD; and Jeff Romine (individual member), Sandy, UT have been added as parties to this venture.

Also, Agile Broadcast, London, UNITED KINGDOM; Merging Technologies, Geneva, SWITZERLAND; Preview Multimedia, Hanover, GERMANY; and XVUE Ltd., Artemidia-Attika, GREECE have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Media Workflow Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On March 28, 2000, Advanced Media Workflow Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 29, 2000 (65 FR 40127).

The last notification was filed with the Department on September 19, 2007. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 7, 2007 (72 FR 62864).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 08–198 Filed 1–18–08; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Portland Cement Association

Notice is hereby given that, on November 21, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* (''the Act''), Portland Cement Association (''PCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Donaldson Company, Inc., Minneapolis, MN has become an Associate Member.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PCA intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 5, 1985 (50 FR 5015).

The last notification was filed with the Department on September 6, 2007. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 7, 2007 (72 FR 62867).

Patricia Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 08–199 Filed 1–18–08; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''Consumer Price Index Commodities and Services Survey.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before March 24, 2008.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, 202–691–7628. (This is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

Under the direction of the Secretary of Labor, the Bureau of Labor Statistics (BLS) is directed by law to collect, collate, and report full and complete statistics on the conditions of labor and

the products and distribution of the products of the same; the Consumer Price Index (CPI) is one of these statistics. The collection of data from a wide spectrum of retail establishments and government agencies is essential for the timely and accurate calculation of the Commodities and Services (C&S) component of the CPI.

The CPI is the only index compiled by the U.S. Government that is designed to measure changes in the purchasing power of the urban consumer's dollar. The CPI is a measure of the average change in prices over time paid by urban consumers for a market basket of goods and services. The CPI is used most widely as a measure of inflation, and serves as an indicator of the effectiveness of government economic policy. It is also used as a deflator of other economic series, that is, to adjust other series for price changes and to translate these series into inflation-free dollars. Examples include retail sales, hourly and weekly earnings, and components of the Gross Domestic Product. A third major use of the CPI is to adjust income payments. Almost 2 million workers are covered by collective bargaining contracts, which provide for increases in wage rates based on increases in the CPI. Similarly, nine states have laws that link the adjustment in state minimum wage to the changes in the CPI. In addition to private sector workers whose wages or pensions are adjusted according to changes in the CPI, the index also affects the income of nearly 80 million persons, largely as a result of statutory action: About 53 million social security beneficiaries; about 4.5 million retired military and Federal Civil Service employees and survivors, and about 25.7 million food stamp recipients. Changes in the CPI also affect the 29.6 million children who eat lunch at school. Under the National School Lunch Act and Child Nutrition Act, national average payments for those lunches and breakfasts are adjusted annually by the Secretary of Agriculture on the basis of the change in the CPI series, ''Food away from Home.'' Since 1985, the CPI has been used to adjust the Federal income tax structure to prevent inflation-induced tax rate increases.

II. Current Action

Office of Management and Budget clearance is being sought for the Consumer Price Index Commodities and Services Survey. The continuation of the collection of prices for the CPI is essential since the CPI is the nation's chief source of information on retail price changes. If the information on C&S prices were not collected, Federal fiscal and monetary policies would be hampered due to the lack of information on price changes in a major sector of the U.S. economy, and estimates of the real value of the Gross National Product could not be made. The consequences to both the Federal and private sectors would be far reaching and would have serious repercussions on Federal government policy and institutions.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Type of Review: Extension without change of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Consumer Price Index Commodities and Services Survey.

OMB Number: 1220–0039.

Affected Public: Business or other for-profit; not for profit institutions; and State, Local or Tribal Government.

	Total respondents	Frequency	Total responses	Average time per response	Estimated total burden
PRICING	37,000	8.7838	325,000	0.33	107,250
OUTLET ROTATION: Ongoing and Geographical	15,000	1	15,000	1.0	15,000
ITEM ROTATION	1,600	1	1,600	1.0	1,600
Total	53,600	n/a	341,600	n/a	123,850

Total Burden Cost (capital/startup): $0.0.

Total Burden Cost (operating/maintenance): $0.0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 15th day of January 2008.

Cathy Kazanowski,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. E8–945 Filed 1–18–08; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Renew an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and Request for Comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

DATES: Written comments on this notice must be received by March 24, 2008 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send e-mail to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–

800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: NSF Surveys to Measure Customer Service Satisfaction.

OMB Number: 3145–0157.

Expiration Date of Approval: June 30, 2008.

Type of Request: Intent to seek approval to renew an information collection.

Abstract:

Proposed Project: On September 11, 1993, President Clinton issued Executive Order 12862, ''Setting Customer Service Standards,'' which calls for Federal agencies to provide service that matches or exceeds the best service available in the private sector. Section 1(b) of that order requires agencies to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.'' The National Science Foundation (NSF) has an ongoing need to collect information from its customer community (primarily individuals and organizations engaged in science and engineering research and education) about the quality and kind of services it provides and use that information to help improve agency operations and services.

Estimate of Burden: The burden on the public will change according to the needs of each individual customer satisfaction survey; however, each survey is estimated to take approximately 30 minutes per response.

Respondents: Will vary among individuals or households; business or other for-profit; not-for-profit institutions; farms; federal government; state, local or tribal governments.

Estimated Number of Responses per Survey: This will vary by survey.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: January 15, 2008.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 08–188 Filed 1–18–08; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–133]

Environmental Assessment and Finding of No Significant Impact Related to Issuance of Exemption for the Humboldt Bay Power Plant Unit 3 License DPR–007, Humboldt, CA

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Environmental Assessment and Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: John Hickman, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, *Mail Stop:* T8F5, Washington, DC 20555–0001. *Telephone:* (301) 415–3017; *e-mail: jbh@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) staff is considering a request dated October 30, 2007, by the Pacific Gas and Electric Company (PG&E or the Licensee), to approve a request for exemption from the values of the Inhalation Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) that appear in 10 CFR Part 20, Appendix B, Table 1, for use at Humboldt Bay Power Plant, Unit 3 (HBPP). PG&E proposes replacing the 10 CFR Part 20, Appendix B, Table 1 ALI and DAC values, derived using previous (1977) recommendations of the International Commission on Radiological Protection (ICRP), with ALI and DAC values derived using more recent (1995) ICRP recommendations.

This Environmental Assessment (EA) has been developed in accordance with the requirements of 10 CFR 51.21.

II. Environmental Assessment

Background

HBPP was permanently shut down in July 1976, and until recently was in safe storage condition (SAFSTOR). SAFSTOR is defined as a method of decommissioning in which the nuclear facility is placed and maintained in safe condition for an extended period of time to permit radioactive material to decay to levels that facilitate subsequent decontamination and decommissioning of the facility. A Decommissioning Plan was approved in July 1988. Subsequent to the 1997 decommissioning rule, the licensee converted its decommissioning plan into its Defueled Safety Analysis Report which is updated every two years. A Post Shutdown Decommissioning Activities Report was issued by the licensee in February 1998. In December 2003, PG&E formally submitted a license application to the NRC for approval of a dry-cask Independent Spent Fuel Storage Installation (ISFSI) at the Humboldt Bay site. A preliminary license and safety evaluation report for the Humboldt Bay ISFSI was issued on August 24, 2005. The ISFSI is currently under construction and the licensee is now engaged in some incremental decommissioning activities.

Fuel failures occurred at HBPP in the past when the reactor was operating, resulting in contamination from alpha emitters which pose an inhalation hazard to workers. The inhalation of airborne radioactive materials in restricted areas poses a potential internal radiation hazard and the NRC regulations in 10 CFR Part 20 require licensees to assess these radiation hazards and to implement protective measures to minimize that hazard to workers, the public and the environment. These actions and measures include air sampling, posting airborne radioactivity area warning signs, the use of respiratory protection, and bioassay monitoring of workers. These actions and measures are triggered when air concentrations in the workplace reach specified fractions of the DAC values in 10 CFR Part 20, Appendix B.

Proposed Action

HBPP has requested that NRC allow an exemption under 10 CFR 20.2301 to allow the use of DAC and ALI values calculated using ICRP–68, ''Dose Coefficients for Intake of Radionuclides by Workers,'' (Ref. 3) dose coefficients and parameters instead of the DAC and ALI values in 10 CFR Part 20, Appendix B, Table 1, Occupational Values. HBPP believes that this change will result in greater worker efficiency in decommissioning work activities and should result in an overall reduction in worker dose. The ICRP 68 parameters used in calculating DAC and ALI values are generally accepted as more representative models of the actual

physical and biological mechanisms involved in the inhalation and deposition of aerosols in the human body. The Department of Energy (DOE) adopted the ICRP–68 recommendations for DAC and ALI values in a revision to 10 CFR Part 835, Occupational Radiation Protection, earlier this year (Ref. 4). Also, the Commission has indicated in Staff Requirements Memoranda for SECY–01–148 (Ref. 5) and SECY–99–077 (Ref. 6) that the NRC staff should consider and approve, as appropriate, licensee requests to use more recent ICRP radiation protection recommendations on a case-by-case basis. The licensee states that the exemption is allowed by NRC regulations and will not result in any new or increased hazard to life of property.

Need for Proposed Action

To protect plant workers from doses due to inhalation of alpha emitters, the HBPP internal exposure control program requires the use of respirators when performing certain activities. Using a respirator reduces worker efficiency and requires workers to remain in radiation areas longer than if respirators were not used. By remaining in a radiation area longer than necessary, workers receive higher external doses due to gamma radiation. At the present time, plant workers are actively performing preparatory decommissioning activities that are scheduled to increase in mid-2008 after spent nuclear fuel assemblies and fuel fragment containers are transferred from the spent fuel pool to the ISFSI.

III. Environmental Impacts of the Proposed Action

Radiological Impacts

The DAC and ALI values in 10 CFR Part 20, Appendix B, Table 1, were calculated using ICRP 26 and ICRP 30 radiation dosimetry methodology. This methodology was adopted by the ICRP in 1977 and 1978, respectively. The ICRP has continued to update and revise its dosimetric models and input parameters as new information became available. The current ICRP basic radiation protection recommendations are in ICRP 60 which was adopted in 1991. HBPP proposes to use the dose coefficients for intake of radionuclides by workers in ICRP–68 which were adopted for use by ICRP in 1995.

The differences in the values between the current NRC DAC values and values for most radionuclides using more recent ICRP methodology are generally two-fold or less. However, the difference between some radionuclides is larger—especially for uranium and some of the transuranic radionuclides. HBPP has provided a comparison of inhalation ALIs for these radionuclides. ICRP–68 inhalation ALI values are greater than ICRP–30 values by a factor of 4.9 for U–235; 6.1 for Pu–238; 2.0 for Am–241; and 5.0 for Np–237.

Engineering controls are the preferred method to control airborne radioactive materials, but this is more difficult to implement for the changing conditions in decommissioning activities than during routine operations. The use of ICRP–68 dose coefficients and parameters to develop DAC and ALI values should result in less conservative values than those currently in 10 CFR Part 20. This should reduce the reliance on respirators to prevent the inhalation of airborne radioactivity by workers, and this should improve worker's ability to better identify and avoid industrial safety hazards and also should reduce physical stresses on workers. The reduced reliance on respirators will also allow workers to perform activities in radiation areas more efficiently, reducing external radiation dose due to gamma rays, and resulting in reduced overall dose received. Therefore, PG&E's request for an exemption under 10 CFR Part 20.2301 is acceptable because it gives its workers equivalent radiological protection as required by 10 CFR Part 20.

Non-Radiological Impacts

The NRC has determined that there are no adverse non-radiological impacts associated with the proposed action.

Cumulative Impacts

The NRC has determined that there are no adverse cumulative impacts associated with this proposed action.

Alternatives to the Proposed Action

The alternative to considering the exemption request for approval is to deny the request. The alternative was rejected by NRC because the impacts on workers, the public and the environment were not adversely affected by the requested action. The use of ICRP 68 recommendations to calculate DAC and ALI values should reduce potential industrial safety hazards to workers by lessening reliance on respirators and will not increase any hazards to the public or the environment.

Agencies and Persons Consulted

The NRC contacted the California Radiologic Health Branch in the State Department of Health Services concerning this request. There were no comments, concerns or objections from the state official.

NRC staff determined that the proposed action is not a major decommissioning activity and will not affect listed or proposed endangered species, nor critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. Likewise, NRC staff determined that the proposed action is not the type of activity that has the potential to cause previously unconsidered effects on historic properties, as consultation for site decommissioning has been conducted previously. There are no additional impacts to historic properties associated with the disposal method and location for demolition debris. Therefore, no consultation is required under Section 106 of the National Historic Preservation Act.

IV. Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined that preparation of an environmental impact statement is not warranted for the proposed action.

V. Further Information

For further information with respect to the proposed action, see the following documents:

1. J. S. Keenan, Pacific Gas and Electric Company, letter to the U.S. Nuclear Regulatory Commission, ''Exemption Request From 10 CFR 20 Appendix B, Table 1 Values,'' October 30, 2007. (ML073060034)

2. U.S. Code of Federal Regulation, ''Standards for Protection Against Radiation,'' Part 20, Chapter 1, Title 10, Energy.

3. International Commission on Radiological Protection Publication 68, Dose Coefficients for Intakes of Radionuclides by Workers, published July, 1994 (ISBN 0 08 042651 4). This document is available from Elsevier Science Inc., Tarrytown, NY.

4. **Federal Register** Notice, Friday, June 8, 2007 (FR Vol. 72, No.110, Pages 31904—31941), DOE Final Rule for the adoption of current ICRP methodology for DAC and ALI values in 10 CFR 835, Occupational Radiation Protection.

5. SR–SECY–01–148, Staff Requirements—SECY–01–0148—Processes for Revision of 10 CFR Part 20 Regarding Adoption of ICRP Recommendations on Occupational Dose Limits and Dosimetric Models and Parameters, April 12, 2002. (ML011580363)

6. SR–SECY–99–077, Staff Requirements—SECY–99–0077—To Request Commission Approval to Grant Exemptions From Portions of 10 CFR Part 20, April 21, 1999. (ML042750086)

The NRC Public Documents Room is located at NRC Headquarters in Rockville, MD, and can be contacted at (800) 397–4209. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 15th day of January, 2008.

For the Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E8–987 Filed 1–18–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–373]

Exelon Generation Company, LLC; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Exelon Generation Company, LLC (the licensee), to withdraw its June 18, 2007, application for proposed amendment, as supplemented by letter dated September 7, 2007, to Facility Operating License No. NPF–11, for the LaSalle County Station (LSCS), Unit 1, located in Will County.

The proposed amendment would have revised the facility Technical Specification 5.5.13 pertaining to primary containment leakage rate testing, to reflect a one-time extension of the LSCS, Unit 1 primary containment Type A Integrated Leak Rate Test date from the current requirement of no later than June 13, 2009, to prior to startup following the thirteenth LSCS refueling outage for Unit 1.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on July 31, 2007 (72 FR 41784). However, by letter dated October 12, 2007, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated June 18, 2007, as supplemented by letter dated September 7, 2007, and the licensee's letter dated October 12, 2007, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically 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.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 14th day of January, 2008.

For the Nuclear Regulatory Commission.

Stephen P. Sands,

Project Manager, Plant Licensing Branch III–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8–988 Filed 1–18–08; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

January 2008 Pay Adjustments

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice.

SUMMARY: The President adjusted the rates of basic pay and locality payments for certain categories of Federal employees effective in January 2008. This notice documents those pay adjustments for the public record.

FOR FURTHER INFORMATION CONTACT: Carey Johnston, Center for Pay and Leave Administration, Division for Strategic Human Resources Policy, U.S. Office of Personnel Management; (202) 606–2858; FAX (202) 606–0824; or e-mail to *pay-performance-policy@opm.gov*.

SUPPLEMENTARY INFORMATION: On January 4, 2008, the President signed Executive Order 13454 (73 FR 1481), which implemented the January 2008 pay adjustments. The President made these adjustments consistent with Public Law 110–161, December 26, 2007, which authorized an overall average pay increase of 3.5 percent for the ''statutory pay systems,'' including the General Schedule (GS).

Schedule 1 of Executive Order 13454 provides the rates for the 2008 General Schedule and reflects a 2.5 percent across-the-board increase. Executive Order 13454 also includes the percentage amounts of the 2008 locality payments. (See Section 5 and Schedule 9 of Executive Order 13454.)

The publication of this notice satisfies the requirement in section 5(b) of Executive Order 13454 that the U.S. Office of Personnel Management (OPM) publish appropriate notice of the 2008 locality payments in the **Federal Register**.

GS employees receive locality payments under 5 U.S.C. 5304. Locality payments apply in the continental United States (as defined in 5 CFR 531.602 to include the several States and the District of Columbia, but not Alaska or Hawaii). In 2008, locality payments ranging from 13.18 percent to 32.53 percent apply to GS employees in 32 locality pay areas. (The 2008 locality pay areas definitions can be found at *http://www.opm.gov/oca/08tables/locdef.asp*.). These 2008 locality pay percentages, which replaced the 2007 locality pay percentages, became effective on the first day of the first pay period beginning on or after January 1, 2008 (January 6, 2008). An employee's locality rate of pay is computed by increasing his or her scheduled annual rate of pay (as defined in 5 CFR 531.602) by the applicable locality pay percentage. (See 5 CFR 531.604 and 531.609.)

Executive Order 13454 establishes the new Executive Schedule, which incorporates a 2.5 percent increase required under 5 U.S.C. 5318 (rounded to the nearest $100). By law, Executive Schedule officials are not authorized to receive locality payments.

Executive Order 13454 establishes the range of rates of basic pay for senior executives in the Senior Executive Service (SES), as established pursuant to 5 U.S.C. 5382. The minimum rate of basic pay for the SES may not be less than the minimum rate payable under 5 U.S.C. 5376 for senior-level positions ($114,468 in 2008). The maximum rate of the SES rate range is level II of the Executive Schedule ($172,200 in 2008) for SES members covered by a certified

SES performance appraisal system and level III of the Executive Schedule ($158,500 in 2008) for SES members covered by an SES performance appraisal system that has not been certified. By law, SES members are not authorized to receive locality payments. Agencies with certified performance appraisal systems in 2008 for senior executives and/or senior-level (SL) and scientific or professional (ST) positions also must apply a higher aggregate limitation on pay—up to the Vice President's salary ($221,100 in 2008).

The Executive order adjusted the rates of basic pay for administrative law judges (ALJs) by 2.5 percent (rounded to the nearest $100). The maximum rate of basic pay for ALJs is set by law at the rate for level IV of the Executive Schedule, which is now $149,000. The rate of basic pay for AL–2 is $145,400. The rates of basic pay for AL–3/A through 3/F range from $99,500 to $137,600. (See 5 U.S.C. 5372.)

The rates of basic pay for members of Contract Appeals Boards are calculated as a percentage of the rate for level IV of the Executive Schedule. (See 5 U.S.C. 5372a.) Therefore, these rates of basic pay were increased by approximately 2.5 percent.

The maximum rate of basic pay for SL/ST positions was increased by approximately 2.5 percent (to $149,000) because it is tied to the rate for level IV of the Executive Schedule. The minimum rate of basic pay for SL/ST positions is equal to 120 percent of the minimum rate of basic pay for GS–15 and thus was increased by 2.5 percent (to $114,468). (See 5 U.S.C. 5376.)

On November 2, 2007, the President's Pay Agent extended the 2008 locality-based comparability payments to certain categories of non-GS employees. The Governmentwide categories include employees in SL/ST positions, ALJs, and Contract Appeals Board members. The maximum locality rate of pay for these employees is the rate for level III of the Executive Schedule ($158,500 in 2008).

On January 4, 2008, OPM issued a memorandum (CPM 2008–01) on the January 2008 pay adjustments. (See *http://www.opm.gov/oca/compmemo/2008/2008–01.asp*) The memorandum transmitted Executive Order 13454 and provided the 2008 salary tables, locality pay areas and percentages, and information on general pay administration matters and other related information. The ''2008 Salary Tables'' posted on OPM's Web site at *http://www.opm.gov/oca/08tables/index.asp* are the official rates of pay for affected employees and are hereby incorporated as part of this notice.

Office of Personnel Management.

Linda M. Springer,

Director.

[FR Doc. E8–1032 Filed 1–18–08; 8:45 am]

BILLING CODE 6325–39–P

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Tuesday, January 29, 2008, at 11:30 a.m.; and Wednesday, January 30, 2008, at 8:30 a.m. and 10:30 a.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: January 29—11:30 a.m.—Closed; January 30—8:30 a.m.—Open; January 30—10:30 a.m.—Closed.

MATTERS TO BE CONSIDERED: Tuesday, January 29 at 11:30 a.m. (Closed)

1. Product Pricing Update.
2. Financial Update.
3. Strategic Issues.
4. Labor Update.
5. Personnel Matters and Compensation Issues.
6. Governors' Executive Session—Discussion of prior agenda items and Board Governance.

Wednesday, January 30 at 8:30 a.m. (Open)

1. Minutes of the Previous Meeting, December 10–11, 2007.
2. Remarks of the Chairman and Vice Chairman on the Board.
3. Remarks of the Postmaster General and CEO Jack Potter.
4. Committee Reports.
5. Consideration of Board Resolution on Capital Funding.
6. Quarterly Report on Service Performance.
7. Quarterly Report on Financial Performance.
8. Capital Investments.
a. Providence, Rhode Island, Processing & Distribution Center (P&DC) Expansion.
b. West Sacramento, California, P&DC Expansion.
c. Perris, California, Delivery Distribution Center.
9. Tentative Agenda for the March 4, and April 1–2, 2008, meetings in Washington, DC.
10. Election of Chairman and Vice Chairman of the Board of Governors.

Wednesday, January 30 at 10:30 a.m. (Closed)—if needed

1. Continuation of Tuesday's closed session agenda.

CONTACT PERSON FOR MORE INFORMATION: Wendy A. Hocking, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Wendy A. Hocking,

Secretary.

[FR Doc. 08–250 Filed 1–17–08; 3:32 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [73 FR 2560, January 15, 2008].

STATUS: Open Meeting.

PLACE: 100 F Street, NE., Auditorium, Room L–002, Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Wednesday, January 16, 2008 at 10 a.m.

CHANGE IN THE MEETING: Cancellation of Meeting.

The Open Meeting scheduled for Wednesday, January 16, 2008 has been cancelled.

For further information please contact the Office of the Secretary at (202) 551–5400.

Dated: January 16, 2008.

Nancy M. Morris,

Secretary.

[FR Doc. E8–946 Filed 1–18–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57145; File No. SR–Amex–2008–01]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Program Increasing Position and Exercise Limits for Options on the iShares® Russell 2000® Index Fund

January 14, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 10, 2008, the American Stock Exchange LLC (''Exchange'' or ''Amex'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act [3] and Rule 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 from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the existing pilot program that increases the position and exercise limits for options on the iShares® Russell 2000® Index Fund (''IWM'') traded on the Exchange (the ''IWM Pilot Program''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.amex.com*), at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the existing pilot program that increases the position and exercise limits for options on the iShares® Russell 2000® Index Fund (''IWM'') traded on the Exchange (the ''IWM Pilot Program''). The IWM Pilot Program will allow position and exercise limits for options on IWM to remain at 500,000 contracts on a pilot basis, through March 1, 2008.[5]

The Exchange established the IWM Pilot Program in January 2007.[6] The IWM Pilot Program was previously extended in June 2007 for a six-month period through January 18, 2008.[7] The Exchange is not proposing any further changes to the IWM Pilot Program. The Exchange believes that extending the IWM Pilot Program is warranted because the increased position and exercise limits for IWM options will lead to a more liquid and more competitive market environment for IWM options that will benefit customers interested in this product. Finally, the Exchange represents that it has not encountered any problems or difficulties relating to the IWM Pilot Program since its inception. For the foregoing reasons, the Exchange requests that the Commission extend the IWM Pilot Program for the aforementioned additional period.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act [8] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10] The Exchange has asked the Commission to waive the operative delay to permit the Pilot Program extension to become effective prior to the 30th day after filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the benefits of the IWM Pilot Program to continue without interruption.[11] Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–Amex–2008–01 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.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] Pursuant to Rule 905, the exercise limit established for IWM options shall be equivalent to the position limit prescribed for IWM options in Commentary .07 to Rule 904. The increased exercise limits would only be in effect during the pilot period.

[6] *See* Securities Exchange Act Release No. 55163 (January 24, 2007), 72 FR 4547 (January 31, 2007) (SR–Amex–2007–11).

[7] *See* Securities Exchange Act Release No. 56090 (July 18, 2007), 72 FR 40907 (July 25, 2007) (SR–Amex–2007–73).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

All submissions should refer to File Number SR–Amex–2008–01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2008–01 and should be submitted on or before February 12, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–968 Filed 1–18–08; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57148; File No. SR–Amex–2007–137]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend Section 107D of the Amex Company Guide

January 15, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 14, 2007, the American Stock Exchange LLC (''Exchange'' or ''Amex'') 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 Amex. On January 8, 2008, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend section 107D of the Amex Company Guide (''Company Guide'') to: (i) Eliminate the requirement that an eligible index for index-linked securities (''Index Securities'') be calculated and weighted following a specified methodology; (ii) provide that indexes based on the equal-dollar or modified equal-dollar weighting methods be rebalanced semi-annually rather than quarterly, as is currently the case; and (iii) eliminate the continued listing requirement prohibiting an index from increasing or decreasing by more than 33⅓% from the number of index components initially listed.

The text of the proposed rule change is available at the Amex, at the Commission's Public Reference Room, and at *http://www.amex.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, its proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend section 107D of the Company Guide to: (i) Eliminate the requirement that an eligible index for Index Securities be calculated and weighted following a specified methodology; (ii) provide that indexes based on the equal-dollar or modified equal-dollar weighting methods be rebalanced semi-annually rather than quarterly, as is currently the case; and (iii) eliminate the continued listing requirement prohibiting an index from increasing or decreasing by more than 33⅓% from the number of index components initially listed.

Generic Listing Standards—Index Weighting Methodologies

Section 107D of the Company Guide sets forth the generic listing standards for Index Securities. The generic listing standards permit the listing and trading of various qualifying Index Securities, subject to the procedures contained in Rule 19b–4(e) under the Act.[3] The existence of generic listing standards allows qualifying Index Securities to list or trade without the need to file a rule change for each security under Rule 19b–4 under the Act. By amending its generic listing standards for Index Securities, the Exchange intends to reduce the timeframe for listing Index Securities and thereby reduce the burdens on issuers and other market participants.

The generic listing standards for Index Securities in section 107D(i)(i) of the Company Guide currently provide that eligible indexes must be calculated based on either a capitalization,[4] modified capitalization,[5] price,[6] equal-

[3] 17 CFR 240.19b–4(e).

[4] A ''capitalization-weighted'' index is constructed so that weightings are biased toward the securities of larger companies. In calculating the index value, the market price of each component security is multiplied by the total number of shares outstanding to determine the market capitalization for each company in the index. The sum of the market capitalizations of all components determines the total capitalization for the index. The total market capitalization is then divided by an index divisor to scale the index to a desired reference level, *e.g.* 100, to establish a baseline for gauging future performance of the index. This will allow a security's size and capitalization to have a greater impact on the value of the index.

[5] A ''modified capitalization-weighted'' index is weighted using criteria other than the total, actual number of shares outstanding.

[6] In a ''price-weighted'' index, the component securities are included based on their price. The value of the price-weighted index is calculated by adding together the last transaction price for each security in the index and dividing the resulting sum by an index divisor to scale the index.

dollar[7] or modified equal-dollar[8] weighting methodology. The indexes potentially underlying an issue of Index Securities may differ based on various criteria such as broad-based market measures and narrow-based or industry-specific market measures. Ultimately, it is the diversity of the underlying securities as well as their market coverage that determine whether an index is broad-based or narrow-based. Further, indexes can be calculated using different methodologies and, thus, even where indexes are based on the same underlying securities, they may measure the relevant market differently because of differences in their calculation methodology. The methodologies currently permitted under section 107D(i)(i) of the Company Guide for Index Securities are not all-inclusive and there are other calculation methodologies that are not currently permitted under the Exchange's generic listing standards.[9] The Amex proposes to eliminate the current limitations in the generic listing standards for Index Securities relating to index calculation methodologies, thereby reducing the time-frame for listing Index Securities based on other index calculation methodologies and promoting competition. The Exchange believes that the proposal will further alleviate unnecessary burdens on issuers and other market participants without compromising investor protection.

The Exchange notes that the Commission recently approved a proposal[10] by the Amex to remove similar requirements in the Amex's generic listing standards for exchange-traded funds (''ETFs'')[11] that eligible indexes be calculated based on the market capitalization, modified market capitalization, price, equal-dollar, or modified equal dollar weighting methodology. In approving Amex–2007–07, the Commission found that ''[a]s the market for ETFs has grown, the variety of weighting and calculation methodologies for underlying indexes has also expanded, limiting the applicability of Amex's current generic ETF listing standards.'' Similarly, the Exchange believes that growth in the market for Index Securities as well as an expansion in the weighting and calculation methods for underlying indexes has limited the applicability of Amex's current generic listing standards for Index Securities. The Exchange further notes that the Commission recently approved a similar filing by NYSE Arca, LLC (''NYSEArca'') in which NYSEArca proposed the elimination of its requirement that an underlying index used in connection with an issuance of Equity Index-Linked Securities must be calculated based on either a capitalization, modified capitalization, price, equal-dollar, or modified equal-dollar weighting methodology.[12]

Rebalancing of Equal-Dollar and Modified Equal-Dollar Indexes

Section 107D(i)(ii) of the Company Guide currently requires that indexes based upon the equal-dollar or modified equal-dollar weighting method be rebalanced quarterly. The Exchange is proposing to amend this requirement to require that the equal-dollar or modified equal-dollar weighting method be rebalanced at least semi-annually. A significant number of currently existing equity indexes that utilize the equal-dollar or modified equal-dollar weighting methodology are rebalanced semi-annually rather than quarterly. As the issuer of Index Securities generally licenses the right to utilize the underlying index from a third party index sponsor, it is often not within the issuer's control to have the index rebalanced more frequently. As such, it is not possible currently under section 107D(i)(ii) of the Company Guide to list Index Securities based on indexes that are rebalanced semi-annually. However, as these types of indexes are relatively common and detailed information concerning the procedures governing the construction of the underlying index will be available to investors either in the issuer's prospectus or on the index sponsor's Web site, the Exchange believes that it is appropriate to allow investors to make their own decisions as to the sufficiency of a semi-annual rebalancing of an equal-dollar index underlying an issuance of Index Securities. Investors and issuers would also benefit from the Amex's ability to list—without the delay associated with a stand-alone rule filing—Index Securities based on a broader group of indexes. The Exchange further notes that the Commission recently approved a similar proposal by NYSEArca.[13]

Continued Listing Criteria for Index-Linked Securities

Section 107D(h) of the Company Guide provides the continued listing criteria for Index Securities. In particular, section 107D(h)(ii) of the Company Guide provides, as a condition of continued listing that, ''the total number of components in the index may not increase or decrease by more than 33⅓% from the number of components in the index at the time of its initial listing, and in no event may be less than ten (10) components.'' The Exchange proposes to delete the 33⅓% prohibition, but maintain the 10-component requirement of the rule.

The Exchange believes that investors purchase Index Securities because they believe that the underlying index method is accurately described in the offering documentation and that the index sponsor will maintain the index methodology appropriately so that the index will continue to represent the sector, geographic region or other investment characteristics it is designed to track. As such, rather than buying Index Securities on the basis of the current contents of the index, investors are relying on the index sponsor to define and manage the index selection rules so that, over time, the index is sustainable in response to changing market conditions.

Because Index Securities can have a duration of up to thirty (30) years, it is likely that some Index Securities will ultimately change in ways that render them noncompliant with section 107D(h)(ii) of the Company Guide. The Exchange believes that an unintended consequence of the 33⅓% requirement is that it penalizes Index Securities with long-term maturities. Specifically, total industry/country composite indexes are at risk of being delisted prior to the stated maturity date for the Index Security. As a result, issuers may not launch new Index Securities due to

[7] An ''equal dollar-weighted'' index is calculated by establishing an aggregate market value for every component security of the index and then determining the number of shares of each security by dividing this aggregate market value by the current market price of the security. This method of calculation does not give more weight to price changes of the more highly capitalized component securities. Additionally, the weights of each component security are reset to equal values at regular intervals (*e.g.*, quarterly).

[8] A ''modified equal dollar-weighted'' index resets component securities at regular intervals, but not necessarily to equal values.

[9] For example, an index can also be a simple average, calculated by simply adding up the prices of the securities in the index and dividing by the number of securities, disregarding the number of shares outstanding. Another type measures daily percentage movements of prices by averaging the percentage of the types of stocks constituting the index.

[10] *See* Securities Exchange Act Release No. 55544 (Mar. 27, 2007), 72 FR 15923 (Apr. 3, 2007) (''Amex–2007–07'').

[11] *See* Amex Rule 1000–AEMI for portfolio depository receipts and Amex Rule 1000A–AEMI for index fund shares.

[12] *See* Securities Exchange Act Release No. 56838 (Nov. 26, 2007), 72 FR 67774 (Nov. 30, 2007) (SR–NYSE–Arca–2007–118). In this filing NYSEArca stated that it was seeking to harmonize NYSEArca rules with the New York Stock Exchange (''NYSE'') Equity Index-Linked Securities listing standard in Section 703.22 of the NYSE Listed Company Manual, which has no requirements concerning weighting methodologies.

[13] *See supra* note 12.

concerns regarding the negative impact of delisting the index-linked security based on component changes that reflect expanding or retracting industry sectors or changes in the geographical business environment. The Exchange does not believe that it is protective of investors to require the delisting of Index Securities in such an event. The Exchange further notes that the Commission recently approved a similar proposal by NYSEArca.[14]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to national securities exchanges and, in particular, the requirements of section 6(b) of the Act.[15] Specifically, the Exchanges believe the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act[16] that the rules of an exchange be designed to prevent fraudulent and manipulative acts, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change would impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on this proposal.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2007–137 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2007–137. 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 submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filings also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Amex–2007–137 and should be submitted on or before February 12, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Changes

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, applicable to national securities exchanges.[17] In particular, the Commission finds that the proposal is consistent with the provisions of section 6(b)(5) of the Act[18] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that the proposal to eliminate the requirement that an eligible index for Index Securities be calculated based on certain specified methodologies would conform the Exchange's requirements to the current listing standards for similar securities on other national securities exchanges.[19] The Commission further believes that the proposal to provide that indexes based on the equal-dollar or modified equal-dollar weighting methods be rebalanced at least semi-annually should benefit investors by providing a wider selection of derivative products based on such indexes. The Commission believes that the proposal to adjust the minimum rebalancing frequency requirement is reasonable, given the increasing number of equal-dollar or modified equal-dollar weighted indexes that are rebalanced on a semi-annual basis, and should allow for the listing and trading of certain Index Securities that would otherwise not be able to be listed and traded on the Exchange.

In addition, the Commission believes that eliminating the requirement prohibiting an index from increasing or decreasing by more than 33⅓% from the number of index components initially listed reasonably balances the removal of impediments to a free and open market with the protection of investors and the public interest, two principles set forth in section 6(b)(5) of the Act.[20] The Commission notes that each issue of Index Securities must continue to maintain all of the initial listing standards for Index Securities, including the continued requirement that each underlying index have a minimum of 10 component securities of different issuers. Given the variety of certain equity indexes that focus on specific industry sectors and geographic markets, for example, and the extended duration of maturities for certain Index Securities, the Commission believes that the number of components in an index may increase or decrease by more than 33⅓% from the number of components in the index at the time of initial listing without adversely impacting the interests of investors. At the same time, the Commission believes that the proposal should benefit investors by creating additional alternatives to

[14] *See* Securities Exchange Act Release No. 57132 (Jan. 11, 2008) (SR–NYSEArca–2007–125).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. *See* U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] *See supra* note 12. *See also* Section 703.22 of the NYSE Listed Company Manual.

[20] *Id.*

investing in such products and competition in the market for Index Securities, while maintaining transparency of the underlying components comprising an index. As such, the Commission believes it is reasonable and consistent with the Act for the Exchange to eliminate the 33⅓% requirement from the listing standards for Index Securities in the manner described in the proposal.

The Commission finds good cause for approving the proposed rule change before the 30th day after the date of publication of notice of filing thereof in the **Federal Register**. With respect to the Exchange's proposals to: (i) Eliminate the requirement that an eligible index for Index Securities be calculated and weighted following a specified methodology; (ii) provide that indexes based on the equal-dollar or modified equal-dollar weighting methods be rebalanced semi-annually rather than quarterly, as is currently the case; and (iii) eliminate the continued listing requirement prohibiting an index from increasing or decreasing by more than 33⅓% from the number of index components initially listed rule change, the Commission notes that it has recently approved substantially similar proposals for other national securities exchanges.[21] The Commission does not believe that these proposals raise any novel regulatory issues. Therefore, the Commission finds good cause, consistent with section 19(b)(2) of the Act,[22] to approve the proposed rule change on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[23] that the proposed rule change (SR–Amex–2007–137), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–995 Filed 1–18–08; 8:45 am]

BILLING CODE 8011–01–P

[21] *See supra* notes 12 and 14.

[22] 15 U.S.C. 78s(b)(2).

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57150; File No. SR–Amex–2007–130]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to Certain Modifications to the Initial Listing Standards for Index-Linked Securities, Commodity-Linked Securities, and Currency-Linked Securities

January 15, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 30, 2007, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. On December 5, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. On December 21, 2007, the Exchange filed Amendment No. 2 to the proposed rule change. This order provides notice of the proposed rule change, as amended, and approves the proposed rule change, as modified by Amendment Nos. 1 and 2 thereto, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend sections 107D, 107E, and 107F of the Amex *Company Guide* to revise the initial listing standards applicable to Index-Linked Securities, Commodity-Linked Securities, and Currency-Linked Securities (collectively, the ''Section 107 Securities''),[3] respectively. In addition, the Exchange proposes a conforming revision to Commentary .05 to Amex Rule 411 to apply the suitability standard to all derivative securities that seek investment results based on a multiple of the direct or inverse performance of an underlying asset. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.amex.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the generic listing standards of sections 107D, 107E, and 107F of the Amex *Company Guide* so that section 107 Securities may be listed where the positive and/or negative payment at maturity may be accelerated by a multiple of the performance of the underlying Reference Asset. The Exchange believes that liberalizing the existing listing criteria for section 107 Securities will benefit the marketplace and investors by providing additional risk/return alternative structures.

Sections 107D, 107E, and 107F of the Amex *Company Guide* set forth the generic listing standards that permit the Exchange to list and trade Index-Linked Securities, Commodity-Linked Securities, and Currency-Linked Securities, respectively, pursuant to Rule 19b–4(e) under the Act.[4] Currently,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes of equity securities (''Underlying Index''). *See* Section 107D of the Amex *Company Guide*. Commodity-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of one or more physical commodities or commodity futures, options or other commodity derivatives or Commodity-Based Trust Shares (as defined in Amex Rule 1200A), or a basket or index of any of the foregoing (''Commodity Reference Asset''). *See* Section 107E of the Amex *Company Guide*. Currency-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of one or more currencies, or options or currency futures or other currency derivatives or Currency Trust Shares (as defined in Amex Rule 1200B), or a basket or index of any of the foregoing (''Currency Reference Asset,'' and, together with the Underlying Index and Commodity Reference Asset, collectively, the ''Reference Asset''). See Section 107F of the Amex *Company Guide.*

[4] *See* 17 CFR 240.19b–4(e). Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4, if the Commission has approved,

Continued

the respective generic listing standards for such securities state, among other requirements, that the payment at maturity may or may not provide for a multiple of the positive performance of the applicable underlying Reference Asset, and in no event may payment at maturity be based on a multiple of the negative performance of the applicable underlying Reference Asset.

Amex seeks to clarify and amend the generic listing standards for each of the section 107 Securities such that, with respect to the listing and trading of an issue of such securities pursuant to Rule 19b–4(e): (1) The payment at maturity may or may not provide for a multiple of the *direct* or *inverse* performance of the applicable Reference Asset; and (2) in no event may a loss or negative payment at maturity be accelerated by a multiple that *exceeds twice* the performance of the applicable Reference Asset. The Exchange believes that the current restriction in the generic listing standards for each of the section 107 Securities is unnecessarily limiting, given the changes in the market for these securities and the demand for differing structures. In addition, the Exchange notes that certain exchange-traded funds (''ETFs'') seeking to provide (a) investment results that correspond to or exceed twice (200%) the direct performance of a specified stock index, or (b) investment results that correspond to twice (−200%) the inverse or opposite of the index's performance, are currently listed and traded on the Exchange.[5]

The Exchange also seeks to amend Commentary .05 to Amex Rule 411 (Duty to Know and Approve Customers). Section 107 Securities are subject to the general eligibility or suitability requirements existing for all products listed and traded on Amex, as set forth in Amex Rule 411. The Exchange specifically seeks to apply Commentary .05 to Amex Rule 411 to all section 107 Securities that seek investment results based on a multiple of the direct or inverse performance of an underlying Reference Asset.

Currently, Commentary .05 to Amex Rule 411 is limited to Index Fund Shares, listed pursuant to Amex Rule 1000A(b)(2), that seek to provide investment results that either exceed the performance of a specified foreign or domestic stock index by a specified multiple or that correspond to the inverse (opposite) of the performance of such index by a specified multiple. The proposed revision would apply Commentary .05 to Amex Rule 411 to all derivative securities, including Index-Linked Securities, Commodity-Linked Securities, and Currency-Linked Securities, that seek to provide investment results that either exceed the performance of an underlying reference asset by a specified multiple or that correspond to the inverse (opposite) of the performance of an underlying reference asset by a specified multiple.

Prior to commencement of trading, the Exchange will issue an Information Circular to its members and member organizations providing guidance with regard to member firm compliance responsibilities (including suitability obligations) when effecting transactions in section 107 Securities that seek investment results based on a multiple of the direct or inverse performance of an underlying Reference Asset and highlighting the special risks and characteristics of the securities and applicable Exchange rules. This Information Circular will set forth the requirements relating to Commentary .05 to Amex Rule 411. Specifically, the Information Circular will remind members of their obligations in recommending transactions in the securities so that members have a reasonable basis to believe that (1) the recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by such member, and (2) the customer can evaluate the special characteristics, and is able to bear the financial risks, of such investment. In connection with the suitability obligation, the Information Circular will also provide that members make reasonable efforts to obtain the following information: (1) The customer's financial status; (2) the customer's tax status; (3) the customer's investment objectives; and (4) such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange states that no written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2007–130 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2007–130. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

pursuant to Section 19(b) of the Act, the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class.

[5] *See, e.g.*, Securities Exchange Act Release Nos. 52553 (October 3, 2005), 70 FR 59100 (October 11, 2005) (SR–Amex–2004–62) (approving the listing and trading of shares of the xtraShares Trust); 54040 (June 23, 2006), 71 FR 37629 (June 30, 2006) (SR–Amex–2006–41) (approving the listing and trading of shares of the ProShares Trust); 55117 (January 17, 2007), 72 FR 3442 (January 25, 2007) (SR–Amex–2006–101) (approving the listing and trading of shares of the ProShares Trust based on various sector indexes); 56592 (October 1, 2007), 72 FR 57364 (October 9, 2007) (SR–Amex–2007–60) (approving the listing and trading of shares of the ProShares Trust based on various international equity indexes); and 56713 (October 29, 2007), 72 FR 61915 (November 1, 2007) (SR–Amex–2007–74) (approving the listing and trading of shares of funds of the Rydex ETF Trust).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2007–130 and should be submitted on or before February 12, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[9] which requires that the rules of a national securities exchange be designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the Exchange's proposal is consistent with the Act, and, in particular, reasonably balances the removal of impediments to a free and open market with the protection of investors and the public interest, two principles set forth in section 6(b)(5) of the Act. The Commission notes that a variety of exchange-traded funds seeking to provide (a) investment results that correspond to or exceed twice (200%) the direct performance of a specified stock index, or (b) investment results that correspond to twice (−200%) the inverse or opposite of the index's performance, are currently listed and traded on the Exchange.[10] In addition, the Commission further believes that heightened suitability standards are appropriate for derivative securities products, including section 107 Securities, that seek to provide investment results that correspond to the direct or inverse performance of an underlying reference asset by a specified multiple and allow for a loss or negative payment at maturity to be accelerated by a specified multiple. Before recommending transactions in these types of leveraged products, Exchange members must have a reasonable basis to believe that the customer can evaluate the special characteristics, and is able to bear the financial risks, of such investment. The Commission expects the Exchange to continue to monitor the application of its suitability requirements, including those under Commentary .05 to Amex Rule 411, as proposed.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that it has approved identical revisions to the initial listing standards for the same type of derivative securities products, as proposed by another national securities exchange.[11] With respect to the revisions to Commentary .05 to Amex Rule 411, the Commission believes that the proposal strengthens the suitability standards and raises no new regulatory issues. Accordingly, the Commission finds good cause for approving the proposal on an accelerated basis, pursuant to section 19(b)(2) of the Act.

VI. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–Amex–2007–130), as modified by Amendment Nos. 1 and 2 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–996 Filed 1–18–08; 8:45 am]

BILLING CODE 8011–01–P

[8] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] *See supra* note 5 and accompanying text.

[11] *See* Securities Exchange Act Release No. 57149 (January 15, 2008) (SR–NYSEArca–2007–122) (approving the proposal to make substantively identical revisions to the initial listing standards for Index-Linked Securities listed and/or traded on NYSE Arca, Inc. (''NYSE Arca'')). *See also* Securities Exchange Act Release No. 56907 (December 5, 2007), 72 FR 70640 (December 12, 2007) (SR–NYSEArca–2007–122) (providing notice of the proposal to make substantively identical revisions to the initial listing standards for Index-Linked Securities listed and/or traded on NYSE Arca).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57152; File No. SR–BSE–2007–55]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Exchange Fees and Charges To Be Assessed in Connection With the Implementation of an Electronic Registration Process

January 15, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 21, 2007, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared substantially by the Exchange. On January 11, 2008, BSE filed Amendment No. 1 to the proposed rule change. BSE has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal 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 BSE proposes to amend the BSE Fee Schedule and the Boston Options Exchange (''BOX'') Fee Schedule in order to adopt certain fees to be charged

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

to all active members[5] and to all member and participant organizations (collectively, the ''members'') associated with the implementation of an electronic registration process through the Financial Industry Regulatory Authority's (''FINRA'') Web Central Registration Depository (''Web CRD''). The text of the proposed rule change is available at *http://www.bostonstock.com,* the principal offices of the Exchange, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. BSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to adopt fees associated with the implementation of an electronic registration process through FINRA's Web CRD, which should, in turn, create a more efficient registration process by migrating from a manual paper-based Exchange procedure for registration to a Web-based registration process that is operated by FINRA. The proposed fees are similar to those fees charged by other self-regulatory organizations that use FINRA's Web CRD.[6]

Specifically, the Exchange proposes to adopt the following fees that will be imposed upon all members in connection with their required participation in Web CRD: (a) A FINRA CRD Processing Fee of $85.00; (b) a FINRA Disclosure Processing Fee of $95.00; (c) a FINRA Annual System Processing Fee of $30.00; and (d) fingerprinting fees that will vary depending on the submission: For a first card submission the fee will be $30.25; for a second card submission the fee will be $13.00; for a third card submission the fee will be $30.25; for processing fingerprint results where the member had prints processed through a self-regulatory organization and not FINRA, the fee will be $13.00 (collectively, the ''FINRA Fees''). The Exchange also proposes to adopt: (e) An individual initial registration fee of $60.00; (f) an individual transfer fee for $40.00 with a transfer time period of thirty (30) days; (g) an individual renewal fee for $50.00; and (h) an individual termination fee of $30.00 (collectively, the ''Exchange Fees''). FINRA will process the fingerprint cards and will make the results available to the Exchange, its members, and member and participant organizations via Web CRD.

Members and participant organizations will be instructed to pay the FINRA Fees and the Exchange Fees associated with Web CRD directly to FINRA through Web CRD. FINRA will retain the FINRA Fees and remit the Exchange Fees it collects to BSE.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[7] in general, and furthers the objectives of section 6(b)(4) of the Act,[8] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities in connection with their use of Web CRD. The fees are imposed upon all members equally. The Exchange believes the proposed fees are reasonable in that they are similar to those charged by other self-regulatory organizations that use FINRA's Web CRD.[9]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act[10] and Rule 19b–4(f)(2)[11] thereunder, because it establishes or changes a due, fee, or other charge imposed on members by the Exchange. Accordingly, the proposal is effective 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.[12]

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–BSE–2007–55 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BSE–2007–55. 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

[5] Because BSE ceased operations of its BeX equity market on September 5, 2007, the only active members that this now applies to are those members of BOX.

[6] *See* Securities Exchange Act Release Nos. 51641 (May 2, 2005), 70 FR 24155 (May 6, 2005) (SR–PCX–2005–49); 48066 (June 19, 2003), 68 FR 38409 (June 27, 2003) (SR–AMEX–2003–49); 45112 (November 28, 2001), 66 FR 63086 (December 4, 2001) (SR–NYSE–2001–47); and 53688 (April 20, 2006), 71 FR 24885 (April 27, 2006) (SR–Phlx–2006–24).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] *See* note 6, *supra.*

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 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 January 11, 2008, the date on which the Exchange filed Amendment No. 1.

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BSE–2007–55 and should be submitted on or before February 12, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–997 Filed 1–18–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Release No. 34–57159; File No. SR–CBOE–2006–106]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval to a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to an Interpretation of Paragraph (b) of Article Fifth of Its Certificate of Incorporation

January 15, 2008.

I. Introduction

On December 12, 2006, the Chicago Board Options Exchange, Incorporated (''CBOE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt an interpretation of the rules of CBOE in response to the acquisition of the Board of Trade of the City of Chicago, Inc. (''CBOT'') by Chicago Mercantile Exchange Holdings, Inc. (''CME Holdings''). On January 17, 2007, the Exchange filed Amendment No. 1 to the proposed rule change which replaced and superseded the filing. The proposed rule change, as modified by Amendment No. 1, was published for notice and comment in the **Federal Register** on February 6, 2007.[3] The Commission received 174 comment letters from 134 separate commenters on the proposed rule change, including comment letters from CBOT members and legal counsel to CBOT and CBOT members. The CBOE submitted its response to comments on June 15, 2007.[4] On June 29, 2007, CBOE filed Partial Amendment No. 2 to the proposal.[5] This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2.

II. Description of the Proposed Rule Change

A. Background

As compensation for the ''special contribution'' of time and money that the CBOT expended in the development of the CBOE in the early 1970s, an ''Exercise Right'' was granted to each ''member of [the CBOT]'' entitling him or her to become a member of the CBOE without having to acquire a separate CBOE membership.[6] This right, established in Article Fifth(b) of the CBOE Certificate of Incorporation (''Article Fifth(b)''), provides, in relevant part:

> In recognition of the special contribution made to the organization and development of the [CBOE] by the members of [the CBOT] * * * every present and future member of [the CBOT] who applies for membership in the [CBOE] and who otherwise qualifies shall, so long as he remains a member of said Board of Trade, be entitled to be a member of the [CBOE] notwithstanding any such limitation on the number of members and without the necessity of acquiring such membership for consideration or value from the [CBOE], its members or elsewhere.

Article Fifth(b) states that no amendment may be made to it without the approval of at least 80% of those CBOT members who have ''exercised'' their right to be CBOE members and 80% of all other CBOE members.

Since Article Fifth(b) does not define what a ''member of [the CBOT]'' means, on several occasions in the past, the CBOE has interpreted the meaning of Article Fifth(b), in particular the term ''member of [the CBOT],'' in response to changes in the ownership structure of the CBOT. On each such occasion, the CBOE and CBOT ultimately reached a mutual agreement on the particular interpretation at issue, and those interpretations are reflected in various agreements and letter agreements between CBOE and CBOT. CBOE filed these interpretations of Article Fifth(b) with the Commission, reflected in amendments to CBOE Rule 3.16(b) (''Special Provisions Regarding Chicago Board of Trade Exerciser Memberships''), as proposed rule changes pursuant to Section 19(b)(1) of the Exchange Act.[7] The Commission approved each such interpretation.

1. 1992 Agreement

In 1993, the Commission approved the CBOE's proposed interpretation of the meaning of the term ''member of [the CBOT]'' as used in Article Fifth(b) that was embodied in an agreement dated September 1, 1992 (the ''1992 Agreement'') and reflected in CBOE Rule 3.16(b).[8] The 1992 Agreement addressed, among other things, the effect on the Exercise Right of CBOT's plans to divide the membership interests of the then-existing 1,402 member-owners of CBOT into parts. That interpretation provided that all such parts, together with the trading rights appurtenant thereto, must be in the possession of an individual in order for that individual to be eligible to

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55190 (January 29, 2007), 72 FR 5472 (SR–CBOE–2006–106) (''Notice'').

[4] *See* Letter from Michael L. Meyer, Schiff Hardin, to Nancy M. Morris, Secretary, Commission, dated June 15, 2007 (''CBOE Response to Comments'').

[5] The CBOE submitted an opinion of counsel as Exhibit 3f to Amendment 1 to its proposal. See Letter from Wendell Fenton, Esq., Richards, Layton & Finger, to Joanne Moffic-Silver, General Counsel and Corporate Secretary, CBOE, dated January 16, 2007 (''First Opinion of Counsel''). CBOE subsequently submitted an updated legal opinion via Partial Amendment No. 2, which opines that the proposed rule change embodied in SR–CBOE–2006–106 constitutes an interpretation of Article Fifth(b), and not an amendment of Article Fifth(b), consistent with the conclusions reached in the opinion letters of Delaware counsel that CBOE submitted to the Commission in connection with CBOE rule filings SR–CBOE–2004–16 and SR–CBOE–2005–19. See Letter from Wendell Fenton, Esq., Richards, Layton & Finger, to Joanne Moffic-Silver, General Counsel and Corporate Secretary, CBOE, dated June 28, 2007 (''Second Opinion of Counsel''). The Commission believes that because Partial Amendment No. 2 raises no new or novel issues, it is technical in nature and not subject to separate notice and comment.

[6] As CBOE explained in the notice of its proposal, the ''special contribution'' of the members of CBOT referred to in Article Fifth(b) consisted primarily of CBOT's providing the seed capital for the start-up of CBOE in the early 1970s by means of direct cash expenditures, CBOT's guarantee of a bank loan to CBOE to fund additional CBOE start-up costs, and CBOT's contribution of intellectual property. *See* Notice, *supra* note 3, 72 FR at 5473.

[7] 15 U.S.C. 78s(b)(1).

[8] *See* Securities Exchange Act Release No. 32430 (June 8, 1993), 58 FR 32969 (June 14, 1993) (SR–CBOE–92–42).

utilize the Exercise Right.[9] 9 CBOE Rule 3.16(b) reflects this interpretation in stating that ''[f]or the purpose of entitlement to membership on the [CBOE] in accordance with * * * [Article Fifth(b)] * * * the term 'member of [the CBOT],' as used in Article Fifth(b), is interpreted to mean an individual who is either an 'Eligible CBOT Full Member' or an 'Eligible CBOT Full Member Delegate,' as those terms are defined in the [1992 Agreement] * * *'' [10]

2. 2001 Agreement, as Modified by the 2004 and 2005 Letter Agreements

In connection with CBOT's proposed restructuring, CBOE took the position that the effect of such a transaction would be to eliminate entirely the concept of CBOT ''membership'' as it existed when the Exercise Right was created as a right held by members of CBOT, and therefore would result in the termination of the Exercise Right.[11] CBOE and CBOT eventually compromised and entered into an agreement dated August 7, 2001 (''2001 Agreement'') under which CBOE agreed to interpret Article Fifth(b) such that the Exercise Right was only available to a CBOT member that held all of the trading rights of a full member of CBOT as well as the same number of shares of stock of CBOT Holdings, Inc. (''CBOT Holdings'') originally issued to CBOT members in the restructuring.[12] CBOE agreed, in the 2001 Agreement, to interpret Article Fifth(b) in this way, only ''in the absence of any other material changes to the structure or ownership of the CBOT * * * not contemplated in the CBOT [restructuring].'' [13]

CBOE and CBOT subsequently agreed to modify the 2001 Agreement by a Letter Agreement among CBOE, CBOT, and CBOT Holdings dated October 7, 2004 (''October 2004 Letter Agreement''), which was intended to represent the agreement of the CBOE and CBOT concerning the nature and scope of the Exercise Right following the restructuring of the CBOT and in light of the expansion of the CBOE and CBOT's electronic trading systems. The CBOE, CBOT, and CBOT Holdings entered into another letter agreement on February 14, 2005 (''February 2005 Letter Agreement'') in which CBOE confirmed that CBOT's restructuring was consistent with CBOE's interpretation of Article Fifth(b) as set forth in the 2001 Agreement.

The CBOE's interpretation of Article Fifth(b) through interpretations of ''Eligible CBOT Full Member'' as used in CBOE Rule 3.16 were approved by the Commission.[14] As set forth in the 2001 Agreement, as amended by the letter agreements, the CBOE interprets Article Fifth(b) such that an individual is deemed to be an ''Eligible CBOT Full Member'' under CBOE Rule 3.16 if the individual: (1) Is the owner of the requisite number of Class A Common Stock of CBOT Holdings, the requisite number of Series B–1 memberships of the CBOT, and the Exercise Right Privilege; (2) has not delegated any of the rights or privileges appurtenant to such ownership; and (3) meets applicable membership and eligibility requirements of the CBOT.[15] An individual is deemed to be an ''Eligible CBOT Full Member Delegate,'' under that Agreement, if the individual: (1) Is in possession of the requisite number of Class A Common Stock of CBOT Holdings, the requisite number of Series B–1 memberships of the CBOT, and the Exercise Right Privilege; (2) holds one or more of the items listed in (1) by means of delegation rather than ownership; and (3) meets applicable membership and eligibility requirements of the CBOT.[16]

B. CBOE's Current Proposal

1. Interpretation of Article Fifth(b)

The CBOE is again proposing an interpretation of the term ''member of [the CBOT]'' as used in Article Fifth(b). CBOE believes that its proposed interpretation is necessary to address the effect on the Exercise Right of the then-proposed (and now completed) acquisition of the CBOT by CME Holdings.[17] Specifically, CBOE believes that the acquisition of the CBOT by CME Holdings effected ''substantial changes to the structure and ownership of CBOT, as well as to the rights represented by CBOT membership,'' in a way that creates a substantive ambiguity with respect to whether a person who formerly qualified under Article Fifth(b) as a ''member of [the CBOT]'' for purposes of the Exercise Right still possesses sufficient attributes of CBOT membership following the acquisition by CME Holdings.[18]

In response to the acquisition of the CBOT by CME Holdings, the CBOE Board of Directors found it necessary to determine whether the substantive rights of a former CBOT member would continue to qualify that person as a ''member of [the CBOT]'' pursuant to Article Fifth(b), as that term was contemplated when Article Fifth(b) was adopted, after the acquisition of the CBOT by CME Holdings. CBOE determined that it would not, because former CBOT members ''lose in the CME acquisition the few remaining membership rights they retained following the [CBOT's] 2005 restructuring,'' such that ''persons who had formerly been the full members of CBOT will simply be the holders of trading permits and will not possess any of the other rights commonly associated with membership in an exchange.'' [19]

Thus, CBOE's proposed interpretation concludes that, following the acquisition, there no longer are any individuals who qualify as ''members of [the CBOT]'' within the meaning of Article Fifth(b). Consequently, no person would qualify under Article Fifth(b) to utilize the Exercise Right to become and remain a member of CBOE without having to obtain a separate CBOE membership. This interpretation is based on CBOE's view that the concept of a member-owner of CBOT, as CBOE believes that concept was understood when Article Fifth(b) was first adopted in CBOE's Certificate of Incorporation and when it was subsequently interpreted in the 1992 Agreement, has been abolished following the restructuring of CBOT and its subsequent acquisition by CME Holdings. In this respect, the CBOE's proposal does not extinguish the Exercise Right or delete Article Fifth(b) from its Certificate of Incorporation, but rather interprets Article Fifth(b) in a manner than means no CBOT member is

[9] *See* 1992 Agreement, Section 2(b).

[10] CBOE Rule 3.16(b). In the 1992 Agreement, an ''Eligible CBOT Full Member'' is defined as an individual who at the time is the holder of one of 1,402 existing CBOT full memberships (''CBOT Full Memberships''), and who is in possession of all trading rights and privileges of such CBOT Full Memberships. An ''Eligible CBOT Full Member Delegate'' is defined as the individual to whom a CBOT Full Membership is delegated (*i.e.*, leased) and who is in possession of all trading rights and privileges appurtenant to such CBOT Full Membership.

[11] *See* Notice, *supra* note 3, 72 FR at 5473.

[12] *See id.*

[13] *See id.* at 5473–74 (citing the 2001 Agreement).

[14] *See* Securities Exchange Act Release No. 51733 (May 24, 2005), 70 FR 30981 (May 31, 2005) (SR–CBOE–2005–19).

[15] *See id.* at 30983 (footnote 14).

[16] *See id.*

[17] That acquisition was accomplished by the merger of CBOT Holdings, of which CBOT was a subsidiary, with and into CME Holdings, with CME Holdings continuing as the surviving corporation and as the parent company of CBOT, as well as of its existing wholly-owned subsidiary, the Chicago Mercantile Exchange, Inc. (''CME''). CBOT Holding's shareholders approved the acquisition on July 9, 2007. *See* Form 8–K submitted by CME Holdings on July 9, 2007. The transaction was completed on July 12, 2007. *See* Form 25–NSE submitted by the New York Stock Exchange, Inc. (regarding notification of the removal of listing of CBOT Holdings).

[18] CBOE Response to Comments, *supra* note 4, at 17.

[19] *Id.* at 28.

eligible to utilize that right following the acquisition of CBOT.

With respect to the prior agreements concerning the interpretation of Article Fifth(b) with CBOT, CBOE believes that, because the change in structure effectuated by the acquisition of CBOT by CME Holdings was not contemplated as part of the 2005 restructuring of CBOT, the acquisition constitutes a change to the ownership of CBOT that is inconsistent with a condition to the interpretation embodied in the 2001 Agreement, as amended, that there not be any change to the ownership of CBOT not contemplated in its 2005 restructuring.[20] Accordingly, CBOE believes that the 2001 Agreement, as amended, no longer governs whether and to what extent the Exercise Right will remain in existence, with the result being that CBOE and CBOT are back in the position they faced before the 2001 Agreement.[21]

With the 2001 Agreement no longer controlling, CBOE looks to the 1992 Agreement, in particular Section 3(d), which addresses the possibility that CBOT, among other things, may merge or consolidate with, or be acquired by, another entity. Section 3(d) establishes three conditions that all must be satisfied for the Exercise Right to remain available following any such transaction. Those three conditions are:

1.* * * the survivor of such merger, consolidation or acquisition (''survivor'') is an exchange which provides or maintains a market in commodity futures contracts or options, securities, or other financial instruments, and * * *

2. the 1,402 holders of CBOT Full Memberships are granted in such merger, consolidation or acquisition membership in the survivor (''Survivor Membership''), and * * *

3. such Survivor Membership entitles the holder thereof to have full trading rights and privileges in all products then or thereafter traded on the survivor (except that such trading rights and privileges need not include products that, at the time of such merger, consolidation or acquisition, are traded or listed, designated or otherwise authorized for trading on the other entity but not on the CBOT) * * *[22]

CBOE believes that none of these conditions are satisfied following the acquisition of CBOT by CME Holdings. Specifically, with respect to Condition 1, CBOE notes that the survivor of the acquisition (*i.e.*, the acquiring entity that survives the transaction) is CME Holdings, which is not an exchange.[23]

Further, CBOE believes that Condition 2 is not satisfied because the former 1,402 holders of CBOT Full Memberships have not been granted ''membership'' in the survivor.[24] Rather, CBOE's position is that there are not any holders of CBOT Full Memberships as they existed in 1992, because all of these memberships were stripped of their ownership attributes in the 2005 restructuring of CBOT.[25] Likewise, CBOE argues that CME Holdings is not an exchange and therefore is not capable of granting ''membership'' interests in itself to anyone.[26] CBOE further states that, even if CBOT is considered to have survived the acquisition, Condition 2 still would not be satisfied because, except for trading rights, former CBOT members no longer have most of the other rights in the surviving entity that they formerly held when they were full members of CBOT as the term ''member'' was commonly understood when Article Fifth(b) was adopted in 1972 and later interpreted in 1992.[27] Accordingly, following the acquisition, CBOE believes that former CBOT members will simply be the holders of trading permits and will not be granted any of the other rights commonly associated with membership in an exchange.[28]

Finally, CBOE believes that Condition 3 of Section 3(d) of the 1992 Agreement is not satisfied following the acquisition of CBOT by CME Holdings because that condition contemplates an acquisition where the surviving acquirer is an exchange, and it requires CBOT members to have essentially the same full trading rights on that surviving exchange as they had on CBOT prior to the acquisition.[29] As CME Holdings is not an exchange, CBOE believes that it is not possible for CBOT members to have any trading rights on the survivor.[30] Further, CBOE believes that to be the case even if it were to look through CME Holdings to its two subsidiary exchanges, CME and CBOT.[31] CBOE states that, in respect of any new products to be introduced on CME after the acquisition, the trading rights of CBOT members will be diluted by the trading rights granted to other persons (*i.e.*, CME members) to trade these same products, in which case the trading rights inherent in CBOT membership will be reduced from what they were prior to the acquisition.[32]

Consequently, CBOE's proposed interpretation concludes that the conditions contained in Section 3(d) of the 1992 Agreement are not satisfied following the acquisition of CBOT by CME Holdings, and that the terms of Section 3(d) therefore provide that ''Article Fifth(b) shall not apply'' following the acquisition. Hence, for the reasons discussed in its notice, as summarized above, CBOE's proposed interpretation is that the Exercise Right is no longer available as a means of acquiring membership in CBOE because there no longer are any individuals who qualify as ''members of [the CBOT]'' within the meaning of Article Fifth(b).

2. Transition Plan

In addition to its proposed interpretation of Article Fifth(b), CBOE has separately proposed a transition plan in order to avoid a sudden disruption to its marketplace as a result of no persons any longer being eligible to utilize the Exercise Right on account of the acquisition of CBOT by CME Holdings.[33] Specifically, CBOE submitted a separate proposed rule change interpreting CBOE Rule 3.19, which is a rule that authorizes the Exchange, when the Exchange determines that there are extenuating circumstances, to permit a member ''to retain the member's status for such period of time as the Exchange deems reasonably necessary'' to enable the member to address specified problems that caused the membership status to terminate.

Interpretation .01 to CBOE Rule 3.19, allows certain ''grandfathered'' Exerciser Members who had been trading on CBOE to continue to have uninterrupted access to CBOE until such time as the Commission takes action on SR–CBOE–2006–106. Under Interpretation .01 to CBOE Rule 3.19, persons who were Exerciser Members in good standing as of July 1, 2007 and who remain Exerciser Members as of the close of business on the day before the

[20] *See* Notice, *supra* note 3, 72 FR at 5474.

[21] *See id.*

[22] *See id.*

[23] *See id.*

[24] *See id.*

[25] *See id.* Although CBOE has previously interpreted Article Fifth(b) to permit the Exercise Right to continue in existence following the 2005 restructuring of CBOT, subject to stated conditions, as discussed above, CBOE believes that those earlier interpretations, contained in the 2001 Agreement, as amended, are no longer controlling because those provisions applied only so long as there was no further change to the structure or ownership of CBOT not then in contemplation. *See id.*

[26] *See* Notice, *supra* note 3, 72 FR at 5474.

[27] *See id.* at 5475. For example, CBOE states that, following the acquisition by CME Holdings, CBOT's former Series B–1 members will be stripped, among other things, of their right to elect directors or nominate candidates for election as directors. *See id.*

[28] *See id.*

[29] *See id.*

[30] *See id.*

[31] *See id.*

[32] *See* Notice, *supra* note 3, 72 FR at 5474.

[33] *See* Securities Exchange Act Release Nos. 56016 (July 5, 2007), 72 FR 38106 (July 12, 2007) (SR–CBOE–2007–77) and 56458 (September 18, 2007), 72 FR 54309 (September 24, 2007) (SR–CBOE–2007–107).

consummation of the acquisition of CBOT by CME Holdings temporarily retained their membership status, including their trading access to CBOE, for a limited period of time. Such persons were not required to hold or maintain any securities, memberships or other interests in order to maintain that status, but are required to pay a monthly access fee to the Exchange.[34] Temporary Members are required to remain in good standing and must pay all applicable fees, dues, assessments and other like charges assessed against CBOE members.

On September 4, 2007, CBOE filed a subsequent interpretation of CBOE Rule 3.19 to extend this temporary membership beyond any Commission approval of SR–CBOE–2006–106 until the earlier of: (1) The voluntary termination of a person's temporary membership; (2) any Commission approval of a subsequent proposed rule change to terminate temporary membership status; or (3) the demutualization of the Exchange.[35]

III. Comment Letters

The Commission received 174 comment letters on the proposed rule change from 134 different commenters.[36] Legal counsel for CBOT, legal counsel for CBOT Holdings, and legal counsel for the putative class of CBOT members from the Delaware litigation (collectively referred to as ''CBOT'') all submitted comment letters[37] in which they characterized the proposed rule change as an attempt by CBOE to eliminate one group of Exchange members (Exerciser Members) for the benefit of another group of members (CBOE regular members), therein depriving Exerciser Members and those eligible to become Exerciser Members of a valuable property right.[38] CBOT asked the Commission to institute proceedings to disapprove CBOE's proposed rule change on the basis that the proposal is an improper use of CBOE's self-regulatory authority to resolve in its favor a private property dispute that is being litigated in the Delaware court, fails to meet the requirements of the Exchange Act, and was adopted without due process.[39]

Other commenters supplemented the concerns expressed by CBOT with criticism that the Commission lacked jurisdiction to consider the CBOE's proposal on the basis that the proposal implicated a contractual dispute subject to the jurisdiction of a state court.[40] Commenters also opposed the proposal as without foundation, believing that the CBOT's acquisition by CME Holdings should be irrelevant to the continued validity of the Exercise Right.[41] Other commenters argued that

[34] *See* Securities Exchange Act Release No. 56197 (August 3, 2007), 72 FR 44897 (August 9, 2007) (SR–CBOE–2007–91) (adopting the access fee).

[35] *See* Securities Exchange Act Release No. 56458 (September 18, 2007), 72 FR 54309 (September 24, 2007) (SR–CBOE–2007–107).

[36] Thirteen letters, including three letters from CBOE's legal counsel, explicitly supported the proposed rule change. *See* Letter from Robert H. Bloch, dated February 16, 2007 (''Bloch Letter''); Letter from Michael J. Post to Elizabeth K. King, Associate Director, Division of Market Regulation, Commission, dated February 16, 2007 (''Post Letter''); Letter from Steven G. Holtz, dated February 17, 2007; Letter from Dan Frost, dated February 19, 2007 (''Frost Letter''); Letter from Steve Fanady to Elizabeth K. King, Associate Director, Division of Market Regulation, Commission, dated February 20, 2007 (''Fanady Letter''); Letter from Lawrence J. Blum to Elizabeth K. King, Associate Director, Division of Market Regulation, Commission, dated February 25, 2007 (''Blum Letter''); Letter from Norman S. Friedland, dated February 27, 2007 (''Friedland Letter''); Letter from R. Kent Hardy to Nancy M. Morris, Secretary, Commission, dated February 27, 2007 (''Hardy Letter''); Letter from Robert Silverstein to Elizabeth K. King, Associate Director, Division of Market Regulation, Commission, dated February 27, 2007 (''Silverstein Letter''); Letter from Marshall Spiegel, dated April 12, 2007 (referencing attached materials); Letter from Michael L. Meyer, Schiff Hardin, to Elizabeth K. King, Associate Director, Division of Market Regulation, Commission, dated January 12, 2007 (''Schiff Hardin Letter 1''); Letter from Michael L. Meyer, Schiff Hardin, to Nancy M. Morris, Secretary, Commission, dated March 19, 2007; and CBOE Response to Comments, supra note 4. The remainder of the letters either opposed the proposal or did not clearly communicate a position.

[37] *See* Letter from Charles M. Horn, Mayer, Brown, Rowe & Maw, to Nancy M. Morris, Secretary, Commission, dated December 22, 2006 (''Mayer Brown Letter 1''); Letter from Gordon B. Nash, Jr., Gardner, Carton & Douglas, to Nancy M. Morris, Secretary, Commission, dated December 22, 2006 (on behalf of the putative class members) (''Gardner Letter''); Letter from Charles M. Horn, Mayer, Brown, Rowe & Maw, to Nancy M. Morris, Secretary, Commission, dated January 31, 2007 (''Mayer Brown Letter 2''); Letter from Charles M. Horn, Mayer, Brown, Rowe & Maw, to Nancy M. Morris, Secretary, Commission, dated February 27, 2007 (''Mayer Brown Letter 3''); Letter from Scott C. Lascari, Drinker Biddle Gardner Carton, to Nancy M. Morris, Secretary, Commission, dated February 27, 2007 (on behalf of the putative class members); Letter from Charles M. Horn, Mayer, Brown, Rowe & Maw, to Nancy M. Morris, Secretary, Commission, dated March 15, 2007 (''Mayer Brown Letter 4''); Letter from Charles M. Horn, Mayer, Brown, Rowe & Maw, to Nancy M. Morris, Secretary, Commission, dated July 9, 2007 (''Mayer Brown Letter 5''); and Letter from Charles M. Horn, Mayer, Brown, Rowe & Maw, to Nancy M. Morris, Secretary, Commission, dated August 9, 2007 (''Mayer Brown Letter 6'').

[38] *See, e.g.*, Mayer Brown Letter 3, *supra* note 37, at 6.

[39] *See* Mayer Brown Letter 3, *supra* note 37, at 1. *See also* Letter from Alton B. Harris, Ungaretti & Harris LLP, to Nancy M. Morris, Secretary, Commission (''Ungaretti Letter''), at 9–10 (arguing that the CBOE impermissibly and unilaterally interpreted a provision in a bilateral contract and filed this interpretation with the Commission in an attempt to invoke federal preemption). That commenter opined that the outcome of this matter could affect the future willingness of third parties to enter into contracts that may be subject to unilateral interpretation by a self-regulatory organization. *See id.* at 2–3.

[40] *See* Letter from Gordon Gladstone, dated February 9, 2007; Letter from Glenn Hollander, dated February 9, 2007; Letter from Lance R. Goldberg, dated February 10, 2007 (''Goldberg Letter''); Letter from Mark Mendelson, dated February 12, 2007 (''Mendelson Letter''); Letter from John Simms, dated February 12, 2007 (''Simms Letter''); Letter from Charles W. Bergstrom to Nancy M. Morris, Secretary, Commission, dated February 13, 2007; Letter from Mike P. Darraugh, dated February 13, 2007 (''Darraugh Letter''); Letter from Edward E. Kessler, dated February 13, 2007 (''Kessler Letter''); Letter from Stephen L. O'Bryan, dated February 13, 2007 (''O'Bryan Letter''); Letter from Mark D. Hellman to Nancy M. Morris, Secretary, Commission, dated February 14, 2007 (''Hellman Letter''); Letter from J. Alexander Stevens to Nancy M. Morris, Secretary, Commission, dated February 14, 2007 (''Stevens Letter''); Letter from Allen Mitzenmacher to Nancy M. Morris, Secretary, Commission, dated February 15, 2007 (''Mitzenmacher Letter''); Letter from Benjamin Nitka, dated February 15, 2007; Letter from Jerome Israelov, dated February 16, 2007; Letter from Susie McMurray, submitted February 16, 2007 (''McMurray Letter''); Letter from Stuart Reif to Nancy M. Morris, Secretary, Commission, dated February 16, 2007 ('' Letter''); Letter from Doug Riccolo, dated February 16, 2007; Letter from Burt Gutterman and Noel Moore to Nancy M. Morris, Secretary, Commission, dated February 17, 2007; Letter from Charles B. Cox III, dated February 19, 2007 (''C. Cox Letter''); Letter from Michael J. Crilly, dated February 19, 2007 (''Crilly Letter 1''); Letter from Ronald E. Komo to Nancy M. Morris, Secretary, Commission, dated February 19, 2007 (''Komo Letter''); Letter from Thomas M. Myron to Nancy M. Morris, Secretary, Commission, dated February 19, 2007 (''T.M. Myron Letter''); Letter from Kyle A. Reed, dated February 20, 2007 (''Reed Letter''); Letter from Thomas F. Cashman to Nancy M. Morris, Secretary, Commission, dated February 21, 2007 (''Cashman Letter''); Letter from Richard Jaman, submitted February 22, 2007 (''Jaman Letter''); Letter from Lawrence D. Israel to Nancy M. Morris, Secretary, Commission, dated February 22, 2007 (''Israel Letter''); Letter from Gerald A. McGreevy, submitted February 22, 2007 (''McGreevy Letter''); Letter from David P. Baby to Nancy M. Morris, Secretary, Commission, dated February 23, 2007 (''Baby Letter''); Letter from Stephen Cournoyer to Nancy M. Morris, Secretary, Commission, dated February 24, 2007 (''S. Cournoyer Letter''); Letter from Wayne Goodman to Nancy M. Morris, Secretary, Commission, submitted February 24, 2007 (''Goodman Letter''); Letter from Cary Chubin, dated February 25, 2007 (''Chubin Letter''); Letter from John Halston, dated February 25, 2007 (''Halston Letter''); Letter from Veda Kaufman Levin, dated February 25, 2007 (''Levin Letter''); Letter from Robert J. Griffin to Nancy M. Morris, Secretary, Commission, dated February 26, 2007 (''Griffin Letter''); Letter from Harlan R. Krumpfes, dated February 26, 2007 (''Krumpfes Letter''); Letter from Nickolas J. Neubauer to Nancy M. Morris, Secretary, Commission, dated February 26, 2007 (''Neubauer Letter''); Letter from Ronald Bianchi, dated February 26, 2007 (''Bianchi Letter''); Letter from William Terman to Nancy M. Morris, Secretary, Commission, dated February 26, 2007 (''Terman Letter''); Letter from Robert E. Otter, dated February 27, 2007; and Letter from Paul L. Richards to Nancy M. Morris, Secretary, Commission, dated August 1, 2007 (''Richards Letter 2''). *Cf.* Comment Letters cited in note 36, *supra* (Bloch Letter, Post Letter, Friedland Letter, Frost Letter, Fanady Letter, Blum Letter (arguing that the proposal falls within the Commission's jurisdiction)).

[41] *See, e.g.*, Letter from Lawrence C. Dorf, dated February 9, 2007 (''Dorf Letter''); Goldberg Letter, *supra* note 40; Letter from Peter M. Todebush to Nancy M. Morris, Secretary, Commission, dated

CBOE's proposal violates the rights of CBOT members with respect to the Exercise Right and violates the agreements between the CBOT and CBOE,[42] and complained about the economic impact of the proposed rule change on CBOT members, especially the fact that the CBOE's proposal would prohibit CBOT members from sharing in the CBOE's anticipated demutualization.[43] The main points raised by the comment letters, as well as the Commission's findings, are discussed below.

IV. Discussion and Commission Findings

Before turning to the specific questions under consideration, it is appropriate to review the obligations that the Exchange Act imposes on the Commission in reviewing SRO proposed rule changes and the manner in which the Commission carries out those obligations. The Exchange Act specifically requires an exchange to file with the Commission all proposed rules and any proposed changes in, additions to, or deletions from its rules.[44] As noted below, ''rules'' of an exchange are defined broadly to include, in this case, interpretations of CBOE's Certificate of Incorporation.[45] Once an exchange files a proposed rule change with the Commission, the Exchange Act requires the Commission to approve any such proposed rule change if it finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the exchange.[46] Alternatively, if the

February 13, 2007 (''Todebush Letter''); Letter from Thomas M. Shuff Jr., dated February 13, 2007 (''Shuff Letter''); Letter from Norm Friedman, dated February 16, 2007 (''N. Friedman Letter''); C. Cox Letter, supra note 40; Crilly Letter 1, *supra* note 40; Ungaretti Letter, *supra* note 39; Letter from Brian Cassidy, dated February 20, 2007 (''Cassidy Letter''); Letter from Gregory J. Ellis, dated February 20, 2007 (''Ellis Letter''); Letter from Paul R.T. Johnson, Jr. to Nancy M. Morris, Secretary, Commission, submitted February 20, 2007 (''Johnson Letter''); Reed Letter, *supra* note 40; Letter form Michael E. Stone, submitted February 22, 2007 (''Stone Letter 1''); Letter from Robert C. Sheehan, Electronic Brokerage Systems, LLC, to Nancy M. Morris, Secretary, Commission, dated February 23, 2007 (''Sheehan Letter''); Letter from Carolyn J. Davis to Nancy M. Morris, Secretary, Commission, dated February 24, 2007; Goodman Letter, *supra* note 40; Letter from David G. Northey, M&N Trading, submitted February 24, 2007 (''Northey Letter''); Letter from Kevin A. Ward, submitted February 24, 2007; Chubin Letter, *supra* note 40; Halston Letter, *supra* note 40; Letter from Michael E. Stone, dated February 25, 2007 (''Stone Letter 2''); Letter from Edward A. Cox and Cynthia R. Cox to Nancy M. Morris, Secretary, Commission, dated February 26, 2007 (''E. Cox Letter''); Krumpfes Letter, *supra* note 40; Letter from John L. Pietrzak to Nancy M. Morris, Secretary, Commission, dated February 26, 2007 (''Pietrzak Letter''); Letter from Robert Salstone to Nancy M. Morris, Secretary, Commission, dated February 26, 2007.

[42] *See* Letter from Peter W. Aden, dated February 9, 2007; Dorf Letter, *supra* note 41; Letter from Michael C. Rothman, dated February 9, 2007 (''Rothman Letter''); Goldberg Letter, *supra* note 40; Letter from Clint Gross, dated February 11, 2007 (''Gross Letter''); Letter from Richard D. Lupori, dated February 12, 2007; Mendelson Letter, *supra* note 40; Letter from Adam Rich to Nancy M. Morris, Secretary, Commission, dated February 12, 2007 (''Rich Letter''); Simms Letter, *supra* note 40; Letter from Frank J. Aiello to Nancy M. Morris, Secretary, Commission, dated February 13, 2007; Darraugh Letter, *supra* note 40; Letter from Michael Forester to Nancy M. Morris, Secretary, Commission, dated February 13, 2007; Letter from Richard Friedman, dated February 13, 2007 (''R. Friedman Letter''); Letter from Ronald F. Grossman, dated February 13, 2007 (''Grossman Letter''); Kessler Letter, *supra* note 40; Letter from Robert T. O'Brien to Nancy M. Morris, Secretary, Commission, dated February 13, 2007; O'Bryan Letter, *supra* note 40; Shuff Letter, *supra* note 41; Todebush Letter, *supra* note 41; Letter from Arthur Arenson to Nancy M. Morris, Secretary, Commission, dated February 14, 2007; Letter from Michael Floodstrand to Nancy M. Morris, Secretary, Commission, dated February 14, 2007 (''Floodstrand Letter''); Hellman Letter, *supra* note 40; Letter from Pat Hillegass, dated February 14, 2007; Letter from Michael D. Morelli to Nancy M. Morris, Secretary, Commission, dated February 14, 2007 (''Morelli Letter''); Letter from Ira S. Nathan, dated February 14, 2007 (''Nathan Letter''); Letter from Glenn Beckert, dated February 15, 2007 (''Beckert Letter''); Letter from John V. Grimes, dated February 15, 2007 (''Grimes Letter''); Mitzenmacher Letter, *supra* note 40; Letter from Thomas E. Nelson to Nancy M. Morris, Secretary, Commission, dated February 15, 2007 (''Nelson Letter''); Letter from Young Chun, dated February 16, 2007 (''Chun Letter''); N. Friedman Letter, *supra* note 41; McMurray Letter, *supra* note 40; Reif Letter, *supra* note 40; Letter from Howard Tasner, dated February 16, 2007; Letter from Kelly A. Caloia to Nancy M. Morris, Secretary, Commission, dated February 18, 2007; Letter from Mark Feierberg, dated February 18, 2007 (''Feierberg Letter''); Letter from J. Patrick Hennessy to Nancy M. Morris, Secretary, Commission, dated February 18, 2007; Letter from Alan Matthew to Nancy M. Morris, Secretary, Commission, dated February 18, 2007; Letter from Nicholas M. McBride to Nancy M. Morris, Secretary, Commission, dated February 18, 2007; Letter from Richard H. Woodruff to Nancy M. Morris, Secretary, Commission, dated February 18, 2007 (''Woodruff Letter''); C. Cox Letter, *supra* note 40; Crilly Letter 1, *supra* note 40; Komo Letter, *supra* note 40; T.M. Myron Letter, *supra* note 40; Letter from Patrick H. Arbor to Nancy M. Morris, Secretary, Commission, dated February 20, 2007 (''Arbor Letter''); Letter from John T. Brennan, dated February 20, 2007; Letter from Karl G. Estes to Nancy M. Morris, Secretary, Commission, dated February 20, 2007 (''Estes Letter''); Johnson Letter, *supra* note 41; Letter from Patrick A. Walsh, dated February 20, 2007 (''Walsh Letter''); Jaman Letter, *supra* note 40; Letter from Ronald G. Lindenberg to Nancy M. Morris, Secretary, Commission, dated February 21, 2007; McGreevy Letter, *supra* note 40; Baby Letter, *supra* note 40; Sheehan Letter, *supra* note 41; Letter from Bryan Cournoyer to Nancy M. Morris, Secretary, Commission, submitted February 24, 2007 (''B. Cournoyer Letter''); S. Cournoyer Letter, *supra* note 40; Goodman Letter, *supra* note 40; Northey Letter, *supra* note 41; Letter from Joyce Selander, submitted February 24, 2007; Chubin Letter, *supra* note 40; Letter from Neil Esterman, dated February 25, 2007 (''Esterman Letter''); Letter from Terry Myron, dated February 25, 2007; Letter from Martin Flaherty, dated February 25, 2007; Levin Letter, *supra* note 40; Letter from John F. McKerr, Celtic Brokerage, Inc., to Nancy M. Morris, Secretary, Commission, dated February 25, 2007 (''McKerr Letter''); Griffin Letter, *supra* note 40; Krumpfes Letter, *supra* note 40; Neubauer Letter, *supra* note 40; Letter from Sondra Brewer Pfeffer to Nancy M. Morris, Secretary, Commission, dated February 26, 2007; Bianchi Letter, *supra* note 40; Terman Letter, *supra* note 40; Letter from Judy Anne Parrish, dated February 27, 2007 (''Parrish Letter''); Letter from James Ryan, dated February 27, 2007; Letter from Rose G. Schneider, dated February 27, 2007 (''Schneider Letter''); Letter from Michael J. Crilly to Nancy M. Morris, Secretary, Commission, dated August 17, 2007 (''Crilly Letter 2''); Letter from Gary V. Sagui, Templar Securities LLC, to Nancy M. Morris, Secretary, Commission, dated August 20, 2007; and Letter from Paul L. Richards to Bill Brodsky, Chairman, CBOE, dated August 31, 2007.

[43] *See* Dorf Letter, *supra* note 41; Goldberg Letter, *supra* note 40; Mendelson Letter, *supra* note 40; Rich Letter, *supra* note 42; Simms Letter, *supra* note 40; R. Friedman, Letter, *supra* note 42; Grossman Letter, *supra* note 42; Floodstrand Letter, *supra* note 42; Nathan Letter, *supra* note 42; Beckert Letter, *supra* note 42; Grimes Letter, *supra* note 42; Nelson Letter, *supra* note 42; Letter from Erskine S. Adam, Jr. to Nancy M. Morris, Secretary, Commission, dated February 16, 2007; Chun Letter, *supra* note 42; Letter from Angelo Dangles, dated February 18, 2007; Feierberg Letter, *supra* note 42; Woodruff Letter, *supra* note 42; C. Cox Letter, *supra* note 40; Crilly Letter 1, *supra* note 40; Komo Letter, *supra* note 40; Arbor Letter, *supra* note 42; Ellis Letter, *supra* note 41; Estes Letter, *supra* note 42; Letter from Jay Homan, dated February 20, 2007; Walsh Letter, *supra* note 42; Cashman letter, *supra* note 40; McGreevy Letter, *supra* note 40; Stone Letter 1 and 2, *supra* note 41; Baby Letter, *supra* note 40; Richards Letter 2, *supra* note 40; Levin Letter, *supra* note 40; Letter from Robert M. Geldermann, dated February 26, 2007; Letter from Stephen R. Geldermann, dated February 26, 2007; Neubauer Letter, *supra* note 40; Parrish Letter, *supra* note 42; Schneider Letter, *supra* note 42; and Letter from Nancy Williams, dated February 27, 2007 (''Williams Letter'').

Some commenters noted that the right to exercise to trade on the CBOE was priced into their CBOT memberships when they initially purchased them. *See* Rothman Letter, *supra* note 42; Goldberg Letter, *supra* note 40; Gross Letter, *supra* note 42; Williams Letter; Cassidy Letter, *supra* note 41; Johnson Letter, *supra* note 41; Walsh Letter, *supra* note 42; Letter from Robert Berry, dated February 21, 2007; Cashman Letter, *supra* note 40; Jaman Letter, *supra* note 40; McGreevy Letter, *supra* note 40; B. Cournoyer Letter, *supra* note 42; Chubin Letter, *supra* note 40; C. Cox Letter, *supra* note 40; Terman Letter, *supra* note 40; and Richards Letter 2, *supra* note 40. *Cf.* Hardy Letter, *supra* note 36 (noting that at some points in time a CBOE membership cost more than a CBOT membership, thus undercutting the argument that the CBOT membership reflected a premium for its attendant CBOE access right).

One commenter, a self-described founding member of CBOE, argued that the documents presented to the CBOT board of directors at the meeting where it decided to spin-off the CBOE do not mention equity rights to be retained in CBOE by CBOT members; rather, access rights, liquidation rights in CBOE in case of failure, and how to get back the initial investment of $750,000 were the main topics of discussion. *See* Blum Letter, *supra* note 36. The commenter notes that the $750,000 was eventually repaid to CBOT. *See also* Hardy Letter, *supra* note 36 (also noting that the $750,000 was repaid). One commenter argued that CBOT could have given each of its members a free seat on the CBOE if an equity position was desired, but instead they chose to grant access through the Exercise Right. *See* Hardy Letter, *supra* note 36.

[44] *See* 15 U.S.C. 78s(b)(1).

[45] *See infra* note 70 and accompanying text.

[46] *See* 15 U.S.C. 78s(b)(2). Section 19(b) of the Exchange Act requires the Commission to approve

Continued

Commission cannot so find, it must disapprove the rule proposal.[47] The Exchange Act requirements for Commission action are not conditioned upon the absence of issues arising under other federal or state laws.

The Commission considers proposed rule changes in accordance with the requirements applicable to national securities exchanges under Section 6 of the Exchange Act. In addition, because Section 6(b)(1) of the Exchange Act requires exchanges to enforce compliance by its members and persons associated with its members with the provisions of the Exchange Act, the Commission considers whether proposed rule changes are consistent with all other Exchange Act provisions and Commission rules adopted thereunder. Further, Sections 6(b)(1) and 19(g)(1) of the Exchange Act[48] require exchanges to comply with their own rules; as noted below, those rules are defined by the Exchange Act to include the exchange's certificate of incorporation and its bylaws.[49] Thus, the Commission cannot approve a proposed rule change if the exchange has failed to complete all action required under, or to comply with, its own certificate of incorporation or bylaws.

With respect to CBOE's proposal, the Commission has carefully reviewed the proposed rule change, all comment letters and attachments thereto, and the CBOE's response to the comment letters, and finds that, as a matter of federal law, the proposed rule change is consistent with the requirements of the Exchange Act, in particular Section 6 of the Exchange Act[50] and the rules and regulations applicable to a national securities exchange.[51]

In particular, the Commission finds that the proposed rule change is consistent with: (1) Section 6(b)(1) of the Exchange Act,[52] which requires the Exchange to be organized and have the capacity to comply, and to enforce compliance by its members and persons associated with its members, with, among other things, the rules of the Exchange; (2) Section 6(b)(5) of the Exchange Act,[53] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and not be unfairly discriminatory; (3) Section 6(b)(8) of the Exchange Act,[54] which requires that the rules of the Exchange not impose any burden on competition that is not necessary or appropriate in the furtherance of the purposes of the Exchange Act; (4) Section 6(c)(3)(A) of the Exchange Act,[55] which permits, among other things, an exchange to examine and verify the qualifications of an applicant to become a member, in accordance with the procedures established by exchange rules; and (5) Section 6(c)(4) of the Exchange Act,[56] which prohibits the Exchange from decreasing the number of memberships below the number of memberships in effect on May 1, 1975.[57] The Commission also finds that the proposed rule change complied with the requirements of Section 19(b) of the Exchange Act,[58] was complete and properly filed, and provided all of the requisite information specified in Form 19b–4.[59]

While we make these findings under the Exchange Act based on the record now before us, we discuss below possible reactions by the CBOE or the Commission to the eventual decision in a lawsuit now pending in Delaware state court. Depending upon that outcome, it may be appropriate for CBOE and the Commission to take further actions in light of the state court's findings and to assess whether they affect CBOE's compliance with the federal securities laws.[60]

A. The Commission Has Jurisdiction To Consider the CBOE's Proposed Rule Change

Various commenters challenged the Commission's jurisdiction over the CBOE's proposed rule change, arguing that the Commission should not consider or approve the CBOE's proposal because the filing implicates a contractual dispute arising under state law and therefore is subject to the jurisdiction of a state court.[61] In particular, CBOT notes that the proposed rule change relates to a pending dispute in the Delaware court involving matters that are governed by state law, including the interpretation of private contracts between CBOE and CBOT involving a property right and claims regarding the proper exercise of authority and fiduciary obligations on the part of CBOE's Board of Directors.[62] CBOT expressed its view that the Commission's authority to consider the proposed rule change under the federal securities laws does not preempt the authority of the state court to determine whether the CBOE's actions comported with state corporate, fiduciary, and contract law.[63]

Accordingly, CBOT and certain commenters have asked the Commission to either disapprove the proposal or defer consideration of the proposed rule change until after the Delaware court has adjudicated the state law issues.[64] CBOT suggests that, since the state court's decision may inform the Commission's resolution of the proposed rule change, it may be more efficient for the Commission to defer its consideration of the proposal until after the Delaware litigation is resolved.[65] For

a proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved ''[w]ithin thirty-five days of the date of publication of notice of the filing of a proposed rule change * * * or within such longer period as the Commission may designate up to ninety days of such date * * * or as to which the self-regulatory organization consents.'' *Id.* The CBOE consented to an extension of time for the Commission to consider its filing. *See* Item 6 of Amendment No. 1 to CBOE's Form 19b–4 filing, dated January 17, 2007.

[47] *See* 15 U.S.C. 78s(b)(2).

[48] 15 U.S.C. 78f(b)(1) and 15 U.S.C. 78s(g)(1), respectively.

[49] *See infra* note 70 and accompanying text.

[50] 15 U.S.C. 78f(b).

[51] In approving this rule, the Commission has considered the impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[52] *See* 15 U.S.C. 78f(b)(1).

[53] *See* 15 U.S.C. 78f(b)(5).

[54] *See* 15 U.S.C. 78f(b)(8).

[55] *See* 15 U.S.C. 78f(c)(3)(A).

[56] *See* 15 U.S.C. 78f(c)(4).

[57] *See infra* Section IV.C. (discussing the Commission's findings in greater detail).

[58] 15 U.S.C. 78s(b).

[59] *See infra* Section IV.C.2 (discussing the completeness of CBOE's proposed rule change on Form 19b–4).

[60] *See infra* note 115.

[61] *See* Comment Letters cited in note 40, *supra* (questioning the Commission's jurisdiction over the proposed rule change).

[62] *See* Mayer Brown Letter 3, *supra* note 37, at 6. Specifically, CBOT argues that CBOE's Board of Directors violated its fiduciary duty towards Exerciser Members and violated prior contractual agreements between the CBOE and CBOT by submitting a proposal that has the effect of not affording Exerciser Members equal treatment in the anticipated CBOE demutualization. *See id.* at 9–10.

[63] *See id.* at 11.

[64] *See* Gardner Letter, *supra* note 37, at 2; Mayer Brown Letter 1, *supra* note 37, at 1, 3–4; Mayer Brown Letter 2, *supra* note 37, at 1; Mayer Brown Letter 3, *supra* note 37, at 6–7, 10–11; Mayer Brown Letter 6, *supra* note 37, at 1–2. According to CBOT, the central question in the Delaware litigation—the status of the Exercise Right in light of CBOE's proposed demutualization and the acquisition of CBOT by CME Holdings—is fundamentally a state law question because it concerns an interpretation of the CBOE Certificate of Incorporation, which is treated as a contract under Delaware law. *See* Mayer Brown Letter 3, *supra* note 37, at 10.

See also, e.g., Kessler Letter, *supra* note 40; Reed Letter, *supra* note 40; Cashman Letter, *supra* note 40; McKerr Letter, *supra* note 42; and Letter from Marshall Spiegel, dated March 19, 2007 (all requesting that the Commission wait for the Delaware court to rule before acting on the CBOE's proposal). One commenter urged the Commission to wait until the Delaware court decides the issue on the basis that if the Delaware court finds bad faith on the part of the CBOE Board under state law, then the proposed rule change will have been improperly filed. *See* Ungaretti Letter, *supra* note 39, at 5–6.

[65] *See* Mayer Brown Letter 1, *supra* note 37, at 3–4. CBOT notes that, although the Commission has jurisdiction to review proposed rule changes to ensure that they are consistent with the Exchange

similar reasons, CBOT claims that the proposed rule change is not a proper subject of SRO rulemaking because it does not implicate issues under the federal securities laws.[66]

The Commission believes the proposed rule change is a proper subject of SRO rulemaking and implicates issues under the federal securities laws. While the proposed rule change may relate to issues that are implicated in a lawsuit pending in Delaware court, it is also a proposal by a self-regulatory organization (''SRO'') to interpret its rules. Section 19(b)(1) of the Exchange Act[67] *requires* CBOE to file with the Commission any proposed changes to, or interpretations of, its rules. Accordingly, the Exchange Act unambiguously places CBOE's proposal firmly within the Commission's authority and responsibility. Furthermore, the Commission is obligated to consider CBOE's proposal, as the Exchange Act does not give the Commission authority to defer consideration of a proposed rule change that has been properly filed.[68]

As a federal law matter, Congress has given the Commission jurisdiction over SROs and has required ''[e]ach self-regulatory organization [to] file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any proposed rule or any proposed change in, addition to, or deletion from the rules of such self-regulatory organization * * *.''[69] The ''rules of a self-regulatory organization'' include, among other things, ''the constitution, articles of incorporation, bylaws, and rules, or instruments corresponding to the foregoing, of an exchange * * * [and] the stated policies, practices, and interpretations of such exchange * * *.''[70] Rule 19b–4(b) under the Exchange Act defines the term ''stated policy, practice, or interpretation'' broadly to include:

(1) Any statement made generally available to the membership of the SRO, or to a group or category of persons having or seeking access to facilities of the SRO, that establishes or changes any standard, limit, or guideline with respect to the rights, obligations, or privileges of such persons, or

(2) the meaning, administration, or enforcement of an existing SRO rule.[71]

Accordingly, because the CBOE's Certificate of Incorporation and the CBOE's interpretation thereof constitute ''rules'' of the Exchange, the Exchange Act clearly establishes that CBOE's proposed rule change, an interpretation of Article Fifth(b) of its Certificate of Incorporation, was the proper subject of a rule filing under Section 19(b)(1) of the Exchange Act. Indeed, Section 19(b)(1) of the Exchange Act[72] requires CBOE to file with the Commission any proposed changes to, or interpretations of, its Certificate of Incorporation.

In compliance with Section 19(b)(1), CBOE filed its proposed interpretation of its Certificate of Incorporation with the Commission on December 12, 2006. Once CBOE filed this proposed rule change, Section 19(b)(2) of the Exchange Act[73] required the Commission to publish notice of the proposed rule change and either approve it or institute proceedings to determine whether the proposed rule change should be disapproved.[74] Accordingly, the Commission has the obligation under the Exchange Act to consider and affirmatively dispose, by either approving or disapproving, of the CBOE's proposal. The existence of a contractual dispute arising under state law subject to pending litigation in state court does not in any way displace or supplant the Commission's jurisdiction to consider a proposed rule change submitted by an SRO.[75]

Moreover, Article Fifth(b), which entitles ''members of [the CBOT]'' to be members of the CBOE, implicates several important Exchange Act issues. First, by its terms, this provision of the CBOE's Certificate of Incorporation relates to membership on the Exchange. The Exchange Act clearly establishes the Commission's oversight responsibility with regard to matters of exchange membership,[76] which includes access to trading on the exchange. For example, Section 6(b)(2) of the Exchange Act requires that ''[s]ubject to the provisions of subsection (c) * * *, the rules of the exchange provide that any registered broker or dealer or natural person associated with a broker or dealer may become a member of such exchange * * *.''[77] Section 6(c) of the Exchange Act further specifies when a national securities exchange may deny membership to, or condition the membership of, a registered broker or dealer.[78] An exchange's rules are also required, among other things, to provide a fair procedure for the denial of membership to any person seeking membership and the prohibition or limitation by the exchange of any person's access to services offered by the exchange.[79] Further, the Commission has authority under Sections 19(d) and (f) of the Exchange Act to, among other things, review denials of membership by a national securities exchange.[80]

Second, the Exchange Act manifests a strong federal interest in the governance of national securities exchanges.[81]

Act, the Commission previously has indicated that it does not interpret state law to determine whether a rule change is also consistent with state laws. *See* Mayer Brown Letter 1, *supra* note 37, at 3; Mayer Brown Letter 5, *supra* note 37, at 5–6.

[66] *See, e.g.*, Mayer Brown Letter 5, *supra* note 37, at 5 (''In sum, this controversy, and the Proposed Rule Change, have nothing to do with 'membership issues', and everything to do with the ownership issues before the Delaware court.''); Mayer Brown Letter 2, *supra* note 37, at 1 (''The Proposed Rule Change has no legitimate securities regulatory or self-regulatory purpose.''); and Mayer Brown Letter 3, *supra* note 37, at 6–7.

[67] 15 U.S.C. 78s(b)(1).

[68] The Commission notes that the pending lawsuit has been stayed pending Commission action on this proposed rule change. *See CBOT Holdings, Inc. et al.* v. *Chicago Board Options Exchange Inc., et al.*, Memorandum of Opinion, decided August 3, 2007 (Del. Ch.) (''Memorandum of Opinion''); *see also* Letter Opinion, dated October 10, 2007 (denying Plaintiffs' Motion to Lift Stay to Allow for Filing of a Third Amended Complaint and the Commencement of Discovery).

[69] 15 U.S.C. 78s(b)(1).

[70] *See* Sections 3(a)(27) and 3(a)(28) of the Exchange Act; 15 U.S.C. 77c(a)(27) and (28).

[71] *See* 17 CFR 240.19b–4(b).

[72] 15 U.S.C. 78s(b)(1).

[73] 15 U.S.C. 78s(b)(2).

[74] The CBOE consented to an extension of time for the Commission to consider its filing. *See* Item 6 of Amendment No. 1 to CBOE's Form 19b–4 filing, dated January 17, 2007.

[75] CBOE asserts that the proposed rule change was not an attempt to undercut the Delaware court's authority to resolve the litigation initiated by the CBOT and the putative class, because, at the time the proposed rule change was filed, the Delaware litigation dealt only with the valuation issues arising from the CBOE demutualization, whereas the proposed rule change addresses the impact of the change in the CBOT corporate structure on the eligibility to be, and remain, an Exercise Member. *See* Schiff Hardin Letter 1, *supra* note 36, at 2; and CBOE Response to Comments, *supra* note 4, at 17–18.

[76] CBOE notes that state courts have previously recognized the Commission's exclusive authority over membership rules and membership decisions, including CBOE's interpretations of Article Fifth(b), and have noted that the Commission's authority preempts direct judicial consideration of exchange membership issues. *See* CBOE Response to Comments, *supra* note 4, at 6–8; Schiff Hardin Letter 1, *supra* note 36, at 5–6. CBOE opined that the preeminence of federal law with respect to membership issues is critical to avoid having inconsistent standards imposed on exchanges by competing judicial authorities, which CBOE believes would undermine the federal regulatory scheme. *See* CBOE Response to Comments, *supra* note 4, at 8–10.

[77] 15 U.S.C. 78f(b)(2).

[78] *See* 15 U.S.C. 78f(c).

[79] *See* 15 U.S.C. 78f(b)(6).

[80] *See* 15 U.S.C. 78s(d) and (f), respectively.

[81] *See, e.g.*, Securities Exchange Act Release No. 48946 (December 17, 2003), 68 FR 74678 (December 24, 2003) (SR–NYSE–2003–34) (approving NYSE's governance proposal to establish a new board of directors composed wholly of independent directors; an advisory board of executives that would be representative of the exchange's various constituencies; independent board committees with specific oversight authority for compensation, audit

Continued

Section 6(b)(3) of the Exchange Act requires the rules of the exchange to assure ''a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall * * * not be associated with a member of the exchange, broker, or dealer.'' [82] By giving members a voice in the governance of an SRO, this requirement ''serves to ensure that an exchange is administered in a way that is equitable to all market members and participants,'' [83] and helps to preserve the integrity of an exchange's self-regulatory functions. Effective governance of an exchange is also important to an exchange's ability to satisfy the requirement under Section 6(b)(1) of the Exchange Act that an exchange be organized and have the capacity to carry out the purposes of the Exchange Act and to comply and enforce compliance with the Exchange Act, the rules and regulations thereunder, and exchange rules.[84]

The CBOE's interpretation of Article Fifth(b) affects who is entitled to be a member of the CBOE. Because of the role that CBOE members have in the governance of the Exchange, including the election of the CBOE Board of Directors,[85] the Commission has an interest in who is entitled to be a member of the Exchange, because it affects how the Exchange is governed and how it fulfills its regulatory responsibilities consistent with Section 6(b) of the Exchange Act.

B. Compliance With Its Own Rules

National securities exchanges are required under Sections 6(b)(1) and 19(g)(1) of the Exchange Act to comply with their own rules.[86] In this case, commenters and the CBOT present two questions of the CBOE's compliance with its rules, which are (1) whether the CBOE should have treated the rule as an amendment instead of an interpretation and (2) whether the Board of Directors of the CBOE breached duties under state law when approving the proposed rule. We begin with a discussion of the way the Commission evaluates arguments such as these in the course of reviewing a proposed SRO rule and then turn to the two specific issues the CBOT and commenters present.

Both of the issues concerning the CBOE's compliance with its own rules raise state law questions. Typically, the Commission does not consider matters outside the scope of the federal securities laws, except to the extent that consideration of a matter of state law is necessary to inform a Commission finding on a federal matter arising under the Exchange Act. Generally, the analysis of whether an SRO has complied with its own rules is straightforward and does not require consideration of disputed areas of state law. For instance, the question might involve whether an SRO complied with requirements relating to a particular time period or some other readily ascertainable procedural step. In those cases, the Commission has a straightforward task in determining whether the SRO complied with its own rules. Other cases, however, might present a more nuanced question of compliance that turns on a difficult or novel issue of state law. In those cases, the Commission generally looks for expert guidance and reaches a decision based on the submissions and sufficiency of the basis of the action of the SRO. However, the Commission is not the final arbiter on questions of state law. If an authoritative decision by a court reaches a conclusion about the relevant state law in a dispute concerning the SRO's actions that differs from the position the Commission relied on, the Commission expects the SRO promptly to propose changes to its rules necessary to comply with the outcome of any such litigation.

In other words, when a proposed rule change raises a difficult or novel question of SRO compliance with its certificate of incorporation or bylaws, the Exchange Act requires the Commission to determine whether the SRO has so complied, even though the question of compliance turns on the interpretation and application of state law. In that situation, the Commission relies on the conclusions of experts or other authorities as to the content and application of state law.[87]

1. Interpretation vs. Amendment of Article Fifth(b)

CBOT argues that CBOE deviated from its own rules and procedures in failing to obtain the necessary vote when it ''amended'' Article Fifth(b) to eliminate the property right created therein.[88] In response, CBOE states that a vote of its membership was not necessary because the proposed rule change constituted an interpretation of, rather than an amendment to, Article Fifth(b), and thus is not subject to a vote pursuant to the terms of Article Fifth(b).[89] Based on the record before it, the Commission agrees with CBOE.

The proposal interprets who qualifies as a ''member of [the CBOT]'' under Article Fifth(b) in light of circumstances external to the proposed rule change (*i.e.*, CBOT's decision to be acquired by CME Holdings). CBOT argues that the proposed rule change is an unreasonable interpretation [90] that violates CBOE's Certificate of Incorporation and breaches the 1992 Agreement because it is based on the faulty premise that, following the acquisition by CME Holdings, former CBOT members will no longer be ''members'' within the meaning of Article Fifth(b).[91] Rather, CBOT asserts

functions, the nominations process and regulatory matters; and an autonomous regulatory unit that would report directly to the regulatory oversight committee).

[82] 15 U.S.C. 78f(b)(3). The Exchange Act requires that at least one director be representative of issuers and investors because of the public's interest in ensuring the fairness and stability of significant markets. *See id.*

[83] Securities Exchange Act Release No. 40760 (December 8, 1998), 63 FR 70844, 70882 (December 22, 1998) (S7–12–98).

[84] *See, e.g.*, Securities Exchange Act Release No. 21439 (October 31, 1984), 49 FR 44577 (November 7, 1984) (SR–CBOE–84–15 and SR–CBOE–84–16). This order instituted proceedings to disapprove two CBOE proposals to change certain of its rules related to governance. The first proposal would have increased the number of floor directors on the Board of Directors. The Commission subsequently disapproved this proposal because it could not find that it was consistent with the Act, particularly Sections 6(b)(1), 6(b)(3), and 6(b)(5). *See* Securities Exchange Act Release No. 22058 (May 21, 1985), 50 FR 23090 (May 30, 1985) (SR–CBOE–84–15 and SR–CBOE–84–16). The second proposal provided that, in the event there is more than one candidate for Chairman of the CBOE Executive Committee, the Chairman would be elected by a plurality of CBOE members voting at an annual meeting of the membership. This proposal was later approved. *See id.*

[85] *See* CBOE Constitution, Section 6.1.

[86] 15 U.S.C. 78f(b)(1) and 78s(g)(1).

[87] *Cf.* Fed. R. Civ. P. 44.1 (in determining foreign law, a court may consider any relevant material or source).

[88] *See* Mayer Brown Letter 3, *supra* note 37, at 26 and 33. CBOT notes that the terms of Article Fifth(b) require an 80% class vote to amend that provision. *See id.* at 26.

[89] *See* CBOE Response to Comments, *supra* note 4, at 19–20 and 22–23.

[90] One commenter criticizes the CBOE's proposal on the basis that it ignores the CBOT's ''reasonable alternative interpretation.'' *See* Ungaretti Letter, *supra* note 39, at 9. The Commission, however, is not required to find that the interpretation proposed is the most reasonable, but only that the one proposed is consistent with the Exchange Act.

[91] *See* Mayer Brown Letter 3, *supra* note 37, at 34. CBOT also notes CBOE's (now expired) arrangement with the Intercontinental Exchange (''ICE'') when ICE was attempting to acquire the CBOT in which ICE and CBOE would have paid $665.5 million to compensate, in part, for the loss of the Exercise Right. *See* Mayer Brown Letter 5, *supra* note 37, at 2. CBOT believes that this arrangement undercut CBOE's claim that after the acquisition by CME Holdings, the Exercise Right will have no value and the rights of Eligible CBOT Full Members will be extinguished. *See id.* The Commission disagrees. An offer of settlement in which compensation is to be paid does not necessarily suggest that the underlying matter in dispute has any particular validity or value. An offer to settle a disputed matter has value it its own right, for example the savings associated with the

that its former members continue to qualify as ''CBOT Full Members'' and continue to have all the same trading rights they had in the past.[92] In addition, CBOT argues that the provisions in the 1992 Agreement regarding the effect of a potential merger involving CBOT do not adversely affect the continued availability of the Exercise Right in this case.[93] CBOT believes that members of CBOT after the acquisition continue to hold sufficient indicia of CBOT membership to qualify for CBOE membership under Article Fifth(b).[94]

In particular, CBOT points out that the CBOT itself did not merge with any entity and will survive the transaction with CME Holdings.[95] CBOT affirms that the acquisition by CME Holdings is ''precisely the kind of transaction that CBOE has already agreed would have no effect on the Exercise Right under the 1992 Agreement.'' [96] CBOT asserts that as part of its 2005 restructuring it split full memberships into three components: The Exercise Right Privilege, a Series B–1 membership, and stock in CBOT Holdings, and possession of all three components qualifies a person as an ''Eligible CBOT Full Member'' within the meaning of the 1992 Agreement (therefore qualifying such person for the Exercise Right).[97] CBOT argues that the Exercise Right should survive because the only change after the acquisition by CME Holdings is that ''the 27,338 shares of Class A common stock of CBOT Holdings that Exercise Right holders held before the merger was consummated will be converted into 8,217.80 shares of CME Holdings Class A common stock.'' [98]

In response, CBOE argues that the concept of a CBOT ''member'' was eliminated by the acquisition of CBOT, and the only reason persons had continued to qualify as ''members'' of CBOT for purposes of Article Fifth(b) after CBOT's restructuring is because under the 2001 Agreement, CBOE interpreted Article Fifth(b) so that persons would qualify as ''members'' of CBOT if they held all of three specified interests in CBOT and CBOT Holdings following CBOT's restructuring.[99] CBOE points out that Article Fifth(b) was designed to recognize contributions made by CBOT members in their capacities as owners, and so an ownership stake in CBOT is essential to the definition of ''member.'' [100] However, after the CME/CBOT transaction, the concept of CBOT ''members'' as originally contemplated in Article Fifth(b) no longer exists because CBOT is now owned by CME Holdings.[101] Similarly, after the acquisition, persons who were former members of the CBOT only hold trading permits and no longer possess any of the other rights commonly associated with membership in an exchange.[102] In particular, according to CBOE, a former CBOT member no longer has a right to elect directors, the right to nominate candidates for director, or the right to amend or repeal the bylaws of CBOT.[103] In addition, CBOE notes that one of the conditions in the 1992 Agreement for Exercise Rights to continue after an acquisition is that ''the survivor'' entity of any merger be an exchange, a condition that is no longer satisfied since the survivor of the transaction is not an exchange, but rather a holding company.[104] CBOE states that ownership of shares of CME Holdings is not enough to support Exercise Right eligibility because the interpretation of Article Fifth(b) embodied in the 2001 Agreement was that ''persons remain 'members' of CBOT only if they continue to hold all of three specified interests in CBOT and CBOT Holdings following the 2005 demutualization of CBOT—namely, one Class B, Series B–1 membership in CBOT, one [Exercise Right Privilege] and 27,338 shares of Class A stock of CBOT Holdings.'' [105] However, as CBOE notes, after CBOT is acquired by CME Holdings, ''there no longer will be any persons who could hold all three of these interests—because CBOT Holdings Class A stock will cease to exist and instead will be converted into either cash or shares of CME Holdings.'' [106] Further, CBOE notes that the 2001 Agreement states that the provisions applicable to the Exercise Right would continue to apply only ''in the absence of any other material changes to the structure or ownership of the CBOT * * * not contemplated in the CBOT [restructuring].'' [107]

Additionally, in response to the assertion that issues raised in the proposed rule change are governed by state contract law, CBOE responds that the 1992 Agreement was not a contract in which new rights were created, but was rather an interpretation serving to clarify the term ''Exercise Member'' and what is required to qualify as such.[108] Specifically, according to CBOE, any contractual grant of exercise rights that added or detracted from those afforded by Article Fifth(b) would have represented an amendment of Article Fifth(b), which under its own terms would have required an affirmative vote of at least 80% of Exercise Members and CBOE Seat Owners, voting as separate groups.[109] Thus, CBOE concludes that, since no vote was taken, the 1992 Agreement cannot be construed as a contractual source of new exercise rights, and, at most, must be construed to be a mutually shared interpretation of Article Fifth(b).

The Commission believes that the record provides a sufficient basis on which the Commission can find that the CBOE complied with its own Certificate of Incorporation in determining that the proposed rule change is an interpretation of, not an amendment to, Article Fifth(b).[110] After considering the materials on this issue submitted by both the CBOE and CBOT, the Commission is persuaded by CBOE's analysis of the difference between ''interpretations'' and ''amendments.'' In particular, the Commission notes that the CBOT's letter of counsel was based on an error of fact with respect to the composition of the CBOE Board at the time of the interpretation of Article Fifth(b), and, in fact, the CBOE's Board of Directors was composed of a majority of disinterested public directors at the time. This issue is discussed below.[111]

In approving this proposal, the Commission is relying on the CBOE's representation that its approach is

avoidance of protracted legal proceedings and the ability to bring a dispute to a final conclusion.

[92] *See* Mayer Brown Letter 3, *supra* note 37, at 34–36.

[93] *See id.*

[94] *See id.* at 37.

[95] *See id.* at 35. Rather, CBOT Holdings (of which CBOT is a subsidiary) was acquired by CME Holdings.

[96] *See id.*

[97] *See id.* at 36.

[98] *See id.* at 34.

[99] *See* CBOE Response to Comments, *supra* note 4, at 26 and 29. The Commission notes that there is support for this position in the Memorandum of Opinion: ''The CBOE agreed, albeit with some reluctance, that the restructuring of the CBOT into CBOT Holdings would not render the Exercise Right inapplicable, a circumstance that would likely have been the case if a provision under the parties' agreement in 1992 had been strictly interpreted.'' Memorandum of Opinion, *supra* note 68, at 3.

[100] *See* CBOE Response to Comments, *supra* note 4, at 26–27.

[101] *See id.* at 26.

[102] *See id.* at 28.

[103] *See id.*

[104] *See id.*

[105] *Id.* at 29.

[106] CBOE Response to Comments, *supra* note 4, at 29.

[107] *Id.* at 27.

[108] *See id.* at 13–15.

[109] *See id.*

[110] *See* 15 U.S.C. 78f(b)(1).

[111] *See infra* note 120 (citing to CBOT's opinion letter from Frederick H. Alexander, Morris, Nichols, Arsht & Tunnell LLP, to Erik R. Sirri and Elizabeth K. King, Division of Market Regulation, Commission, dated August 20, 2007) and note 124 (citing to CBOE's opinion letter from Michael D. Allen, Richards, Layton & Finger, to Nancy M. Morris, Secretary, Commission, dated August 31, 2007).

appropriate under Delaware state law. The Commission is also relying on CBOE's letter of counsel that concludes that the Board's interpretation of Article Fifth(b) does not constitute an amendment to the CBOE's Certificate of Incorporation and that it is within the general authority of the CBOE's Board of Directors to interpret Article Fifth(b) when questions arise as to its application under certain circumstances, so long as the interpretation adopted by the Exchange's Board of Directors is made in good faith, consistent with the terms of the governing documents themselves, and not for inequitable purposes.[112] Without opining on the merits of any claims arising solely under state law, the Commission finds that CBOE has articulated a sufficient basis to support its proposed rule change and for the foregoing reasons finds that it is consistent with the Exchange Act.

Further, the Commission agrees that the actions of the CBOT necessitated CBOE's interpretation of Article Fifth(b) to clarify whether the substantive rights of a former CBOT member would continue to qualify that person as a ''member of [the CBOT]'' pursuant to Article Fifth(b) in response to changes in the ownership of the CBOT.[113] While CBOE could have interpreted Article Fifth(b) in any number of ways following that transaction, its proposed interpretation is one that the Commission may find, and herein has found, to be consistent with the Exchange Act. In particular, the Commission finds that CBOE's proposed interpretation is consistent with Section 6(b)(5) of the Exchange Act, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, because the proposal interprets CBOE's rules fairly and reasonably with respect to eligibility for the Exercise Right following the acquisition of CBOT by CME Holdings.[114]

Except to the extent necessary to make these findings under the Exchange Act, the Commission is not purporting to decide a question of state law. Rather, the Commission's approval of the CBOE's proposal under federal law leaves undisturbed any aspects arising solely under state law for the consideration and disposition by the competent state authorities. The currently pending Delaware state court action may result in authoritative decisions on some of the issues we have addressed and could make some of the conclusions reached here infirm. If that occurs, the Commission expects CBOE to propose appropriate amendments to its rules. Should CBOE fail to take the required steps, the Commission has the authority to act.[115]

2. Independence of CBOE Directors Voting on the Matter

When filing a proposed rule change with the Commission, an SRO is required to state that the proposal was validly approved pursuant to the SRO's governing documents.[116] If the CBOE Board's action in approving the proposal for filing with the Commission was invalid, the consequence would be that the CBOE's proposal would not satisfy the Exchange Act requirements, specified in Form 19b–4, regarding the necessity of valid approval by the SRO's governing body to authorize the filing of the proposal with the Commission.

CBOT argues that the proposal was approved by a conflicted board of directors that had a financial interest in the status of the Exercise Right.[117] Further, CBOT argues that, while the CBOE Board of Directors may interpret the CBOE Certificate of Incorporation ''in good faith, consistent with the terms of [Article Fifth(b)], and not for inequitable purposes,'' [118] in this particular instance, the CBOE Board ''acted in bad faith, for inequitable purposes, inconsistently with the clear terms of the CBOE Charter, and in breach of its fiduciary duties'' and was ''dominated by members with personal financial interests in expropriating the rights of CBOT members.'' [119]

The Commission notes that the CBOT submitted an opinion of counsel opining that the CBOE Board breached its fiduciary duties in determining to extinguish the rights of Exerciser Members.[120] That opinion letter concludes that ''[a] majority of the directors serving on the CBOE Board and interpreting Article Fifth(b) are either regular members of CBOE (who stand to benefit financially from the proposed rule change) or are affiliated with, or beholden to, such regular members.'' [121] Specifically, the opinion letter notes that ''11 of the 23 members of the CBOE Board'' are regular CBOE members or affiliated with or employed by such members.[122] Together with the Chairman and CEO of CBOE, the letter opines that ''12 of CBOE's 23 Board members are not independent'' with respect to the decision on how to treat Exerciser Members.[123] The letter also criticized the CBOE Board's failure to appoint a special committee to interpret Article Fifth(b), as it had done before CBOT announced its planned acquisition, in connection with the determination regarding how to treat Exerciser Members in connection with CBOE's planned demutualization.[124]

CBOE responds to the CBOT's comment by stating that it is based on factual errors with respect to the CBOE Board's deliberations.[125] CBOE affirms that its Board of Directors followed deliberative procedures designed to ensure that the interpretation of Article Fifth(b) was considered and agreed upon by directors who did not have a

[112] *See* Second Opinion of Counsel, supra note 5, at 5. The Commission's evaluation of CBOE's interpretation of Delaware law rests solely on the materials in the record before it.

[113] *See* CBOE Response to Comments, *supra* note 4, at 24.

[114] 15 U.S.C. 78f(b)(5). *See also* Securities Exchange Act Release No. 51733 (May 24, 2005), 70 FR 30981, 30983 (May 31, 2005) (SR–CBOE–2005–19) (finding CBOE's proposal to be consistent with Section 6(b)(5) of the Exchange Act, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, because it interpreted CBOE's rules fairly and reasonably with respect to the eligibility of a CBOT full member to become a member of the CBOE following the CBOT's restructuring).

[115] *See, e.g.*, Section 19(c) of the Exchange Act; 15 U.S.C. 78s(c) (authorizing the Commission to abrogate, add to, and delete from exchange rules as necessary or appropriate to conform those rules to the requirements of the Exchange Act).

[116] *See* Item 2 of Form 19b–4 (requiring an SRO to ''[d]escribe action on the proposed rule change taken by members or board of directors. * * *'') and General Instruction E (specifying that the Commission will not approve a proposal before the SRO has completed all action required to be taken under its governing documents with respect to the submission of such proposal to the Commission).

[117] *See* Mayer Brown Letter 3, *supra* note 37, at 11.

[118] *Id.* (citing CBOE's Second Opinion of Counsel).

[119] *Id.* One commenter asserts that if the CBOT's allegations are correct that the CBOE Board of Directors lacked corporate authority in filing the proposed rule change in so much as they acted in bad faith and for inequitable purposes, then the issue of whether the proposal had the requisite corporate authority is a central question that can only be resolved by the Delaware state court. *See* Ungaretti Letter, *supra* note 39, at 7.

[120] *See* Letter from Frederick H. Alexander, Morris, Nichols, Arsht & Tunnell LLP, to Erik R. Sirri and Elizabeth K. King, Division of Market Regulation, Commission, dated August 20, 2007 (''Morris Nichols Opinion Letter'') (originally submitted as an appendix to a comment letter to File No. SR–CBOE–2007–77 from Jerrold E. Salzman, Skadden, Arps, Slate, Meagher & Flom LLP, dated August 20, 2007).

[121] *See id.* at 3–4.

[122] *See id.* at 4.

[123] *See id.*

[124] *See id.*

[125] *See* CBOE Response to Comments, *supra* note 4, at 15–23. *See also* Letter from Michael D. Allen, Richards, Layton & Finger, to Nancy M. Morris, Secretary, Commission, dated August 31, 2007 (''Richards Layton August Opinion Letter'') (originally submitted as an appendix to a comment letter to File No. SR–CBOE–2007–77 from Patrick Sexton, Associate General Counsel, CBOE, dated August 31, 2007).

personal or financial interest in the issue and who were not subject to improper influence from those who might have such an interest.[126] Specifically, according to CBOE, although interested directors were permitted to participate in the general discussion of the interpretation, the disinterested public directors' vote was conducted independently under procedures that ensured that the vote was free from any undue influence.[127]

CBOE also responded to the Morris Nichols Opinion Letter by submitting a subsequent opinion letter from its own counsel.[128] In particular, the CBOE's opinion letter states that, contrary to the Morris Nichols Opinion Letter's assertion that the CBOE Board was composed of 23 members, 12 of whom had a material interest in the interpretation, the CBOE Board in fact had a majority of disinterested directors at the time of the December 21, 2006 meeting of the CBOE's Board of Directors when the Board considered the proposed rule change.[129] Specifically, the opinion letter states that the Board was comprised of 21 members, 11 of whom had no membership interest in CBOE, possessed no right to acquire a membership interest in CBOE, and had no affiliation with an entity that owned any CBOE membership (*i.e.*, they were CBOE's ''Public Directors'').[130] The opinion letter notes that an additional director was an Exerciser Member (the ''Exerciser Director''), and therefore did not have a personal interest in favor of regular full CBOE members.[131]

In an affidavit provided by CBOE's General Counsel, CBOE affirms that at the December 21, 2006 meeting of the CBOE's Board of Directors, seven of the Public Directors were present (in person or by telephone).[132] The four Public Directors who were members of a Special Committee of the Board that previously had been convened to consider certain issues related to CBOE's planned demutualization were present at the meeting but recused themselves from the discussion and vote on the proposed interpretation.[133] In a separate meeting, all seven Public Directors voted unanimously in favor of the interpretation.[134] Following the separate meeting of the Public Directors, the entire CBOE Board met to discuss the interpretation.[135] At that time, six Industry Directors were present and voted unanimously in favor of the interpretation, one of whom was an Exerciser Member.[136] The seven Public Directors also voted in favor of the proposal.[137] The remaining three Industry Directors abstained from the vote.[138] In addition, the Chairman of the Board was present and voted for the proposal.[139]

Accordingly, the opinion letter notes that ''a majority of the members of the Board voting when the full Board considered the Exercise Right Interpretation were also Public Directors or Exerciser Directors'' and the proposed interpretation was unanimously approved by the seven voting Public Directors, who also had met and unanimously approved the proposal in closed session, as well as the one Exerciser Director and the remaining six voting directors.[140]

CBOT also asserts that the proposal is inconsistent with the requirements of Section 6(b)(3) of the Exchange Act, which requires fair representation of CBOE members in the administration of the exchange's affairs, because the fact that the proposal would eliminate the Exercise Right without compensation demonstrates *per se* that Exerciser Members were not represented in the administration of CBOE's affairs.[141] However, in response, CBOE notes that the presence of an Exerciser Member representative on CBOE's Board demonstrates that CBOE provided fair representation to Exerciser Members in satisfaction of Section 6(b)(3) of the Exchange Act.[142]

The Commission believes that the CBOE has adequately responded to these commenters' contentions, and believes, based on the record before it, that the CBOE Board's approval of the interpretation filed in this proposed rule change was proper and that the CBOE has provided a sufficient basis on which the Commission, as a federal matter under the Exchange Act, can find that the CBOE's proposed rule change was properly authorized and validly filed. In this regard, the Commission approved CBOE's rules establishing the composition of its board of directors, including the number of public directors.[143] In 2002, the Commission found that CBOE's proposal to increase the number of public directors from 8 to 11 is consistent with the requirements of Section 6(b)(5) of the Exchange Act ''because it is designed to promote just and equitable principles of trade and to protect investors and the public interest by increasing public representation on the Exchange's Board and certain committees so that the Board and those committees will be balanced between industry (member) and public directors.'' [144]

The Commission is persuaded by CBOE's letter of counsel affirming that, at the time of the CBOE Board's consideration of the Exercise Right interpretation, a majority of the CBOE Board was disinterested and independent.[145] The Commission is relying on the CBOE's representations and its letter of counsel, which conclude that a majority of the CBOE Board's directors during the consideration of the interpretation did not have a personal interest to favor the regular CBOE members, which, counsel concludes, entitles the Board to the presumption of the business judgment rule.[146]

C. Additional Concerns Expressed by the CBOT and Commenters

As stated above, the Commission herein finds that CBOE's proposed interpretation of Article Fifth(b) is consistent with the Exchange Act. In particular, the Commission would like to address CBOT's contentions that: (1) Due process was not given; (2) the proposal does not comply with the requirements of Form 19b–4; (3) the proposal unfairly discriminates among classes of CBOE members by revoking the memberships of a defined group for reasons that do not apply to all CBOE members or potential members; (4) the proposal fails to allocate fairly fees and dues by increasing the value of one

[126] *See* CBOE Response to Comments, *supra* note 4, at 19–20.

[127] *See id.* at 19–22. *See also* Richards Layton August Opinion Letter, *supra* note 125.

[128] *See* Richards Layton August Opinion Letter, *supra* note 125.

[129] *See id.* at 2.

[130] *See id.*

[131] *See id.* at 3.

[132] *See* Affidavit of Joanne Moffic-Silver, dated August 30, 2007, at 1–2 (originally submitted as an appendix to a comment letter to File No. SR–CBOE–2007–77 from Paul E. Dengel, Schiff Hardin LLP, dated August 30, 2007) (''Moffic-Silver Affidavit'').

[133] *See id.* at 2. *See also* Richards Layton August Opinion Letter, *supra* note 125, at footnote 3.

[134] *See* Moffic-Silver Affidavit, *supra* note 132, at 2.

[135] *See id.*

[136] *See id.*

[137] *See id.*

[138] *See id.*

[139] *See id.*

[140] *See* Richards Layton August Opinion Letter, *supra* note 125, at 3.

[141] *See* Mayer Brown Letter 3, *supra* note 37, at 19.

[142] *See* Richards Layton August Opinion Letter, *supra* note 125, at 2.

[143] Section 6.1(a) of CBOE's Constitution defines ''public directors'' as persons who are not members and who are not broker-dealers or persons affiliated with broker-dealers.

[144] *See* Securities Exchange Act Release No. 46718 (October 24, 2002), 67 FR 66186 (October 30, 2002) (SR–CBOE–2002–48).

[145] *See* Richards Layton August Opinion Letter, *supra* note 125, at 3.

[146] *See id.* at 2–3.

group's CBOE membership and forcing another group to purchase new memberships at an added cost; (5) the proposal does not promote free and open markets because it reduces the number of members of the CBOE and therefore negatively impacts liquidity and depth of the markets; (6) the proposal places an unnecessary burden on competition by eliminating the membership rights of current Exerciser Members and eligible Exercise Members and thus reduces the number of people who are able to trade on the Exchange; and (7) that the proposal is inconsistent with Section 6(c)(4) of the Exchange Act.[147] The CBOT also argues that the proposal is an unreasonable interpretation and breach of contract under state law.[148] Each of these points is addressed in turn, below.

1. Due Process and Sufficiency of Notice

CBOT contends that there were failures of due process in the CBOE Board's approval of the proposal.[149] In particular, CBOT believes that CBOE did not provide Exerciser Members or eligible Exercise Members sufficient notice or an opportunity to be heard ''at a meaningful time'' prior to filing the proposal with the Commission, which consequently deprived CBOT members of valuable property rights without due process.[150]

In response, CBOE notes that it has complied with the requirements of the Exchange Act in proposing its interpretation of Article Fifth(b) and believes that there is no basis to argue that the fulfillment of its filing obligations under the Exchange Act constitutes a deprivation of due process.[151]

The Commission is not persuaded that the CBOE should be considered a government actor subject to constitutional due process requirements in the context of its decision to file with the Commission a proposed rule change pursuant to Section 19 of the Exchange Act. Even if the CBOE were found to be a state actor when proposing an interpretation of its rules, we do not believe that the CBOE, in fulfilling its filing obligations, has deprived CBOT members of any process they are due. Based on the record before it, the Commission finds that the CBOE has satisfied all requirements prerequisite to filing a proposed rule change with the Commission and in so doing has complied with the applicable requirements of the Exchange Act, which are designed to provide interested parties with notice and an opportunity to express their views. CBOE filed its proposal with the Commission and the Commission then promptly published it for notice and comment in the **Federal Register**. The proposal was posted on the Commission's Web site as well as the CBOE's Web site. This process, required by the Exchange Act, provided the public with a meaningful opportunity to be heard and afforded an opportunity for interested persons to alert the Commission to facts or reasons that may indicate why a proposed rule change may not satisfy the requirements for a proposed rule change under Section 19(b) of the Exchange Act. If in fact the Commission believes that a proposal may not be consistent with the Exchange Act and the rules and regulations thereunder applicable to the exchange, the consequence would be that the Commission would institute disapproval proceedings and, if the proper findings were made, would not allow an SRO to proceed with its proposal. In the present case, the Commission does not believe that any commenters have raised facts or reasons indicating that the CBOE's proposal is not consistent with the Exchange Act and the rules thereunder applicable to CBOE.

The Commission is confident that the public and all affected entities have received ample notice of CBOE's proposed rule change, and commenters, including the CBOT members, have availed themselves of this opportunity to provide their views to the Commission.[152] Further, because CBOE filed its proposal in December 2006, a full six months before CBOT Holdings shareholders voted on the acquisition, and CBOE granted the Commission an extension of time to consider the proposal, affected entities were put on notice of the CBOE's position and were afforded an extended opportunity to be heard before the Commission considered the proposal.

Finally, the Commission disagrees with the CBOT's argument that CBOE was required to provide due process to the Exerciser Members prior to filing the proposal with the Commission pursuant to Section 19(b), because CBOE's act of filing a rule change for Commission consideration does not deprive the Exerciser Members of property interests requiring prior due process.[153] The CBOT argues that ''the CBOT members who hold Exercise Rights are holding a valuable property interest with an ascertainable pecuniary value'' and that the ''value of an Exercise Right is also reflected in the total value of a CBOT Full Membership, which in itself is fully transferable.'' [154] In essence, the CBOT appears to argue that the CBOE has deprived the Exerciser Members of a valuable property right simply by filing the proposal with the Commission for consideration pursuant to the Exchange Act.[155]

This argument is not persuasive. Any diminution of the value of the CBOT memberships is not a deprivation of a property interest that would compel the provision of due process by the CBOE. The proposal is simply that, a proposal. At the time it was filed with the Commission, it had not taken effect. Further, the proposal could not take effect before the provisions of Section 19(b) of the Exchange Act had been satisfied, which, in this case, include a determination by the Commission that the proposed rule change complies with the requirements of the Exchange Act. Although the rule filing might have caused a decreased value in an Exercise Right, in the way the filing of litigation can affect a company's stock price, the rule filing process mandated by the Exchange Act affords due process.

[147] *See* Mayer Brown Letter 3, *supra* note 37, at 17–26. CBOT's contention that the proposal was improperly adopted in so far as CBOE failed to comply with its own rules in promulgating the proposed rule change is addressed above. *See supra* Section IV.B.

[148] *See* Mayer Brown Letter 3, *supra* note 37, at 34.

[149] *See* Mayer Brown Letter 3, *supra* note 37, at 27–34. *See also* Stevens Letter, *supra* note 40. CBOT argues that CBOE, as a state actor endowed with quasi-governmental authority, was obligated to set rules that provide fair procedures when taking actions that deny membership or limit a person's access to the services of the Exchange. *See* Mayer Brown Letter 3, *supra* note 37, at 27–29.

[150] *See* Mayer Brown Letter 3, *supra* note 37, at 30–34. CBOT notes that CBOE stated in its Form 19b–4 submission that it did not solicit or receive comments on the proposed rule change, and uses this fact to support its contention that the CBOE's process for consideration of the proposal was flawed. *See id.* at 32. Item 5 of Form 19b–4 directs an SRO to summarize any written comments it may have received on a proposal prior to filing such proposal with the Commission. The requirement to solicit written comments, however, is not a prerequisite to filing a proposal with the Commission. Rather, the act of filing a proposal with the Commission initiates a public notice and comment procedure in which the Commission provides notice of and solicits comments on an SRO's proposed rule change.

[151] CBOE Response to Comments, *supra* note 4, at 18 (footnote 28).

[152] As noted previously, the Commission received 174 comment letters on this proposal from 134 different commenters. *See supra* note 36 and accompanying text.

[153] *See, e.g., Mathews v. Eldridge,* 424 U.S. 319, 332 (1976) (noting that ''procedural due process imposes constraints on governmental decisions which deprive individuals of ''liberty'' or ''property.'')

[154] Mayer Brown Letter 3, *supra* note 37, at 30.

[155] *See id.* (stating that ''the Proposed Rule Change affects the current value of the Exercise Rights and the CBOT memberships regardless of whether the Merger ever occurs.'').

Therefore, the CBOE did not deprive the Exerciser Members of any due process that would warrant additional process in advance of CBOE's filing a proposed rule change with the Commission.

2. Completeness of CBOE's Form 19b–4 Submission

Item 3(b) in Form 19b–4 requires the SRO to ''explain why the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the self-regulatory organization.'' [156] CBOT argues that the proposed rule change is inconsistent with the requirements of the Exchange Act because Item 3 of CBOE's Form 19b–4 submission was incomplete.[157] In response, CBOE states that it satisfied the requirements of Form 19b–4 by providing a detailed history behind the proposed interpretation, explained the need for the interpretation, stated the purpose served by the interpretation, and noted why the interpretation is fair and reasonable.[158] Furthermore, CBOE submits that it provided a full explanation in Item 3 of why its proposed interpretation is consistent with the Exchange Act and then simply stated the conclusion in Section II.A(2) of the Notice.[159] The Commission finds that the proposed rule change was complete and properly filed in that it provided all of the requisite information specified in Form 19b–4.

3. Unfair Discrimination

CBOT argues that the proposed rule change discriminates among classes of CBOE members (*i.e.*, Exerciser Members vs. ''regular'' CBOE full members) by impermissibly applying ''different membership rules to Regular [CBOE] Members and Exerciser Members without justification * * *.'' [160] In response, CBOE states that equal treatment is not required in this case because it is not relevant to the validity of the proposed interpretation whether persons who previously would have qualified as Exerciser Members will not be treated the same as regular members under the interpretation.[161] According to CBOE, the argument that Exerciser Members are entitled to the same treatment as regular CBOE members presumes that persons are still eligible to become and remain Exerciser Members, and is consequently flawed because the CBOT/CME transaction resulted in no persons being eligible to remain Exercise Members.[162]

In other words, CBOE asserts that its proposed interpretation does not ''terminate'' or ''extinguish'' the Exercise Right for persons who otherwise would be entitled thereto. Rather, it is the actions of the CBOT that has resulted in no persons being able to qualify as ''members'' of the CBOT for purposes of Article Fifth(b).[163] In addition, CBOE notes that the proposal does not delete Article Fifth(b) or the Exercise Right contained therein, but rather addresses whether anyone will continue to be eligible to utilize that right after the acquisition of CBOT by CME Holdings.[164] CBOE notes that the express terms of Article Fifth(b) state that the Exercise Right will remain available for a person only for ''so long as he remains a member of [CBOT],'' [165] and, as explicitly contemplated in the 1992 Agreement, CBOE believes that CBOT was well aware that the consequence of a merger or acquisition of the CBOT might be to eliminate the eligibility of persons to utilize the Exercise Right.[166]

The Commission believes that the CBOE's proposed interpretation of Article Fifth(b) is consistent with Section 6(b)(5) of the Exchange Act,[167] which requires, among other things, that exchange rules not be unfairly discriminatory. The CBOE is interpreting an existing rule that allows certain persons to become members without buying a seat on the exchange. These persons must satisfy all other prerequisites to membership.[168] Article Fifth(b) only relates to members of the CBOT. It entitled such members to membership on CBOE under certain circumstances, which have been interpreted over many years by CBOE, including specifically in the 1992 and 2001 Agreements, which addressed the status of Exerciser Members in the event that significant changes in the ownership structure of the CBOT occurred. The interpretation proposed by the CBOE applies equally to all persons similarly situated.

4. Allocation of Fees and Dues/ Economic Impact of Proposal

CBOT argues that the proposal fails to provide for a reasonable allocation of dues, fees, and other charges in that it could have the effect of increasing the value of a CBOE membership while requiring former Exerciser Members to ''pay twice'' for access to CBOE.[169] Further, CBOT argues that the proposal will result in a windfall enrichment of regular CBOE members in connection with CBOE's proposed demutualization.[170] Additionally, one commenter argued that the potential economic impact of the proposal presented a reason for the Commission to disapprove the proposed rule change.[171]

In response, CBOE states that former Exerciser Members have no claim to any value derived from their former rights for which they no longer qualify.[172] According to CBOE, the value of the Exercise Right was lost, not because of action taken by the CBOE, but rather because of the CME's acquisition of CBOT.[173]

The Commission notes that the CBOE's proposed rule change does not propose any new or modified fees, dues, or other charges. Further, the Commission is not required to consider the potential effect on the value of a CBOE or CBOT membership that arises as a consequence of the CBOE's proposed rule change. Section 6 of the Exchange Act does not establish standards regarding the impact of exchange rules on the value of an exchange's membership or the value of a membership in a separate entity.

5. Market Impact

CBOT argues that the proposed rule change will adversely affect the liquidity and depth of CBOE's market because it would reduce the number of CBOE members as Exerciser Members lose their ability to trade on the CBOE.[174] In response, CBOE notes that

[156] *See* Item 3(b) in Form 19b–4.

[157] *See* Mayer Brown Letter 3, *supra* note 37, at 17; Mayer Brown Letter 5, *supra* note 37, at 6–7.

[158] *See* CBOE Response to Comments, *supra* note 4, at 23–24.

[159] *See id.*

[160] *See* Mayer Brown Letter 3, *supra* note 37, at 18.

[161] *See* CBOE Response to Comments, *supra* note 4, at 30–32.

[162] *See id.* at 30–32. In addition, CBOE notes that Exerciser Members and regular CBOE members were treated differently in one respect—Exerciser Members were not permitted to transfer their CBOE Exercise Membership. *See id.* at 30.

[163] *See id.* at 24.

[164] *See id.* at 24–25.

[165] *See id.* at 25.

[166] *See id.*

[167] 15 U.S.C. 78f(b)(5).

[168] *See, e.g.*, CBOE Rule 3.3 (Qualifications and Membership Statuses of Member Organizations).

[169] *See* Mayer Brown Letter 3, *supra* note 37, at 22.

[170] *See* Mayer Brown Letter 3, *supra* note 37, at 25. *See also* Ungaretti Letter, *supra* note 39, at 11.

[171] *See* Ungaretti Letter, *supra* note 39, at 2 and 10.

[172] *See* CBOE Response to Comments, *supra* note 4, at 32.

[173] *See id.*

[174] *See* Mayer Brown Letter 3, *supra* note 37, at 24–25. *See* also Ungaretti Letter, *supra* note 39, at 11–12; Morelli Letter, *supra* note 42; Crilly Letter 1, *supra* note 40; Cashman Letter, *supra* note 40; Israel Letter, *supra* note 40; Chubin Letter, *supra* note 40; Esterman Letter, *supra* note 42; Pietrzak

Continued

the proposal contemplates that CBOE will provide temporary interim trading access to allow former Exerciser Members to continue to have uninterrupted access to CBOE in order to avoid a sudden disruption to CBOE's market.[175] The CBOE has since filed its temporary membership plan for former Exerciser Members, which will become operative following today's approval of the interpretation.[176] In addition, CBOE believes that a negative impact on the quality of CBOE's markets is unlikely, given the number of people who currently provide liquidity as market makers on CBOE's market.[177]

The Commission agrees. The CBOE's proposed temporary membership plan was filed on September 13, 2007 under Section 19(b)(3)(A) and was immediately effective upon filing. The Commission did not, and is not today, approving that proposed rule change. This temporary membership plan, however, does preserve the status quo in existence prior to the acquisition of CBOT by CME Holdings with respect to those individuals that had utilized the Exercise Right to trade on the CBOE. Because of these temporary memberships, the Commission believes that its approval of this proposed rule change will not impact the quality or fairness of CBOE's market and is, therefore, consistent with Section 6(b)(5) of the Exchange Act.[178]

6. Burden on Competition

CBOT asserts that the proposal imposes an unnecessary burden on competition, which CBOE has failed to justify, because it drastically reduces the number of people who are able to trade on CBOE.[179] CBOE's position is that the effect on the Exercise Right is a consequence of former CBOT members' approval of the acquisition of CBOT by CME Holdings, in which case the failure to qualify as a ''member of [the CBOT]'' under Article Fifth(b) is a self-imposed consequence of substantial changes to the structure and ownership of the CBOT.[180]

The Commission agrees that the CBOE's proposal does not impose an inappropriate burden on competition, and is therefore consistent with Section 6(b)(8) of the Exchange Act.[181] In particular, following Commission approval of CBOE's proposal, CBOE's existing full members, as well as former Exerciser Members who access the Exchange pursuant to temporary memberships, will continue to have uninterrupted access to CBOE's markets. Accordingly, the Commission believes that CBOE will continue to accommodate a membership pool that provides for vigorous competition on CBOE's markets. Furthermore, CBOE's proposal is an application of existing rules and interpretations to a new set of facts arising from the CME's acquisition of CBOT. Accordingly, the Commission finds that CBOE's proposed interpretation does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

7. The Proposed Interpretation Is Consistent With Section 6(c)(4) of the Exchange Act

One commenter urged the Commission to disapprove the proposal on the basis that it would violate Section 6(c)(4) of the Exchange Act,[182] which requires that an exchange not ''decrease the number of memberships in such exchange'' below the number of memberships ''in effect on May 1, 1975.'' [183] CBOE argues that the proposed interpretation does not ''terminate'' or ''extinguish'' the Exercise Right for persons who otherwise would be entitled thereto, and therefore it has not taken any action that would violate Section 6(c)(4) of the Exchange Act.[184] Rather, CBOE states, that it is the actions of the CBOT to enter into the CME Holdings acquisition that has resulted in no persons being able to qualify as ''members of the [CBOT]'' for purposes of Article Fifth(b).[185]

The Commission finds that the proposed rule change is not an attempt on the part of CBOE to decrease the number of CBOE memberships in violation of Section 6(c)(4) of the Exchange Act. Rather, CBOE's proposal was to address the status of the Exercise Right following the acquisition of CBOT by CME Holdings.

In addition, the CBOE's temporary access plan allows former Exerciser Members to maintain their temporary memberships on CBOE and continue, on an uninterrupted basis, to have access to CBOE's markets. To change or terminate its temporary access plan, CBOE would be required to file a proposed rule change with the Commission and any such proposal would have to be consistent with the Exchange Act, including Section 6(c)(4) thereof.

Even if the Commission were to view the CBOE's proposal as an effort on the part of CBOE to decrease the number of exchange memberships below the 1975 level, the Commission finds that the number of CBOE memberships in effect on November 2, 2007 exceeds the number of CBOE memberships in effect in 1975. Specifically, the CBOE has represented that as of June 30, 1975,[186] the number of CBOE memberships was 1,025.[187] CBOE has represented that the number of CBOE memberships in effect on November 2, 2007 was 1,179.[188] The 222 Temporary Members are ''members'' under Section 3(a)(3) of the Exchange Act with the same rights ''to effect transactions on [the CBOE] without the services of another person acting as broker.'' [189] Accordingly, the current number of CBOE memberships exceeds the number of CBOE memberships in effect in 1975 for purposes of Section 6(c)(4) of the Exchange Act.

Accordingly, based on the record before us, the Commission finds that the

Letter, *supra* note 41; Bianchi Letter, *supra* note 40; Todebush Letter, *supra* note 41; Richards Letter 2, *supra* note 40; and Crilly Letter 2, *supra* note 42.

[175] *See* CBOE Response to Comments, *supra* note 4, at 33.

[176] *See* Securities Exchange Act Release No. 56458 (September 18, 2007), 72 FR 54309 (September 24, 2007) (SR–CBOE–2007–107).

[177] *See* CBOE Response to Comments, *supra* note 4, at 33.

[178] 15 U.S.C. 78f(b)(5).

[179] *See* Mayer Brown Letter 3, *supra* note 37, at 24.

[180] *See* CBOE Response to Comments, *supra* note 4, at 33.

[181] 15 U.S.C. 78f(b)(8).

[182] 15 U.S.C. 78f(c)(4).

[183] *See* Ungaretti Letter, *supra* note 39, at 12.

[184] *See* CBOE Response to Comments, *supra* note 4, at 33.

[185] *See id.*

[186] CBOE has informed the Commission that it is unable to locate historical records from May 1, 1975, but has located financial statements from June 30, 1975 that contain a full count of memberships then in effect. *See* Letter from Joanne Moffic-Silver, General Counsel, CBOE, to Richard Holley III, Senior Special Counsel, Division of Market Regulation, Commission, dated November 2, 2007.

[187] *See id.* Of those, 774 were transferable memberships and 251 were exerciser memberships. *See id. Cf.* Letter from Peter B. Carey to Richard Holley III, Senior Special Counsel, Division of Market Regulation, Commission, dated November 9, 2007 (arguing that the number of CBOE memberships in 1975 should include all 1,402 exerciser memberships both active and inactive). Under the Exchange Act, a ''member'' of a national securities exchange is defined as a person permitted to effect transactions on an exchange without the services of another person acting as broker. *See* 15 U.S.C. 78c(a)(3)(A). Thus, only those persons who affirmatively exercised their rights under Article Fifth(b) to trade on CBOE would have been considered members of the CBOE because only those persons were permitted to effect transactions on the exchange without the services of another person acting as broker.

[188] *See* Letter from Joanne Moffic-Silver, General Counsel, CBOE, to Richard Holley III, Senior Special Counsel, Division of Market Regulation, Commission, dated November 2, 2007, at 2. Of those, 930 are transferable memberships, 222 are temporary members (*i.e.*, former Exerciser Members), and 27 are CBOE Stock Exchange permits. *See id.*

[189] *See* 15 U.S.C. 78c(a)(3)(A). *See also* Securities Exchange Act Release Nos. 56016 (July 5, 2007), 72 FR 38106 (July 12, 2007) (SR–CBOE–2007–77) and 56458 (September 18, 2007), 72 FR 54309 (September 24, 2007) (SR–CBOE–2007–107).

proposal is consistent with Section 6(c)(4) of the Exchange Act and does not constitute an effort by CBOE to decrease the number of CBOE members.

V. Pending State Court Litigation

The Commission wants to emphasize the limited nature of our position on the state law issues we have addressed. The Commission is aware of the state court litigation between the CBOE and members of the CBOT and the state court's decision to stay the litigation until the Commission acts on the CBOE rule proposal. We stress that our consideration of the state law questions in this matter should in no way prejudice or affect the state court's consideration of those questions. As we explained, the state law questions played a role in our analysis of the federal law considerations the Commission is charged with deciding under the Exchange Act. To carry out our responsibilities under the Exchange Act (and also to avoid an endless cycle of our deference to the state court on the state law issues and the state court's deference to us on the federal law issues) we have proceeded to review the CBOE rule proposal. Our decisions about state law matters, however, are only those required to serve as a basis for carrying out our Exchange Act responsibilities.

We also recognize that our review of the CBOE proposed rule involves procedures different from those the state court uses in the pending litigation. This review process is not a forum to litigate state law issues that may arise regarding an SRO's rule proposal. Rather, our review of a proposed rule of an SRO employs public notice and comment, the receipt of written submissions from the SRO and the public, and the possibility of a proceeding to determine whether it should be disapproved. To this process, we bring familiarity with SROs and their rules and extensive knowledge and experience with the relevant provisions of the Exchange Act. The state court applies the range of procedures used in traditional adversarial litigation, including discovery, rules of evidence, witnesses, cross-examination, motions, and the like. It has deep and specialized knowledge of Delaware corporate law.

The state court thus is free to find the relevant facts and determine and apply the relevant state law in its normal fashion without according weight to our evaluation of the state law questions, which was done employing different procedures and for different purposes.[190] And, as we have explained, if the state law decision calls into question the basis on which our decision here with respect to these state law issues or any other relevant state law issues was made, we would expect CBOE to respond appropriately, or we will act on our own as necessary.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[191] that the proposed rule change (SR–CBOE–2006–106), as amended, be, and hereby is approved.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–954 Filed 1–18–08; 8:45 am]

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[190] The Delaware court discussed possible ways in which the Commission's jurisdiction and the court's state law authority might interact. As the court emphasized, the court ''has jurisdiction to consider the 'economic rights' issues by the Complaint because those claims emerge from and are governed by state contract or fiduciary duty law.'' *See* Memorandum of Opinion, *supra* note 68, at 29. The court also noted that ''even if it turns out that the SEC's mandate requires that CBOT Full Members be excluded from trading on the CBOE,'' then ''it does not ineluctably follow that, in these unique circumstances, they are also divested of whatever economic (or contractual) rights they hold as a result of that status.'' *Id.* at note 48. We agree with the Delaware court and welcome its expert determination of these issues.

[191] 15 U.S.C. 78s(b)(2).

SECURITIES AND EXCHANGE COMMISSION

Release No. 34–57143; File No. SR–FINRA–2007–034]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Dissemination of Trade Reports for OTC Equity Securities Transactions of Fewer Than 100 Shares

January 14, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 19, 2007, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) 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 FINRA. FINRA filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA's proposed rule change relates to the dissemination of last sale information for transactions of fewer than 100 shares in OTC Equity Securities.[5] Specifically, FINRA is proposing that for OTC Equity Securities that traded at or above $175.00 per share during the fourth calendar quarter of 2007, FINRA will change the ''unit of trade'' from 100 shares to one share (such that transactions in these securities will no longer be considered ''odd-lot transactions'' for dissemination purposes) and will disseminate last sale information for all reported transactions of one or more shares in these securities. The proposed rule change amends FINRA's trade report dissemination policy and does not require amendments to any rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Only reports of transactions that meet the ''unit of trade'' test pursuant to FINRA's dissemination protocols are publicly disseminated. As a general matter, OTC Equity Securities have a unit of trade of 100 shares. While

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] NASD Rule 6610(d) defines OTC Equity Security as ''any non-exchange-listed security and certain exchange-listed securities that do not otherwise qualify for real-time trade reporting.''

transactions of fewer than 100 shares (commonly referred to as ''odd-lot transactions'') in such securities are reported to FINRA,[6] they are not publicly disseminated. FINRA believes that, consistent with the dissemination protocols for NMS stocks, disseminating last sale information for odd-lot transactions would provide minimal market value, particularly with respect to low-priced OTC Equity Securities. However, with respect to high-priced OTC Equity Securities, many (if not all) transactions may be for fewer than the standard unit of trade of 100 shares. Thus, information regarding trades at these levels is more valuable to the market and investors. In fact, trading data for such securities could effectively be unavailable to market participants if only trades of 100 or more shares were disseminated.

Accordingly, FINRA disseminates last sale information for transactions of fewer than 100 shares in a limited number of high-priced OTC Equity Securities today. For these OTC Equity Securities, the unit of trade has been designated as one share, such that any transaction of one or more shares will meet the unit of trade test for that security and be disseminated. For example, if OTC Equity Security ABCD has a unit of trade of one share, a transaction of 25 shares of ABCD would meet the unit of trade test for that security and last sale information for the transaction would be disseminated. Under past practice, the unit of trade of OTC Equity Securities was changed on a case-by-case basis upon request from a market participant (*e.g.*, a market maker or issuer) to facilitate the dissemination of trades of fewer than 100 shares. Typically, such changes were made in connection with securities trading above $200.00 per share.

FINRA is proposing to adopt a more uniform policy regarding the dissemination of OTC Equity Securities and will publish a Notice informing members, investors and other interested parties of the new policy.[7] Specifically, for all OTC Equity Securities that traded at or above $175.00 per share during the fourth calendar quarter of 2007, FINRA will designate the unit of trade as one (such that transactions in these securities will no longer be considered odd-lot transactions for dissemination purposes) and will disseminate last sale information for all transactions of one or more shares in such securities. FINRA will publish a list of the OTC Equity Securities that meet the stated dissemination criteria in the proposed Notice and will also make this list available on the OTC Bulletin Board Web site (*http://www.otcbb.com*).[8] FINRA staff anticipates that the unit of trade for the vast majority of OTC Equity Securities will remain 100 shares.

Additionally, using the above criteria, FINRA will update the list of OTC Equity Securities at the end of each calendar quarter based on that quarter's trading activity. While OTC Equity Securities may be added to the list, they generally will not be removed.[9] FINRA staff believes that retaining OTC Equity Securities on the list, rather than re-evaluating each security's eligibility every calendar quarter, will achieve greater transparency and consistency with respect to trade data dissemination.

FINRA believes that the proposed rule change will enhance transparency and the amount of information available to market participants with respect to transactions in OTC Equity Securities.

FINRA is filing the proposed rule change for immediate effectiveness. FINRA will publish a Notice announcing the operative date of the new dissemination policy, which date will be at least 30 days after the date of filing.

2. Statutory Basis

The proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[10] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will enhance transparency and the amount of information available to market participants with respect to transactions in OTC Equity Securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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) become operative for thirty days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)[12] thereunder.[13]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2007–034 on the subject line.

[6] *See* NASD Rule 6620.

[7] With the exception of NASD Rule 6250, which applies to dissemination of transaction information for TRACE-eligible securities, dissemination of trade reports is typically not governed by FINRA's rules, but rather by its protocols. Thus, FINRA is not proposing to amend any rules to effectuate the change discussed herein.

[8] FINRA notes that all OTC Equity Securities for which the unit of trade is currently designated as one will be included in this list and will remain on this list regardless of whether they meet the stated dissemination criteria.

[9] FINRA may determine that an OTC Equity Security should be removed from the list if, *e.g.*, there has been a significant corporate action, such as a stock split, that has changed the pricing in the security such that a unit of trade of one is no longer appropriate, or if the OTC Equity Security was erroneously included on the list as a result of inaccurate prices included in the trade report(s) that qualified the security for dissemination of last sale transaction information. Telephone conversation between Lisa Horrigan, Associate General Counsel, FINRA, and Ronesha Butler, Special Counsel, Division of Trading and Markets, Commission, on January 14, 2008.

[10] 15 U.S.C. 78o–3(b)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] FINRA has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date on which it filed the proposed rule change. *See* 17 CFR 240.19b–4(f)(6)(iii).

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2007–034. 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 FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2007–034 and should be submitted on or before February 12, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–992 Filed 1–18–08; 8:45 am]

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[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57144; File No. SR–ISE–2008–03]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Program Increasing Position and Exercise Limits for Options on the iShares® Russell 2000® Index Fund

January 14, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 8, 2008, the International Securities Exchange, LLC (''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act [3] and Rule 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 from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend an existing pilot program that increases the position and exercise limits for options on the iShares® Russell 2000® Index Fund (''IWM'') traded on the Exchange (''IWM Pilot Program''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The IWM Pilot Program provides for increased position and exercise limits for IWM options traded on the Exchange.[5] Specifically, the IWM Pilot Program increases the position and exercise limits for IWM options from 250,000 contracts to 500,000 contracts.[6]

The purpose of the proposed rule change is to extend the IWM Pilot Program until March 1, 2008. The Exchange is not proposing any other changes to the IWM Pilot Program. The Exchange believes that extending the IWM Pilot Program is warranted due to the positive feedback received from market participants and for the reasons cited in the original rule filing that proposed the adoption of the IWM Pilot Program. Further, the Exchange represents that it has not encountered any problems or difficulties relating to the IWM Pilot Program since its inception.

The Exchange believes that maintaining the increased position and exercise limits for IWM options will lead to a more liquid and more competitive market environment for IWM options that will benefit customers interested in trading this product. As a result, the Exchange requests that the Commission extend the pilot through March 1, 2008.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The proposal that established the IWM Pilot Program was designated by the Commission to be effective and operative upon filing. *See* Securities Exchange Act Release No. 55175 (January 25, 2007), 72 FR 4753 (February 1, 2007) (SR–ISE–2007–07). The IWM Pilot Program was extended by the Commission and is due to expire on January 18, 2008. *See* Securities Exchange Act Release No. 56020 (July 6, 2007), 72 FR 38109 (July 12, 2007) (SR–ISE–2007–56).

[6] Pursuant to ISE Rule 414, the exercise limit established under Rule 414 for IWM options shall be equivalent to the position limit prescribed for IWM options in Supplementary Material .01 to Rule 412. The increased exercise limits would only be in effect during the pilot period, to run from January 22, 2007 through March 1, 2008.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act [7] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9] The Exchange has asked the Commission to waive the operative delay to permit the Pilot Program extension to become effective prior to the 30th day after filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the benefits of the IWM Pilot Program to continue without interruption.[10] Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2008–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2008–03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2008–03 and should be submitted on or before February 12, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–967 Filed 1–18–08; 8:45 am]

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[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57146; File No. SR–NASDAQ–2008–003]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto To Establish Fees for Members Using the NASDAQ Pre-Trade Risk Management Functionality

January 14, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 7, 2008, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared substantially by Nasdaq. On January 10, 2008, Nasdaq filed Amendment No. 1 to the proposed rule change to make certain clarifying changes in its description. Nasdaq has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

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

Nasdaq is proposing to establish member charges for the use of NASDAQ new pre-trade risk management (''PRM'') functionality. The text of the proposed rule change is available at *http://www.nasdaq.complinet.com,* the principal offices of the Exchange, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to establish the following charges for the use of Nasdaq's new PRM functionality:

There will be a charge of $100 per month for each port enabled for PRM functionality. This charge will be in addition to other applicable port charges. Each PRM-enabled port will provide (at no additional charge) ''fat finger'' checks for orders being placed through the port. A fat finger check will compare price instructions on the order against the current composite displayed size and price at the relevant levels, and will automatically reject the order if it is priced outside the acceptable range previously specified by the user.

Users of PRM Modules will be assessed a further charge of $500 per month per Module. Since a PRM Module can function only through PRM-enabled ports, all Module users will also be responsible for the charges described above to enable at least one port for PRM.

A PRM Module helps users control risk by checking each order, before it is accepted into the system, against certain parameters pre-specified by the user, such as maximum order size or value, order type restrictions, market session restrictions (pre/post market), security restrictions, including per-security limits, restricted stock list, and certain other criteria. These checks are in addition to the fat finger checks that are available for all orders submitted through a PRM-enabled port. A Module can be configured to pre-trade-manage a user's order flow for a specified market participant ID (''MPID''), for a specified MPID and PRM-enabled port, or for an account within an MPID.

There will be an additional charge for PRM Module users who wish also to use the Aggregate Total Checks functionality: $0.025 per each side that is being checked, capped at $2,000 per month per PRM Module. Whereas PRM Modules validate individual orders against pre-specified parameters, Aggregate Totals Checks allow users to establish additional checks by limiting in certain pre-specified ways their overall daily trading activity.

Users of the NASDAQ Workstation or WeblinkACT 2.0 who subscribe to PRM Modules will receive one Workstation add-on per Module. Additional add-ons will be available, if needed, for $100 per month.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 6 of the Act,[5] in general, and with section 6(b)(4) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Nasdaq operates or controls. The PRM functionality provides members with a new optional tool at a reasonable cost. Members are not required to use either the NASDAQ PRM or any similar functionality. Furthermore, some users are already performing various pre-trade checks either with their own tools or with third-party software. The optional nature of the service and competition from both existing and possible future sources and providers assures that the proposed charges will remain market-competitive.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act[7] and Rule 19b–4(f)(2)[8] thereunder, because it establishes or changes a due, fee, or other charge imposed on members by Nasdaq. Accordingly, the proposal is effective 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.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2008–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2008–003. 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/*

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 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 January 10, 2008, the date on which Nasdaq filed Amendment No. 1.

rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit onlyinformation that you wish to make publicly available. All submissions should refer to File Number SR–NASDAQ–2008–003 and should be submitted on or before February 12, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–993 Filed 1–18–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57147; File No. SR–NASDAQ–2008–001]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto To Modify Fees for Members Using the Nasdaq Market Center

January 14, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 2, 2008, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared substantially by the Nasdaq. On January 11, 2008, Nasdaq filed Amendment No. 1 to the proposed rule change for the purpose of providing a more detailed description of the statutory basis for the proposed rule change and correcting a minor typographical error. Nasdaq has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal 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

Nasdaq proposes to modify pricing for Nasdaq members using the Nasdaq Market Center. Nasdaq will implement this rule change on January 2, 2008. The text of the proposed rule change is available at *http://www.nasdaq.complinet.com*, the principal offices of the Exchange, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is revising its pricing schedule for transaction execution and routing to enhance incentives for liquidity provision and display of quotes/orders that provide liquidity. Nasdaq is also adopting different pricing schedules for each of the types of securities that it trades that reflect modest increases in some of the fees to access liquidity or route orders. For securities listed on Nasdaq,[5] the fees are largely unchanged, except that the liquidity provider rebate will be reduced by $0.0001 per share executed for quotes/orders that are designated for posting to the Nasdaq book without being displayed to other market participants. Although Nasdaq, like other markets, gives market participants the option of posting undisplayed liquidity, Nasdaq believes that it is appropriate to use pricing incentives to encourage display of liquidity to the greatest extent possible.

With regard to fees for executing orders in securities listed on NYSE, routing such orders to venues other than NYSE, and routing of orders for exchange-traded funds (''ETFs'') to NYSE for execution, Nasdaq is increasing both its order execution and routing fees and its liquidity provider rebate. For these transactions, members with an average daily volume through the Nasdaq Market Center in all securities during the month of (i) more than 35 million shares of liquidity provided, and (ii) more than 55 million shares of liquidity accessed and/or routed; or members with an average daily volume through the Nasdaq Market Center in all securities during the month of (i) more than 25 million shares of liquidity provided, and (ii) more than 65 million shares of liquidity accessed and/or routed, will pay $0.0028 per share executed (up from $0.0026 per share executed) for order execution and routing of orders that check the Nasdaq book for the full size of the order prior to routing. Members with an average daily volume through the Nasdaq Market Center in all securities during the month of (i) more than 20 million shares of liquidity provided, and (ii) more than 35 million shares of liquidity accessed and/or routed will pay $0.0029 per share executed (up from $0.0028 per share executed). Other members will continue to pay $0.003 per share executed. However, the liquidity provider rebates for these securities will also increase as follows: Members with an average daily volume through the Nasdaq Market Center in all securities during the month of more than 35 million shares of liquidity provided will receive $0.0027 per share executed (up from $0.0025 per share executed). Members with an average daily volume through the Nasdaq Market Center in all securities during the month of more than 20 million shares of liquidity provided will receive $0.0023 per share executed (up from $0.0022), and other members will

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] As described in Nasdaq Interpretive Material 4390, securities that are dually listed on Nasdaq and the New York Stock Exchange (''NYSE'') are treated as NYSE-listed securities for most purposes under Nasdaq rules, including execution and routing fees.

continue to receive $0.0020. As with Nasdaq-listed securities, however, these liquidity provider rebates will be reduced by $0.0001 per share executed for quotes/orders that are not displayed.

With regard to fees for routing orders for securities other than ETFs to the NYSE, Nasdaq is making slight increases to the fees for orders that are routed without attempting to execute in Nasdaq for the full size of the order prior to routing, to enhance incentives for market participants to enter orders that check the Nasdaq book before routing. Specifically, the fee for a Directed Intermarket Sweep Order and an order that attempts to execute solely against displayed interest prior to routing will increase to $0.001 per share executed from $0.0009 per share executed. For members with an average daily volume through the Nasdaq Market Center in all securities during the month of more than 35 million shares of liquidity provided, the fee for other orders that do not attempt to execute for full size before routing will increase to $0.0009 from $0.0008; for members with an average daily volume in all securities during the month of more than 60 million shares of liquidity routed to the NYSE without attempting to execute in the Nasdaq Market Center in any respect (other than Directed Intermarket Sweep Orders) the fee for these orders will increase from $0.000825 to $0.0009, and for all other members, the fee will increase from either $0.00085 or $0.0009 to $0.001.

For securities listed on exchanges other than Nasdaq and the NYSE, the fees to execute orders in these securities on Nasdaq will remain unchanged. The fees to route orders in these securities that check the Nasdaq book for the full size of the order prior to routing to other exchanges will increase as follows: Members with an average daily volume through the Nasdaq Market Center in all securities during the month of (i) more than 35 million shares of liquidity provided, and (ii) more than 55 million shares of liquidity accessed and/or routed; or members with an average daily volume through the Nasdaq Market Center in all securities during the month of (i) more than 25 million shares of liquidity provided, and (ii) more than 65 million shares of liquidity accessed and/or routed, will pay $0.0028 per share executed (up from $0.0026 per share executed). Members with an average daily volume through the Nasdaq Market Center in all securities during the month of (i) more than 20 million shares of liquidity provided, and (ii) more than 35 million shares of liquidity accessed and/or routed will pay $0.0029 per share executed (up from $0.0028 per share executed), and other members will continue to pay $0.003 per share executed. As with the liquidity provider rebates for other securities, the rebates paid with respect to securities listed on exchanges other than Nasdaq and NYSE will be reduced by $0.0001 per share executed for quotes/orders that are not displayed.

Finally, in order to accurately reflect these changes, the proposed rule change also includes a non-substantive restructuring of the rule text. Thus, many of the provisions of new paragraphs 7018(a)(2) and (a)(4) that appear as new rule text reflect existing fees that are currently reflected in paragraph (a)(1).

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 6 of the Act,[6] in general, and with section 6(b)(4) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Nasdaq operates or controls. The changes enhance incentives for liquidity provision, display of executable orders on the Nasdaq book, and use of orders that check the Nasdaq book prior to routing while instituting increases in certain routing and execution fees that are balanced by increases in liquidity provider rebates. The impact of the changes upon the net fees paid by a particular market participant will depend upon a number of variables, including the types of securities that it trades through Nasdaq, its monthly volume, the order types it uses, and the prices of its quotes and orders. Nasdaq notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Accordingly, to the extent that certain routing and execution fees are increasing, Nasdaq believes that these fees remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to those members that opt to direct orders to Nasdaq rather than competing venues.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act[8] and Rule 19b–4(f)(2)[9] thereunder, because it establishes or changes a due, fee, or other charge imposed on members by Nasdaq. Accordingly, the proposal is effective 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.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2008–001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2008–001. 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

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 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 January 11, 2008, the date on which Nasdaq filed Amendment No. 1.

only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NASDAQ–2008–001 and should be submitted on or before February 12, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–994 Filed 1–18–08; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57149; File No. SR–NYSEArca–2007–122]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Certain Modifications to the Initial Listing Standards for Index-Linked Securities

January 15, 2008.

I. Introduction

On November 28, 2007, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), through its wholly owned subsidiary, NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to modify certain initial listing standards for Index-Linked Securities. The proposed rule change was published for comment in the **Federal Register** on December 12, 2007.[3] The Commission received no comments on the proposal. On January 8, 2008, the Exchange filed Amendment No. 1 to the proposed rule change.[4] This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Exchange proposes to amend one of the requirements of NYSE Arca Equities Rule 5.2(j)(6)(A), which sets forth the listing requirements applicable to all types of Index-Linked Securities to be listed and traded on the Exchange, to provide for greater flexibility in the listing criteria for such securities. Currently, NYSE Arca Equities Rule 5.2(j)(6)(A)(d) provides that the payment at maturity of a cash amount for Index-Linked Securities may or may not provide for a multiple of the positive performance of an underlying Reference Asset, and in no event will payment at maturity be based on a multiple of the negative performance of an underlying Reference Asset.

The Exchange proposes to amend NYSE Arca Equities Rule 5.2(j)(6)(A)(d) to: (1) Allow the Exchange to consider for listing and trading Index-Linked Securities that provide for payment at maturity based on a multiple of the direct or inverse performance of an underlying Reference Asset; and (2) provide that in no event will a loss or negative payment at maturity be accelerated by a multiple that exceeds twice the performance of an underlying Reference Asset. The Exchange proposes these changes in order to permit the listing and trading of Index-Linked Securities that employ investment strategies similar or analogous to certain exchange-traded funds like the Short Funds and UltraShort Funds of the ProShares Trust and the Inverse Funds and Leveraged Inverse Funds of the Rydex ETF Trust, each of which trade on the Exchange pursuant to unlisted trading privileges (''UTP'') under NYSE Arca Equities Rule 5.2(j)(3).[5] The Short Funds and Inverse Funds seek daily investment results, before fees and expenses, that correspond to the inverse or opposite of the daily performance (−100%) of the respective underlying indexes, and the Ultra Short Funds and Leveraged Inverse Funds seek daily investment results, before fees and expenses, that correspond to twice the inverse or opposite of the daily performance (−200%) of the respective underlying indexes.

NYSE Arca Equities Rule 9.2(a) provides that an ETP Holder, before recommending a transaction in Index-Linked Securities, must have reasonable grounds to believe that the recommendation is suitable for their customer based on any facts disclosed by the customer as to its other security holdings and as to its financial situation and needs. Further, the rule provides, with a limited exception, that prior to the execution of a transaction recommended to a non-institutional customer, the ETP Holder shall make reasonable efforts to obtain information concerning the customer's financial status, tax status, investment objectives, and any other information that such ETP Holder believes would be useful to make a recommendation. Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of this suitability requirement. Specifically, the Information Bulletin will remind ETP Holders that, in recommending transactions in these securities, they must have a reasonable basis to believe that the customer can evaluate the special characteristics, and is able to bear the financial risks, of such investment.

III. Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 56907 (December 5, 2007), 72 FR 70640 (''Notice'').

[4] In Amendment No. 1, the Exchange clarified that certain suitability standards, including those under NYSE Arca Equities Rule 9.2(a) (Diligence as to Accounts), would apply to Index-Linked Securities, as described herein, and that such standards would be disclosed in an Information Bulletin. Because Amendment No. 1 is technical in nature, the Commission is not publishing it for public comment.

[5] *See, e.g.*, Securities Exchange Act Release Nos. 56763 (November 7, 2007), 72 FR 64103 (November 14, 2007) (SR–NYSEArca–2007–81) (approving the trading of shares of funds of the Rydex ETF Trust pursuant to UTP); 56601 (October 2, 2007), 72 FR 57625 (October 10, 2007) (SR–NYSEArca–2007–79) (approving the trading shares of eight funds of the ProShares Trust based on international equity indexes pursuant to UTP); 55125 (January 18, 2007), 72 FR 3462 (January 25, 2007) (SR–NYSEArca–2006–87) (approving the trading of shares of 81 funds of the ProShares Trust pursuant to UTP); and 54026 (June 21, 2006), 71 FR 36850 (June 28, 2006) (SR–PCX–2005–115) (approving the trading of shares of certain other funds of the ProShares Trust pursuant to UTP).

[6] In approving this proposed rule change, the Commission notes that it has considered the

Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act[7] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the Exchange's proposal is consistent with the Act, and, in particular, reasonably balances the removal of impediments to a free and open market with the protection of investors and the public interest, two principles set forth in section 6(b)(5) of the Act. The Commission notes that a variety of exchange-traded funds seeking to provide (a) investment results that correspond to or exceed twice (200%) the direct performance of a specified stock index, or (b) investment results that correspond to twice (−200%) the inverse or opposite of the index's performance, are currently traded on the Exchange.[8] In addition, the Commission further believes that heightened suitability standards are appropriate for derivative securities products, including Index-Linked Securities, which seek to provide investment results that correspond to the direct or inverse performance of an underlying reference asset by a specified multiple and allow for a loss or negative payment at maturity to be accelerated by a specified multiple. Before recommending transactions in these types of leveraged products, ETP Holders must have a reasonable basis to believe that the customer can evaluate the special characteristics, and is able to bear the financial risks, of such investment. The Commission expects the Exchange to continue to monitor the application of these suitability requirements, including those under NYSE Arca Equities Rule 9.2(a).

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change (SR–NYSEArca–2007–122), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–908 Filed 1–18–08; 8:45 am]

BILLING CODE 8011–01–P

proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] *See supra* note 5 and accompanying text.

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57158; File No. SR–NYSEArca–2007–120]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change Relating to Restrictions on Acting as Market Makers and Floor Brokers

January 15, 2008.

On November 27, 2007, the NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend certain Exchange rules to restrict an OTP Holder from concurrently registering as both a Market Maker and a Floor Broker. The proposed rule change was published for comment in the **Federal Register** on December 11, 2007.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

Presently, OTP Holders may be registered as either a Market Maker or a Floor Broker, or in certain situations, both. An OTP Holder that wished to act in both capacities must apply for and receive approval from the Exchange.[4] The Exchange represented that presently there are no OTP Holders registered in the dual capacity of Market Maker and Floor Broker, nor does the Exchange have any pending applications from existing OTP Holders.

The Exchange further represented that the practice of dual registration dates back to the early days of floor-based, open outcry trading. Open outcry trading was for the most part a manual process, necessitating the need for a large number of Floor Brokers. On occasion, often in periods of unusually active market conditions, there might have been a shortage of brokers on the floor, and in the interest of maintaining a fair and orderly market, Market Makers might be called upon to act as a Floor Broker. The vast majority of trades on NYSE Arca now occur electronically, and thus, there is a dramatic decrease in open outcry trading executions done by Floor Brokers.

For the reasons stated above, the Exchange proposes to establish new Rule 6.33(b) stating that an OTP Holder registered as a Market Maker on NYSE Arca may not be concurrently registered as a Floor Broker on NYSE Arca. Accordingly, the Exchange also proposes establishing new Rule 6.44(b), stating that an OTP Holder presently registered as a Floor Broker on NYSE Arca cannot be concurrently registered as a Market Maker on NYSE Arca. The Exchange also proposes making non-substantive changes regarding the numbering of existing rules in order to accommodate the new rules.

Pursuant to NYSE Arca Rule 6.82(h)(3), Lead Market Makers (''LMM'') may perform the functions of a Floor Broker. Historically, LMMs might perform the duties of a Floor Broker and represent public customer orders when there was a shortage of Floor Brokers available. As stated above, due to increased automation in the marketplace, the Exchange does not anticipate a shortage of Floor Brokers such that it would necessitate an LMM to have to act as a Floor Broker. As such, the Exchange proposes deleting Rule 6.82(h)(3) in its entirety. The Exchange also proposes deleting Commentary .02 to Rule 6.82 relating to a LMMs handling of public customer orders.

Presently, OTP Holders acting as both Floor Broker and Market Maker are subject to certain restrictions under NYSE Arca Rule 6.38. Upon approval of the above mentioned rule changes, these restrictions will become obsolete. Since Market Makers will be prohibited from acting as a Floor Broker, and visa-versa, there is no need to have specific restrictions governing their trading activity. Therefore, the Exchange proposes eliminating Rule 6.38 in is entirety.

The Exchange noted that LMMs and InterMarket Linkage Maker Makers (''IMM'') are exempt from certain provisions contained in NYSE Arca Rule 6.38. Currently, LMMs and IMMs may be called upon to send Principal Acting as Agent (''P/A'') Orders through the InterMarket Linkage System (''Linkage'') pursuant to NYSE Arca Rules 6.92 and 6.93. Linkage is a fully automated process on NYSE Arca, and while the IMM or LMM may be acting in an agency capacity, as the responsible party for sending the order, they are not acting in the capacity of a Floor Broker.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 56899 (December 5, 2007), 72 FR 70367 (''Notice'').

[4] *See* NYSE Arca Rule 6.38(b)(4).

Thus, the Exchange proposes to add language to Rule 6.33(b) stating that a prohibition on concurrent registration as both a Market Maker and Floor Broker will not prevent an IMM or LMM from acting in an agency capacity for Linkage purposes.

The Commission finds that the proposed rule change is consistent with the requirements of section 6(b) of the Act[5] and the rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[7] which requires that a national securities exchange's rules be designed to facilitate transactions in securities, to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. The Commission notes that the practice of OTP Holders registering in the dual capacity of Market Maker and Floor Broker dates back to the days of floor-based, open outcry trading environment. The Commission also notes that the vast majority of trades on NYSE Arca now occur electronically, such that the need for dual registration by the OTP Holders may no longer be necessary. Further, the Commission notes that the Exchange stated that currently, there are no OTP Holders registered in this dual capacity, and the Exchange does not have any pending applications from existing OTP Holders to be dually registered in such capacity.

The Commission believes that it is reasonable and consistent with the Act for the Exchange to delete Rule 6.38, and also promulgate new rule provisions within Rules 6.33 and 6.44 to prohibit dual registration by OTP Holders as Market Makers and Floor Brokers. The Commission recognizes that eliminating the dual registration of OTP Holders as Market Makers and Floor brokers will not affect the ability of LMMs and IMMs, who may continue to be called upon today, to act in an agency capacity, to send P/A Orders through Linkage.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–NYSEArca–2007–120) be, and hereby is, approved.

[5] 15 U.S.C. 78(f)(b).

[6] In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–998 Filed 1–18–08; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 6022]

U.S. National Commission for UNESCO Notice of Open Advisory Committee Teleconference Meeting

Summary: The U.S. National Commission for UNESCO will meet via telephone conference on Friday, February 1, 2008, from 11 a.m. until 12 p.m. Eastern Time. The purpose of the teleconference meeting is to consider the recommendations of the Commission's National Committee for the International Hydrological Program (IHP). The U.S. National Committee for the IHP was asked to provide recommendations to the Commission on proposals received to establish a U.S. water-related UNESCO Category II Center. (For more information see *http://www.state.gov/p/io/unesco/c21083.htm*). The call will also be an opportunity to provide an update on recent and upcoming Commission and UNESCO activities. The Commission will accept brief oral comments during a portion of this conference call. This public comment period will last 15 minutes, and comments are limited to two minutes per person. Members of the public who wish to present oral comments or to listen to the conference call must make arrangements with the Executive Secretariat of the National Commission by January 30, 2008. For more information or to arrange to participate in the teleconference meeting, contact Alex Zemek, Deputy Executive Director of the U.S. National Commission for UNESCO, Washington, DC 20037. Telephone: (202) 663–0026; Fax: (202) 663–0035; E-mail: *DCUNESCO@state.gov*.

Dated: January 15, 2008.

Susanna Connaughton,

U.S. National Commission for UNESCO, Department of State.

[FR Doc. E8–1002 Filed 1–18–08; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 29, 2007, vol. 72, no. 208, page 61199. The information collected is needed to determine applicant eligibility and compliance for certification of Civil Aviation mechanics and operation of aviation mechanic schools.

DATES: Please submit comments by February 21, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Aviation Maintenance Technician School Certification and Ratings Application.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0040.

Forms(s): FAA Form 8310–6.

Affected Public: An estimated 174 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden Per Response: Approximately 1 hour per response.

Estimated Annual Burden Hours: An estimated 174 hours annually.

Abstract: The information collected is needed to determine applicant eligibility and compliance for certification of Civil Aviation mechanics and operation of aviation mechanic schools.

Addresses: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance

of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on January 14, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 08–211 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 29, 2007, vol. 72, no. 208, page 61200. The respondents to this information collection will be CFR part 135 and part 121 operators. The FAA will use the information to ensure compliance and adherence to the regulations.

DATES: Please submit comments by February 21, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at Carla.Mauney@faa.gov.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Part 119—Certification: Air Carrier and Commercial Operators.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0593.

Forms(s): FAA Form 8400–6.

Affected Public: An estimated 2,445 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 5 hours per response.

Estimated Annual Burden Hours: An estimated 8869.5 hours annually.

Abstract: The respondents to this information collection will be CFR part 135 and Part 121 operators. The FAA will use the information to ensure compliance and adherence to the regulations.

Addresses: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 14, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 08–212 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 29, 2007, vol. 72, no. 208, page 61201. An Advisory Circular (AC) establishes criteria for Qualified Internet Communications Providers (ICP), who provides access to aviation weather, Notice to Airmen (NOTAM), and aeronautical data via the Public Internet.

DATES: Please submit comments by February 21, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Information Collection for Qualified Internet Communications Providers (QICP).

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0672.

Forms(s): There are no forms associated with this collection.

Affected Public: An estimated 6 Respondents.

Frequency: This information is collected biennially.

Estimated Average Burden per Response: Approximately 40 hours per response.

Estimated Annual Burden Hours: An estimated 2,740 hours annually.

Abstract: An Advisory Circular (AC) establishes criteria for Qualified Internet Communications Providers (ICP), who provides access to aviation weather, Notice to Airmen (NOTAM), and aeronautical data via the Public Internet. The AC describes procedures for a provider to become and remain an FAA approved QICP, and the information collected is used to determine the provider's eligibility.

Addresses: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oria_submission@omb.eop.gov* or faxed to (202) 395–6874.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 14, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 08–213 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Grant Acquired Property Release at Fulton County Airport—Brown Field, Atlanta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from Fulton County to waive the requirement that approximately 10.59 acres of airport property adjacent to Fulton Industrial Blvd. to be used for aeronautical purposes.

DATES: Comments must be received on or before February 21, 2008.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: Chuck Garrison, Program Manager, 1701 Columbia Ave., Suite 2–260, College Park, GA 30337.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Doug Barrett, Airport Manager, Fulton County Airport at the following address: Fulton County Airport—Brown Field, 3952 Aviation Circle, Rm. 200 Terminal Building, Atlanta, Georgia 30336.

FOR FURTHER INFORMATION CONTACT: Chuck Garrison, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Suite 2–260, College Park, GA 30337, (404) 305–7162. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: the FAA is reviewing a request by Fulton County to release approximately 10.59 acres of airport property adjacent to Fulton Industrial Blvd. at the Fulton County Airport. The property consists of Fulton Industrial Blvd. frontage across 10 parcels roughly located on the west side of the airport. This property is currently shown on the approved Airport Layout Plan as aeronautical use land; however the property is currently not being used for aeronautical purposes and the proposed use of this property is compatible with airport operations. Fulton County will ultimately transfer the property to the Georgia Department of Transportation for right of ways and permanent construction easements associated with the widening of Fulton Industrial Blvd. in exchange for airport development.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Fulton County Airport.

Issued in Atlanta, Georgia on December 13, 2007.

Scott L. Serritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 08–210 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORATION

Federal Aviation Administration

FAA Approval of Noise Compatibility Program 14 CFR Part 150 Ronald Reagan Washington National Airport Arlington, VA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by Metropolitan Washington Airport Authority (MWAA) under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On August 6, 2007, the FAA determined that the noise exposure maps submitted by MWAA under Part 150 were in compliance with applicable requirements. On January 10, 2008, the FAA approved the Ronald Reagan Washington National Airport noise compatibility program. Some of the recommendations of the program were approved.

DATES: *Effective Date:* The effective date of the FAA's approval of the Ronald Reagan Washington National Airport noise compatibility program is January 10, 2008.

FOR FURTHER INFORMATION CONTACT: Jennifer Mendelsohn, Eastern Region, Washington Airports District Office, Federal Aviation Administration, 23723 Air Freight Lane, Suite 210, Dulles, Virginia 20166, Telephone: 703–661–1362. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Ronald Reagan Washington National Airport, effective January 10, 2008.

Under section 47504 of the Act, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

(a) The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

(b) Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

(c) Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

(d) Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or

approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Dulles, Virginia.

MWAA submitted to the FAA on August 2, 2007, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from July 2002 through August 2007. The Ronald Regan Washington National Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on August 6, 2007. Notice of this determination was published in the **Federal Register** on August 13, 2007 (72 FR 45294).

The Ronald Regan Washington National Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from August 2007 to (or beyond) the year 2009. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 47504 of the Act. The FAA began its review of the program on August 6, 2007 and was required by a provision of the Act to approve or disapprove the program within 180 days. Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained fourteen (14) proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the FAA effective January 10, 2008.

Outright approval was granted for four Noise Abatement Measures and all six Noise Mitigation Measures. Four Noise Abatement Measures were disapproved for purposes of part 150. The approved measures included such items as: Revising the language in the Airport Facility Directory to reflect the current novice abatement procedures at the Airport; Requesting a voluntary phase-out of hushkitted Stage 3 aircraft; Establishing a system to report airline compliance with noise abatement measures; Enhance the noise complaint system; Amend comprehensive plans and zoning maps to promote compatible land uses; Encourage Airport noise overlay zoning; Amend building codes to require soundproofing; Disclose noise levels prior to contract for sale or lease; Expand Airport Noise Information Program and Encourage local jurisdictions to adopt discretionary project review guidelines for Subdivision, Rezoning, Special Use, Conditional Use and Variance Applications. Four Noise Abatement Measures were disapproved for purposes of part 150. The Noise Exposure Maps and Noise Compatibility Study show no present or forecasted incompatible land uses within the DNL 65 dB and the Noise Compatibility Study does not state that the airport sponsor has selected land use guidelines different from those in Table 1 of part 150. Disapproval for purposes of part 150 does not prohibit the airport sponsor from implementing those measures. The disapproved measures included such items as: Form a working group to develop advanced navigation procedures for arrivals and departures on all runways; Encourage air traffic control controllers to direct flights arriving on Runway 01 or departing on Runway 19 during nighttime hours (10 p.m. to 7 a.m.) when traffic permits, to distribute the locations at which aircraft turn onto, or off of, the route along the center of the Potomac River over the areas between 5 and 10 miles south of the Airport; Encourage air traffic control controllers to direct flights arriving on Runway 01 or departing on Runway 19 during daytime hours (7 a.m. to 10 p.m.) when traffic permits, to distribute the locations at which aircraft turn into, or off of, the route along the center of the Potomac River over the areas between 5 and 10 miles south of the Airport and Update the Airport's Noise Monitoring and Flight Tracking System.

These determinations are set forth in detail in the Record of Approval signed by the Division Manager on January 10, 2008. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the MWAA. The Record of Approval also will be available on-line at: *http://www.faa.gov/airports_airtraffic/airports/environmental/airport_noise/*.

Issued in Dulles, Virginia, on January 11, 2008.

Terry J. Page,

Manager, Washington Airports District Office.

[FR Doc. 08–209 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation administration (FAA) DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In December 2007, there were four applications approved. This notice also includes information on four other applications, approved in November 2007, inadvertently left off the November 2007 notice. Additionally, 15 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of Fort Smith, Arkansas.

Application Number: 07–04–C–00–FSM.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $1,250,000.

Earliest Charge Effective Date: January 1, 2009.

Estimated Charge Expiration Date: January 1, 2012.

Classes of Air Carriers Not Required To Collect PFCs: None.

Brief Description of Projects Approved for Collection and Use:

Boarding bridge installation.
Flight information display system.
Security systems improvements.
PFC administration costs.

Decision Date: November 20, 2007.

FOR FURTHER INFORMATION CONTACT: Jimmy Pierre, Arkansas/Oklahoma Airports Development Office, (817) 222–5637.

Public Agency: City of Atlanta, Georgia.

Application Number: 07–09–C–00–ATL.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $38,058,462.

Earliest Charge Effective Date: January 1, 2020.

Estimated Charge Expiration Date: April 1, 2020.

Class of Air Carriers Not Required To Collect PFCs: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Hartsfield-Jackson Atlanta International Airport.

Brief Description of Project Approved for Collection and Use at a $4.50 PFC Level: Terminal area planning.

Brief Description of Projects Partially Approved for Collection and Use at a $4.50 PFC Level: Land acquisition for noise compatibility phase I.

Determination: This project is for the local share of several AIP grants. The public agency misstated the local share of these grants in their PFC application. The PFC amount is limited to the correct local share of these grants.

Aircraft rescue and firefighting facilities planning, design, and construction.

Determination: The FAA determined that two of the five proposed stations are not needed to meet FAA-mandated response times and thus are not eligible. In addition, the eligibility of each of the remaining three stations is limited to 10,700 square feet.

Decision Date: November 29, 2007.

FOR FURTHER INFORMATION CONTACT: Aimee McCormick, Atlanta Airports District Office, (404) 305–7143.

Public Agency: Golden Triangle Regional Airport Authority, Columbus, Mississippi.

Application Number: 08–06–C–00–GTR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $52,500.

Earliest Charge Effective Date: October 1, 2015.

Estimated Charge Expiration Date: March 1, 2016.

Class of Air Carriers Not Required to Collect PFCs: None.

Brief Description of Projects Approved For Collection And Use:

Rehabilitation of commercial ramp.

Wildlife assessment and plan.

Decision Date: November 29, 2007.

FOR FURTHER INFORMATION CONTACT: David Shumate, Jackson Airports District Office, (601) 664–9882.

Public Agency: Ports of Douglas County and Chelan County, East Wenatchee, Washington.

Application Number: 08–08–C–00–EAT.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $365,332.

Earliest Charge Effective Date: February 1, 2008.

Estimated Charge Expiration Date: February 1, 2010.

Class of Air Carriers Not Required To Collect PFCs: None.

Brief Description of Projects Approved For Collection And Use:

Seal and restripe runway 12/30.

Acquire O'Kelley property.

Acquire Wagner property.

Acquire Snyder Land Holdings property.

Design new taxiway G.

Design for terminal building remodel.

Master plan update/runway extension study.

Decision Date: November 30, 2007.

FOR FURTHER INFORMATION CONTACT: Trang Tran, Seattle Airports District Office, (425) 227–1662.

Public Agency: City of Eugene, Oregon.

Application Number: 08–09–C–00–EUG.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $4,450,000.

Earliest Charge Effective Date: May 1, 2009.

Estimated Charge Expiration Date: December 1, 2011.

Class of Air Carriers Not Required to Collect PFCs: Nonscheduled/on-demand air carriers filing form FAA form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total number annual enplanements at Mahlon Sweet Field—Eugene Airport.

Brief Description of Projects Approved For Collection And Use:

Terminal ramp rehabilitation–phase 1.

Relocate baggage screening area.

Decision Date: December 7. 2007.

FOR FURTHER INFORMATION CONTACT: Trang Tran, Seattle Airports District Office (425) 227–1662.

Public Agency: County of Alpena, Alpena, Michigan.

Application Number: 07–02–C–00–APN.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $193,959.

Earliest Charge Effective Date: August 1, 2008.

Estimated Charge Expiration Date: January 1, 2013.

Class of Air Carriers Not Required to Collect PFCs: Air taxi-commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Alpena County Regional Airport.

Brief Description of Projects Approved for Collection and Use:

PFC application preparation reimbursement.

PFC account audit fiscal year 2001–2005 reimbursement.

Construct snow removal equipment building, phase 1.

Rehabilitate taxiway lighting.

Snow removal equipment plow truck procurement.

Airport layout plan update.

Wildlife study.

New hangar area, expand parking lot, clearing.

Security fencing.

Runway 7/25 safety area improvements.

Snow removal equipment snow sweeper procurement.

Design of snow removal equipment building phase 2.

Exhibit ''A'' property map.

Terminal apron/entrance road lighting.

Construct snow removal equipment building phase 2 and sand storage building.

Snow removal equipment loader specifications.

Design of storm drain at retention pond.

Runway friction meter tester.

Snow removal equipment loader procurement.

Snow removal equipment sand spreader procurement.

Remarking taxiway and portion of runway 01/19 pavement.

Replacement of airfield signs.

Decision Date: December 14, 2007.

FOR FURTHER INFORMATION CONTACT: Jason Watt, Detroit Airports District Office, (734) 229–2906.

Public Agency: City of McAllen, Texas.

Application Number: 08–04–C–00–MFE.

Application Type: Impose and use a PFC.

PFC Level: $3.00

Total PFC Revenue Approved in This Decision: $3,460,375.

Earliest Charge Effective Date: October 1, 2010.

Estimated Charge Expiration Date: October 1, 2013.

Class of Air Carriers Not Required to Collect PFCs: None.

Brief Description of Projects Approved for Collection and Use:

Passenger boarding bridge.

Aircraft rescue and firefighting vehicle.

Pavement management system.

Access control system.

Bag belt conveyor.

Airfield electrical rehabilitation.

Decision Date: December 18, 2007.

FOR FURTHER INFORMATION CONTACT: Rodney Clark, Texas Airports Development Office, (817) 222–5659.

Public Agency: City of Dallas, Texas.

Application Number: 08–02–C–00–DAL.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $38,994,339.

Earliest Charge Effective Date: February 1, 2008.

Estimated Charge Expiration Date: October 1, 2011.

Class of Air Carriers Not Required to Collect PFCs: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Dallas Love Field.

Brief Description of Projects Approved for Collection and Use:

Storm water outflow control system.

Runway safety area enhancements.

New field maintenance facility.

Taxiways C and K rehabilitation.

Aircraft rescue and firefighting vehicle—acquire 3,000-gallon replacement.

Perimeter road rehabilitation.

Rehabilitate runways.

Taxiways B, C, and N—construct and rehabilitate.

Runway lighting update.

Concourse aprons—east/west—rehabilitate.

Terminal rehabilitation.

Enhance security.

Service road rehabilitation.

Noise mitigation.

Conduct planning studies.

Acquire safety equipment.

Access road—rehabilitate.

Brief Description of Disapproved Project: Security controls enhancement (perimeter fence).

Determination: The proposed project are not required elements of the airport's security program. Therefore, the project was disapproved.

Decision Date: December 20, 2007.

FOR FURTHER INFORMATION CONTACT: Rodney Clark, Texas Airports Development Office, (817) 222–5659.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
92–01–C–05–BWI, Baltimore, MD	11/07/07	$225,826,453	$189,381,695	11/01/02	11/01/02
94–02–C–03–BWI, Baltimore MD	11/07/07	60,230,930	52,246,080	06/01/04	06/01/04
94–OC–C–04–BWI, Baltimore MD	11/07/07	60,230,930	52,246,080	06/01/04	06/01/04
95–03–U–02–BWI, Baltimore, MD	11/07/07	NA	NA	06/01/04	06/01/04
*06–03–C–01–FSM, Fort Smith, AR	11/20/07	809,249	759,249	03/01/10	01/01/09
97–03–C–01 BNA, Nashville, TN	11/29/07	1,475,000	1,439,174	10/01/99	10/01/99
97–04–C–01–BNA, Nashville, TN	11/29/07	19,500,000	17,641,859	07/01/01	07/01/01
98–05–C–03–BNA, Nashville, TN	11/29/07	2,855,000	2,651,686	10/01/01	10/01/01
99–05–C–02–BNA, Nashville, TN	11/29/07	4,160,000	4,159,999	04/01/02	04/01/02
05–05–C–02–SUN, Hailey, ID	11/30/07	746, 213	743, 988	08/01/07	08/01/07
05–10–C–03–MCO, Orlando, FL	12/07/07	544,802,706	540,350,706	10/01/18	01/01/17
96–03–C–03–TUL, Tulsa, OK	12/07/07	16,356,000	15,120,247	07/01/00	05/01/00
05–07–C–02–PNS, Pensacola, FL	12/14/07	120,367,000	119,352,000	01/01/32	10/01/31
04–09–C–03–CRW, Charleston, WV	12/18/07	7,609,184	7,719,526	08/01/11	09/01/11
04–07–C–01–STT, St. Thomas, USVI	12/20/07	8,000,000	13,500,000	04/01/08	04/01/12

Note.—The amendment denoted by an asterisk (*) includes a change to the PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Fort Smith, AR, this change is effective on February 1, 2008.

Issued in Washington, DC, on January 8, 2008.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 08–161 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008–0005]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel KANALOA.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–0005 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the

commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before February 21, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–0005. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel KANALOA is:

Intended Use: ''General charter for hire for up to 12 passengers for varying periods.''

Geographic Region: ''Hawaii, Washington, Oregon and California.''

Privacy Act

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

Dated: January 14, 2008.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E8–1009 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008–0004]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CARRERA.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–0004 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before February 21, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–0004. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CARRERA is:

Intended Use: ''Taking passengers for hire on sailing and sport fishing trips in the below mentioned areas. Any fish caught will not be sold commercially.''

Geographic Region: ''East Coast waters: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, District of Columbia, Virginia, North Carolina, South Carolina, Georgia, Florida.''

Privacy Act

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

Dated: January 14, 2008.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E8–1020 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2008–0006]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

ACTION: Request for public comment on revision of a currently approved information collection.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget

(OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes a collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before March 24, 2008.

ADDRESSES: You may submit comments, identified as relating to DOT Docket No. NHTSA–2008–0006, 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. Telephone: 1–800–647–5527.
- *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) 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: Jennifer Timian, Recall Management Division (NVS–215), Room W46–324, NHTSA, 1200 New Jersey Ave., SE., Washington, DC 20590. Telephone: (202) 366–0209.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation, *see* 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) 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) 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) How to enhance the quality, utility, and clarity of the information to be collected; and

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

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information:

Title: Names and Addresses of First Purchasers of Motor Vehicles.

OMB Control Number: 2127–0044.

Type of Request: Renewal of a currently approved information collection.

Affected Public: Businesses or others for profit.

Abstract: Pursuant to 49 U.S.C. 30117(b), a manufacturer of a motor vehicle or tire (except a retreaded tire) must maintain a record of the name and address of the first purchasers of each vehicle or tire it produces and, to the extent prescribed by regulation of the Secretary, must maintain a record of the name and address of the first purchaser of replacement equipment (except a tire) that the manufacturer produces.

Vehicle manufacturers presently collect and maintain purchaser information for business reasons, such as for warranty claims processing and marketing, and experience with this statutory requirement has shown that manufacturers have retained this information in a manner sufficient to enable them to expeditiously notify vehicle purchasers in the case of a safety recall. Based on industry custom and this experience, NHTSA therefore determined that the regulation mentioned in 49 U.S.C. 30117(b) was unnecessary as to vehicle manufacturers. As an aside, the requirements for maintaining tire purchaser information are contained in 49 CFR part 574, Tire Identification and Recordkeeping, and the burden of that information collection is not part of this information collection.

Estimated Annual Burden: Previously, NHTSA estimated this collection's burden at 1,075,000 hours. This was reached from our estimate that there was an annual burden of 875,000 hours associated with the recording of purchaser information at the time of sale by dealers, and an additional 200,000 burden hours associated with recordkeeping by manufacturers.

As discussed above, as a practical matter vehicle manufacturers are presently collecting from their dealers and then maintaining first purchaser information for their own commercial reasons. Therefore, we do not believe that the requirement in 49 U.S.C. 30117(b) imposes any additional burden on that community. We believe our previous estimate is inaccurate and greatly exaggerates the burden on vehicle manufacturers. Accordingly, we have revised the estimated annual burden for this collection to zero burden hours.

Number of Respondents: We estimate that there are roughly 1,000 manufacturers of motor vehicles that collect and keep first purchaser information.

Issued on: January 15, 2008.

Kathleen C. DeMeter,

Director, Office of Defects Investigation.

[FR Doc. E8–947 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2008–0002]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

ACTION: Request for public comment on revision of a currently approved information collection.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget

(OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes a collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before March 24, 2008.

ADDRESSES: You may submit comments using any of the following methods. Please be certain to note conspicuously on your comments that they relate to DOT Docket No. NHTSA–2008–0002.

- *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. Telephone: 1–800–647–5527.
- *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) 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: Jennifer Timian, Recall Management Division (NVS–215), Room W46–324, NHTSA, 1200 New Jersey Ave., SE., Washington, DC 20590. Telephone: (202) 366–0209.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation, *see* 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) 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) 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) How to enhance the quality, utility, and clarity of the information to be collected; and

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

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information:

Title: Petitions for Hearing on Notification and Remedy of Defects.

Type of Request: Renewal of an information collection.

OMB Control Number: 2127–0039.

Affected Public: Businesses or individuals.

Abstract: Sections 30118(e) and 30120(e) of Title 49 of the United States Code specify that any interested person may petition NHTSA to hold a hearing to determine whether a manufacturer of motor vehicles or motor vehicle equipment has met its obligation to notify owners, purchasers, and dealers of vehicles or equipment of a safety-related defect or noncompliance with a Federal motor vehicle safety standard in the manufacturer's products and to remedy that defect or noncompliance.

To implement these statutory provisions, NHTSA promulgated 49 CFR part 557, Petitions for Hearings on Notification and Remedy of Defects. Part 577 establishes procedures providing for the submission and disposition of petitions for hearings on the issues of whether the manufacturer has met its obligation to notify owners, purchasers, and dealers of safety-related defects or noncompliances, or to remedy such defect or noncompliance free of charge.

Estimated Annual Burden: During NHTSA's last renewal of this information collection, the agency estimated it would receive two petitions a year, with an estimated one hour of preparation for each petition, for total of two burden hours per year.

Over the past three years, however, NHTSA has received one petition filed under 49 CFR Part 557. Our estimated time for preparation remains the same. Accordingly, we are revising our burden estimate for this collection of information to one burden hour per year.

Number of Respondents: 1.

Issued on January 15, 2008.

Kathleen C. DeMeter,

Director, Office of Defects Investigation.

[FR Doc. E8–959 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

U.S. DOT Docket Number NHTSA–2008–0007 Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before March 24, 2008.

ADDRESSES: You may submit comments identified by DOT Docket No. NHTSA–2008–0007 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. Telephone: 1–800–647–5527.

• Fax: 202–493–2251.

Instructions: All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), 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: Complete copies of each request for collection of information may be obtained at no charge from Laurence Long, NHTSA, 1200 New Jersey Avenue, SE., Rm. 48–220, NVS 211, Washington, DC 20590. Mr. Long's telephone number is (202) 366–6281.

Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) 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) 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) How to enhance the quality, utility, and clarity of the information to be collected; and

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

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Consumer Complaint Information.

OMB Control Number: 2127–0008.

Affected Public: Individuals and households.

Abstract: Pursuant to Chapter 301 of Title 49 of the United States Code, manufacturers of motor vehicles and items of motor vehicle equipment must notify owners and provide a free remedy (*i.e.*, a recall) when it has been determined that a safety-related defect exists in the manufacturer's product. NHTSA investigates possible safety defects and may order recalls. NHTSA solicits information from vehicle owners, which is used to identify and evaluate possible safety-related defects and provide evidence of the existence of such defects.

Consumer complaint information takes the form of a Vehicle Owner's Questionnaire (VOQ), which is a paper, self-addressed mailer that consumers complete. This mailer contains owner information, product information, failed component information, and incident information. It may also take the form of an electronic VOQ containing the same information as identified above, which can be submitted via NHTSA's Internet Web site or by calling the Department of Transportation's Auto Safety Hotline. Or, it may take the form of a consumer letter. All consumer complaint information, in addition to other sources of available information, is entered into the agency's database and reviewed by NHTSA staff to determine whether a safety-related defect trend or catastrophic failure is developing that would warrant the opening of a safety defect investigation.

Estimated Annual Burden: 8,657 hours.

Estimated Number of Respondents: 34,626.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Kathleen Demeter,

Director, Office of Defects Investigation.

[FR Doc. E8–990 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Petition

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Denial of petition for rulemaking, defect, and noncompliance order, and denial of petition for hearing on notification and remedy of a safety related defect.

SUMMARY: This notice sets forth the reasons for the denials of two petitions submitted by Mr. Robin R. Harrill (petitioner). The first petition requested that the National Highway Traffic Safety Administration (NHTSA) order Polaris Industries, Inc. (Polaris) to assume all owner costs incurred to replace defective third gear assemblies on certain model year 1999 through 2001 Victory V92 motorcycles it manufactured. The second petition requested the NHTSA hold a hearing concerning the company's alleged failure to remedy the defective third gear assemblies on those motorcycles. Both petitions are denied as moot. Polaris has, since the filing of this petition, notified the affected motorcycle owners of the defect, and has made a free remedy available to those owners, including the petitioner, and has reimbursed all owners who had the recall repair work completed prior to the initiation of the recall.

FOR FURTHER INFORMATION CONTACT: Jennifer T. Timian, Recall Management Division (NVS–215), Office of Defects Investigation, NHTSA, 1200 New Jersey Ave., SE., Washington, DC 20590, telephone (202) 366–0209.

SUPPLEMENTARY INFORMATION:

Background

On August 4, 2006, Polaris filed a defect information report (06V–298) with NHTSA, notifying it that some of its 2001 Victory V92 motorcycles and some of its 1999–2000 Victory V92 motorcycles that received a transmission replacement last built in 2001 contained a safety-related defect. According to Polaris, under certain conditions, these motorcycles could experience third gear failures that could result in a lock-up of the transmission. This, in turn, could cause a loss of control and a crash. Polaris reported that it was planning to install a rear sprocket damper assembly to correct for the possible third gear failures, but that the schedule for implementing the remedy campaign was still under development. Subsequently, on November 22, 2006, Polaris issued a letter to the affected owners notifying them of the defect and stating that limited numbers of kits needed to repair the motorcycles (referred to as ''Rear Sprocket Cushion Drive Kits'') were expected to be distributed the week of December 18, 2006. Owners were instructed to contact Victory dealers to schedule repair appointments.

During the final stages of testing, however, Polaris found that the remedy kits were not sufficient to address the risk of third gear failures, and therefore additional work was needed to develop a better remedy. Polaris advised the agency of its finding and the resulting delay in delivery of remedy kits in January, 2007.

On March 8, 2007, NHTSA received a package containing two petitions from Robin R. Harrill. The first petition, captioned a ''Petition for Rulemaking, Defect, and Noncompliance Order,'' requested that NHTSA order Polaris to assume all costs motorcycle owners may have incurred to replace the third gear assemblies on the affected motorcycles. The second petition, captioned a ''Petition for Hearing on Notification and Remedy of Defects,'' requested a hearing to address Polaris's alleged failure to meet its obligation to remedy those defective assemblies.

The crux of both petitions is that Polaris has been unreasonably slow in making the Rear Sprocket Cushion Drive Kits available to owners and dealers. In support of his petitions, Mr. Harrill provided a timeline of events concerning the recall, an account of certain conversations he had with various Polaris personnel, and summaries of various communications Polaris had issued as to the status and availability of the kits.

In the meantime, and at the agency's request, Polaris prepared another notification letter for owners. On or about April 20, 2007, NHTSA received a draft of this letter together with an amended defect information report. Polaris stated in its report that this second owner notification mailing was to start April 30, 2007. Polaris further reported that it was going to simultaneously publish on its Web site a reminder notification to dealers about the recall, together with a parts availability date. Both of these actions took place.

In mid-May, 2007, the remedy kits for the affected motorcycles were made available to dealers.

Decision

The filing and disposition requirements for petitions for rulemaking, defect, and noncompliance orders, are found in 49 CFR part 552. The stated scope of part 552 is to, among other things, allow interested persons to request the agency ''make a decision that a motor vehicle * * * contains a defect which relates to motor vehicle safety.'' 49 CFR 552.1. The stated scope of Part 552 does not include ordering manufacturers to reimburse owners for their costs in remedying defective motor vehicles, or taking any other action related to repairing or replacing defective motor vehicles or motor vehicle equipment.

Here, Polaris has already admitted that its vehicles have a defect that relates to motor vehicle safety. Therefore, the issue of whether the Polaris motorcycles in question have a safety-related defect has been resolved, and so any agency determination mirroring the manufacturer's decision would be meaningless.

The filing and disposition requirements for petitions for hearings on notification and remedy of defects, are found in 49 CFR part 557. One of the stated purposes of part 557 is to enable NHTSA to respond to petitions for hearings on whether a manufacturer has reasonably met its obligation to remedy a safety-related defect identified in its product. 49 CFR 557.2. Pursuant to 49 CFR 557.8, a manufacturer can be ordered to take certain actions to ensure its compliance with the recall requirements. One such action could be requiring the manufacturer to reimburse owners' costs for their independent repairing or replacing of equipment in order to fix a defect.

In deciding whether to grant petitioner's second petition, we have taken into consideration the nature of his complaint and the seriousness of the alleged breach of Polaris's obligation to remedy. We have also considered that there have been approximately eight owner complaints to NHTSA (including one the petitioner filed) about the delays in repair due to the lack of availability of the Rear Sprocket Cushion Drive Kits at local dealerships.

Based on our consideration of these factors, we have determined that any hearing related to the reasonableness of the remedy would be moot because the alleged problem—delays in repair kits needed to fix the transmission defect—has been resolved. Polaris has delivered the kits to its dealers and all owners have been notified of the defect.[1]

For all of the reasons above, this petition is denied. This decision does not, of course, prevent the agency from taking future action if warranted.

Authority: 49 U.S.C. 30120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: January 15, 2008.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E8–951 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–59–P

[1] In phone calls with the agency, the petitioner reported that he had received a call from his dealer letting him know the repair kits had arrived and offering to schedule an appointment for a repair. He also reported that he no longer owns a motorcycle involved in the remedy campaign addressed by this notice.

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Special Permits Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications Delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Delmer F. Billings, Director, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue, SE., Washington, DC 20590–4535.

Key to "Reason for Delay"

1. Awaiting additional information from applicant.

2. Extensive public comment under review.

3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.

4. Staff review delayed by other priority issues or volume of special permit applications.

Meaning of Application Number Suffixes

N—New application.

M—Modification request.

PM—Party to application with modification request.

Issued in Washington, DC, on January 16, 2008.

Delmer F. Billings

Director, Office of Hazardous Materials, Special Permits and Approvals.

MODIFICATION TO SPECIAL PERMITS

Application No.	Applicant	Reason for delay	Estimated date of completion
11579–M	Austin Powder Company, Cleveland, OH	3, 4	02–29–2008.
10964–M	Kidde Aerospace & Defense, Wilson, NC	4	02–29–2008.

NEW SPECIAL PERMIT APPLICATIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
14385–N	Kansas City Southern Railway Company, Kansas City, MO	4	02–29–2008.
14546–N	BOC Gases, Murray Hill, NJ	4	02–29–2008.
14402–N	Lincoln Composites, Lincoln, NE	1, 3	01–31–2008.
14436–N	BNSF Railway Company, Topeka, KS	4	02–29–2008.

[FR Doc. 08–202 Filed 1–18–08; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 675]

Consolidated Appropriations Act, 2008—Solid Waste Rail Transfer Facilities

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of legislation.

SUMMARY: This notice advises the public of new legislation affecting the Board, the Consolidated Appropriations Act, 2008, Public Law No. 110–161, 121 Stat. 1844 (2007), and how the Board plans to proceed to ensure compliance with that legislation.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 245–0395. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: On December 26, 2007, the Consolidated Appropriations Act, 2008, Public Law No. 110–161, 121 Stat. 1844 (2007) (Act), was enacted into law, which among other things, provides the Board with funding for fiscal year 2008. As pertinent here, section 193 of the Act provides:

(a) None of the funds appropriated or otherwise made available under this Act to the Surface Transportation Board of the Department of Transportation may be used to take any action to allow any activity described in subsection (b) in a case, matter, or declaratory order involving a railroad, or an entity claiming or seeking authority to operate as a railroad, unless the Board receives written assurance from the Governor, or the Governor's designee, of the State in which such activity will occur that such railroad or entity has agreed to comply with State and local regulations that establish public health, safety, and environmental standards for the activities described in subsection (b), other than zoning laws or regulations.

(b) Activities referred to in subsection (a) are activities that occur at a solid waste rail transfer facility involving—

(1) the collection, storage, or transfer of solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)) outside of original shipping containers; or

(2) the separation or processing of solid waste (including baling, crushing, compacting, and shredding).

While the Board will continue to accept and process petitions, notices, and other filings in conformance with its regulations, the Board will ensure compliance with the Act by providing notice herein that no pertinent Board decision issued during the period covered by the Act will authorize any of the aforementioned activities prior to receipt of the written assurance referenced in the Act from the governor (or governor's designee) of the state where such activities are proposed. The Board intends to include in all pertinent agency decisions issued during that period a statement substantially similar to the following:

Pursuant to the Consolidated Appropriations Act, 2008, Public Law No. 110–161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: Collecting, storing or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting and shredding). The term 'solid waste' is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

Board filings, decisions, and notices are available on its Web site, *http://www.stb.dot.gov.*

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–1051 Filed 1–18–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of Four Individuals and One Entity Pursuant to Executive Order 13438

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of four newly designated individuals and one newly designated entity whose property and interests in property are blocked pursuant to Executive Order 13438 of July 17, 2007, ''Blocking Property of Certain Persons Who Threaten Stabilization Efforts in Iraq.''

DATES: The designation by the Secretary of the Treasury of the four individuals and one entity identified in this notice pursuant to Executive Order 13438 is effective on January 9, 2008.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On July 17, 2007, the President issued Executive Order 13438 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.*, the National Emergencies Act, 50 U.S.C. 1601 *et seq.*, and section 301 of title 3, United States Code. In the Order, the President declared a national emergency to address the threat to the national security and foreign policy of the United States posed by acts of violence threatening the peace and stability of Iraq and undermining efforts to promote economic reconstruction and political reform in Iraq and to provide humanitarian assistance to the Iraqi people.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including any overseas branch, of the following persons: Persons who are determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense, (1) to have committed, or to pose a significant risk of committing, an act or acts of violence that have the purpose or effect of threatening the peace or stability of Iraq or the Government of Iraq, or undermining efforts to promote economic reconstruction and political reform in Iraq or to provide humanitarian assistance to the Iraqi people; (2) to have materially assisted, sponsored, or provided financial, material, or technical support for, or goods or services in support of, such an act or acts of violence or any person whose property and interests in property are blocked pursuant to the Order; or (3) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

On January 9, 2008, the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense, designated, pursuant to one or more of the criteria set forth in the Order, four individuals and one entity whose property and interests in property are blocked pursuant to Executive Order 13438.

The list of designees is as follows:

1. AL LAMI, Isma'il Hafiz (a.k.a. AL-LAMI, Ismail; a.k.a. AL-LAMI, Isma'il Hafith Abid 'Ali; a.k.a. AL-ZARGAWI, Ismai'il Hafuz; a.k.a. IZAJAWI, Ismail Hafeth; a.k.a. ''DAR'A, abu''; a.k.a. ''DIRI, Abu''; a.k.a. ''DURA, Abu''; a.k.a. ''HAYDAR, Abu''), Sadr City, Baghdad, Iraq; Iran; DOB circa 1957; POB Baghdad, Iraq; citizen Iraq.

2. AL-JABURI, Mish'an Rakin Thamin (a.k.a. AL JABBURY, Mashaan Rakadh Dhamin; a.k.a. AL JABOURI, Meshan Thamin; a.k.a. AL JABOURI, Mishan Riqardh Damin; a.k.a. AL JABURI, Misham; a.k.a. AL-JABBURI, Mishan; a.k.a. AL-JABBURI, Mish'an Rakkad Damin; a.k.a. ALJABOURI, Mashaan; a.k.a. AL-JABOURI, Mishan; a.k.a. AL-JABURI, Mushan; a.k.a. AL-JIBURI, Mush'an; a.k.a. AL-JUBOURI, Mishaan; a.k.a. AL-JUBURI, Meshaan; a.k.a. AL-JUBURI, Mish'an; a.k.a. EL-JBURI, Mash'an; a.k.a. JABOURI, Mashaan; a.k.a. JIBOURI, Mishan; a.k.a. JUBURI, Mashan), Ladikiya, Syria; Damascus, Syria; DOB 1 Aug 1957; POB Ninwa, Iraq; citizen Syria; nationality Iraq; Passport 01374026.

3. AL-SHEIBANI, Abu Mustafa (a.k.a. AL-ATTABI, Hameid Thajeil Wareij; a.k.a. AL-SHAYBANI, Abu Mustafa; a.k.a. AL-SHAYBANI, Hamid; a.k.a. AL-SHEBANI, Abu Mustafa; a.k.a. AL-SHEIBANI, Hamid Thajil; a.k.a. AL-SHEIBANI, Mustafa; a.k.a. THAJIL, Hamid), Tehran, Iran; DOB circa 1959; alt. DOB circa 1960; POB Nasiriyah, Iraq; citizen Iran; alt. citizen Iraq.

4. FORUZANDEH, Ahmed (a.k.a. FAYRUZI, Ahmad; a.k.a. FOROOZANDEH, Ahmad; a.k.a. FORUZANDEH, Ahmad; a.k.a. FRUZANDAH, Ahmad; a.k.a. ''ABU AHMAD ISHAB''; a.k.a. ''ABU SHAHAB''; a.k.a. ''JAFARI''), Qods Force Central Headquarters, Former U.S. Embassy Compound, Tehran, Iran; DOB circa 1960; alt. DOB 1957; alt. DOB circa 1955; alt. DOB circa 1958; alt. DOB circa 1959; alt. DOB circa 1961; alt. DOB circa 1962; alt. DOB circa 1963; POB Kermanshah, Iran; Brigadier General, Commanding Officer of the Iranian Islamic Revolutionary Guard Corps-Qods Force Ramazan Corps; Deputy Comander of the Ramazan Headquarters; Chief of Staff of the Iraq Crisis Staff.

5. AL-ZAWRA TELEVISION STATION (a.k.a. AL ZAOURA NETWORK; a.k.a. AL ZAWRAH TELEVISION; a.k.a. AL ZOURA TV STATION; a.k.a. AL-ZAWARA SATELLITE TELEVISION STATION; a.k.a. ALZAWRAA TV; a.k.a. AL-ZAWRAA TV; a.k.a. EL-ZAWRA SATELLITE STATION; a.k.a. ZAWRAH TV STATION; a.k.a. ZORAH CHANNEL), Syria.

Dated: January 9, 2008.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E8–940 Filed 1–18–08; 8:45 am]

BILLING CODE 4811–45–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—February 7, 2008, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: Larry Wortzel, Chairman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, evaluate and report to Congress annually on ''the national security implications and impact of the bilateral trade and economic relationship between the United States and the People's Republic of China.''

Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on February 7, 2008 to address ''The Implications of Sovereign Wealth Fund Investment on National Security.''

Background

This event is the first in a series of public hearings the Commission will hold during its 2008 report cycle to collect input from leading experts in academic, business, industry, government and the public on the impact of the economic and national security implications of the U.S. bilateral trade and economic relationship with China. The February 7 hearing is being conducted to obtain commentary about the status of U.S.-China relations, from economic, security, and diplomatic perspectives, in order to assess the progress of our bilateral relationship since the granting of permanent normalized trade relations to China, and to identify the challenges facing our relationship in 2008. The February 7 hearing will address ''The Implications of Sovereign Wealth Fund Investment on National Security'' and will be Co-chaired by Chairman Larry M. Wortzel and Commissioner Patrick A. Mulloy.

Information on this hearing, including a detailed hearing agenda and information about panelists, will be made available on the Commission's Web site prior to the hearing date. Detailed information about the Commission, the texts of its annual reports and hearing records, and the products of research it has commissioned can be found on the Commission's Web site at *http://www.uscc.gov.*

Any interested party may file a written statement by February 7, 2008, by mailing to the contact below. On February 7, the hearing will be held in two sessions, one in the morning and one in the afternoon. Commissioners will take testimony from invited witnesses, and there will be a question and answer period among the Commissioners and the witnesses.

DATE AND TIME: Thursday, February 7, 2008, 8:30 a.m. to 5 p.m. Eastern Standard Time. A detailed agenda for the hearing will be posted to the Commission's Web site at *http://www.uscc.gov* in the near future.

ADDRESSES: The hearing will be held on Capitol Hill in Room 562 Dirksen Senate Office Building located at First Street and Constitution Avenue, NE., Washington, DC 20510. Public seating is limited to about 50 people on a first come, first served basis. Advance reservations are not required.

FOR FURTHER INFORMATION CONTACT: Kathy Michels, Associate Director for the U.S.-China Economic and Security Review Commission, 444 North Capitol Street, NW., Suite 602, Washington, DC 20001; phone: 202–624–1409, or via e-mail at *kmichels@uscc.gov.*

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: January 15, 2008.

Kathleen J. Michels,

Associate Director, U.S.-China Economic and Security Review Commission.

[FR Doc. E8–956 Filed 1–18–08; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0606]

Proposed Information Collection (Regulation for Submission of Evidence); Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to collect or recover cost for medical care or services provided or furnished to veterans with non-service-connected conditions.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *mary.stout@va.gov.* Please refer to ''OMB Control No. 2900–0606'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mary Stout (202) 461–5867 or Fax (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Regulation for Submission of Evidence—Title 38 CFR 17.101(a)(4).

OMB Control Number: 2900–0606.

Type of Review: Extension of a currently approved collection.

Abstract: Under the provisions of 38 CFR 17.101(a)(4), a third party payer that is liable for reimbursing VA for care and services VA provided to veterans with non-service-connected conditions continues to have the option of paying either the billed charges or the amount the health plan demonstrates it would pay to providers other than entities of the United States for the same care or services in the same geographic area. If the amount submitted by the health plan is less than the amount billed, VA will accept the submission as payment, subject to verification at VA's discretion. VA uses the information to determine whether the third-party payer has met the test of properly demonstrating its equivalent private sector provider payment amount for the same care or services VA provided.

Affected Public: Business or other for-profit.

Estimated Total Annual Burden: 800 hours.

Estimated Average Burden per Respondent: 2 hours.

Frequency of Response: On occasion.

Estimated Number of Respondents: 400.

Dated: January 10, 2008.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–923 Filed 1–18–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0047]

Proposed Information Collection (Financial Statement); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine veteran-obligors' and prospective assumers' creditworthiness.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0047'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or Fax (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Financial Statement, VA Form 26–6807.

OMB Control Number: 2900–0047.

Type of Review: Extension of a currently approved collection.

Abstract: The data collected on VA Form 26–6807 is use to determine release of liability and substitution of entitlement cases. VA may release original veteran obligors from personal liability arising from the original guaranty of their home loan, or the making of a direct loan, provided the purchasers/assumers meet the creditworthiness requirements. The data is also used to determine a borrower's financial condition in connection with efforts to reinstate a seriously defaulted guaranteed, insured, or portfolio loan, and to determine homeowners eligibility for aid under the Homeowners Assistance Program, which provides assistance by reducing losses incident to the disposal of homes when military installations at which the homeowners were employed or serving are ordered closed.

Affected Public: Individuals or households.

Estimated Annual Burden: 6,000 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 8,000.

Dated: January 10, 2008.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–924 Filed 1–18–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0270]

Proposed Information Collection (Financial Counseling Statement); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to establish veteran-borrowers repayment agreement on delinquent guaranteed or insured VA home loans.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0270'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or Fax (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility;

(2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Financial Counseling Statement, VA Form 26–8844.

OMB Control Number: 2900–0270.

Type of Review: Extension of a currently approved collection.

Abstract: VA personnel and veteran-borrower complete VA Form 26–8844 during financial counseling service to record net income, total expenditure, net worth, and to suggest areas where expenses can be reduced or income increased. Financial counseling service is provided to assist veteran-borrowers in retaining their home during periods of temporary financial difficulty. The data collected is used to help borrowers who are seriously delinquent on guaranteed or insured VA home loans to budget and establish a repayment schedule for the loan.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,750 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 5,000.

Dated: January 10, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–925 Filed 1–18–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0129]

Proposed Information Collection (Supplemental Disability Report); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments on information needed to evaluate clams for disability insurance benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov*. Please refer to ''OMB Control No. 2900–0129 in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or Fax (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Supplemental Disability Report, VA Form Letter 29–30a.

OMB Control Number: 2900–0129.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form Letter 29–30a is used by the insured to provide additional information required to process a claim for disability insurance benefits.

Estimated Annual Burden: 548 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 6,570.

Dated: January 10, 2008.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–928 Filed 1–18–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0510]

Proposed Information Collection (Application for Exclusion of Children's Income); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine whether children's incomes can be excluded from consideration in determining a parent's eligibility for non-service-connected pension.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0510'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or Fax (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Exclusion of Children's Income, VA Form 21–0571.

OMB Control Number: 2900–0510.

Type of Review: Extension of a currently approved collection.

Abstract: The data collected on VA Form 21–0571 is used to determine whether children's income can be excluded from consideration in determining a parent's eligibility for non-service connected pension. A veteran's or surviving spouse's rate of improved pension is determined by family income. However, children's income may be excluded if it is unavailable or if including that income would cause a hardship.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,025 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 2,700.

Dated: January 11, 2008.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–930 Filed 1–18–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0161]

Proposed Information Collection (Medical Expense Report); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to report medical expenses paid in connection with claims for pension and other income-based benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0161'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Medical Expense Report, VA Form 21–8416.

OMB Control Number: 2900–0161.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8416 is completed by claimants in receipt of or claiming income-based benefits to report medical expenses paid. Unreimbursed medical expenses may be excluded as countable income in determining a claimant's entitlement to income-based benefits and the rate payable.

Affected Public: Individuals or households.

Estimated Annual Burden: 96,400 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 48,200.

Dated: January 11, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–932 Filed 1–18–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0115]

Proposed Information Collection (Supporting Statement Regarding Marriage); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved

collection and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine eligibility for benefits based on a common law marriage.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to ''OMB Control No. 2900–0115'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Supporting Statement Regarding Marriage, VA Form 21–4171.

OMB Control Number: 2900–0115.

Type of Review: Extension of a currently approved collection.

Abstract: The data collected on VA Form 21–4171 is used to determine a claimant's eligibility for benefits based on a common law marital relationship. Benefits cannot be pay unless the marital relationship between the claimant and the veteran is established.

Affected Public: Individuals or households.

Estimated Annual Burden: 800 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 2,400.

Dated: January 11, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–935 Filed 1–18–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Allowance for Private Purchase of an Outer Burial Receptacle in Lieu of a Government-Furnished Graveliner for a Grave in a VA National Cemetery

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Public Law 104–275 was enacted on October 9, 1996. It allows the Department of Veterans Affairs (VA) to provide a monetary allowance towards the private purchase of an outer burial receptacle for use in a VA national cemetery. Under VA regulation (38 CFR 38.629), the allowance is equal to the average cost of Government-furnished graveliners less any administrative costs to VA. The law provides a veteran's survivors with the option of selecting a Government-furnished graveliner for use in a VA national cemetery where such use is authorized.

The purpose of this Notice is to notify interested parties of the average cost of Government-furnished graveliners, administrative costs that relate to processing and paying the allowance, and the amount of the allowance payable for qualifying interments that occur during calendar year 2008.

FOR FURTHER INFORMATION CONTACT: Carl Lockamy, Budget Operations and Field Support (41B1C), National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Telephone: 202–461–6688 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 2306(e)(3) and (4) and Public Law 104–275, section 213, VA may provide a monetary allowance for the private purchase of an outer burial receptacle for use in a VA national cemetery where its use is authorized. The allowance for qualified interments that occur during calendar year 2008 is the average cost of Government-furnished graveliners in fiscal year 2007, less the administrative costs incurred by VA in processing and paying the allowance in lieu of the Government-furnished graveliner.

The average cost of Government-furnished graveliners is determined by taking VA's total cost during a fiscal year for single-depth graveliners that were procured for placement at the time of interment and dividing it by the total number of such graveliners procured by VA during that fiscal year. The calculation excludes both graveliners procured and pre-placed in gravesites as part of cemetery gravesite development projects and all double-depth graveliners. Using this method of computation, the average cost was determined to be $201.00 for fiscal year 2007.

The administrative costs incurred by VA consist of those costs that relate to processing and paying an allowance in lieu of the Government-furnished graveliner. These costs have been determined to be $9.00 for calendar year 2008.

The allowance payable for qualifying interments occurring during calendar year 2008, therefore, is $192.00.

Approved: January 15, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E8–984 Filed 1–18–08; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Tuesday,
January 22, 2008

Part II

Nuclear Regulatory Commission

10 CFR Parts 20, 30, 40, et al.
Decommissioning Planning; Proposed Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 30, 40, 50, 70 and 72

RIN 3150–AH45

Decommissioning Planning

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to improve decommissioning planning, and thereby reduce the likelihood that any current operating facility will become a legacy site. The amended regulations would require licensees to conduct their operations to minimize the introduction of residual radioactivity into the site, including subsurface soil and groundwater. Licensees also would be required to survey certain quantities or concentrations of residual radioactivity, including in subsurface areas, and keep records of surveys of subsurface residual radioactivity identified at the site with records important for decommissioning. The amended regulations would require licensees to report additional details in their decommissioning cost estimates, would eliminate two currently approved financial assurance mechanisms, and would modify the parent company guarantee and self-guarantee financial assurance mechanisms to authorize the NRC to require that guaranteed funds be immediately due and payable to a standby trust if the guarantor is in financial distress. Finally, the amended regulations would require decommissioning power reactor licensees to report additional information on the costs of decommissioning and spent fuel management.

DATES: Submit comments on the proposed rule by April 7, 2008. Submit comments specific to the information collections aspects of this proposed rule by February 21, 2008. Comments received after these dates will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after these dates.

ADDRESSES: You may submit comments by any one of the following methods. Please include the number RIN 3150–AH45 in the subject line of your comments. Comments on rulemakings or petitions submitted in writing or electronic form will be made available to the public in their entirety on the NRC rulemaking Web site. Personal information, such as your name, address, telephone number, e-mail address, etc., will not be removed from your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301–415–1677. Comments can also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone 301–415–1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

Selected documents and draft guidance related to this rulemaking, including comments, may be viewed and downloaded electronically via the Federal eRulemaking Portal *http://www.regulations.gov,* or may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at http://www.nrc.gov/reading-rm/adams.html. From this site, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. The ADAMS accession number is ML073470819 for publicly available documents and draft guidance related to this rulemaking. 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.*

FOR FURTHER INFORMATION CONTACT: Kevin O'Sullivan, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–8112, e-mail *kro2@nrc.gov.*

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I. Background

In 1988, NRC issued regulations in Title 10 Code of Federal Regulations (10 CFR) parts 30, 40, 50, 51, 70 and 72 establishing new financial criteria applicable to decommissioning licensed nuclear facilities (53 FR 24018; June 27, 1988). Planning, estimating costs, acceptable funding methods, and environmental review provisions were among the requirements established in 1988, and were designed to ensure that licensee funds would be available when needed to complete safe and timely decommissioning of all licensed facilities. Financial assurance regulations are part of NRC's overall strategy to maintain public health and

safety, and protection of the environment, during and after nuclear facility decommissioning. The NRC announced in 1988 that it intended to periodically assess the effectiveness of the funding methods permitted in the regulations. Since then, the NRC has issued several amendments to the financial criteria applied to decommissioning licensed nuclear facilities.

After NRC published financial assurance regulations in 1988, a small number of sites were unable to fully comply with the financial assurance requirements. In some cases, these sites had large amounts of onsite residual contamination, remediation of which would exceed available funds. The Commission directed the staff, in Staff Requirements Memoranda (SRMs) dated August 22, 1989, and January 31, 1990, to develop a strategy for resolving decommissioning issues and to develop a prioritized list of contaminated sites. In response, the Site Decommissioning Management Plan (SDMP) was developed, containing cleanup criteria based in part on residual radioactivity concentrations for sites with extensive uranium and thorium contamination.

In 1993 (58 FR 68726), licensees that passed financial test criteria were allowed to use a self-guarantee to provide financial assurance for decommissioning. In 1996 (61 FR 39299; July 29, 1996), nuclear power reactor decommissioning procedures were clarified, while recognizing that the radioactivity resulting from contaminated materials and effluents (air and water) must be minimized and controlled. In 1998 (63 FR 29535; June 1, 1998), use of the self-guarantee method was broadened to include some commercial licensees who do not issue bonds, as well as non-profit licensees, such as colleges, universities and hospitals. Also in 1998 (63 FR 50465; September 22, 1998), NRC amended power reactor decommissioning financial assurance requirements in response to potential deregulation of the power generating industry. In 2003 (68 FR 57327; October 3, 2003), the set of materials licensees for which financial assurance is required was expanded to include all waste brokers. Additionally, large irradiators were required to prepare a site-specific decommissioning cost estimate as the basis of their financial assurance; decommissioning certification amounts were increased by 50 percent; and decommissioning cost estimates were required to be updated for certain licensees at least every 3 years.

Apart from these changes in financial assurance requirements summarized above, more comprehensive and risk informed decommissioning regulations were issued in 1997 as Subpart E of 10 CFR part 20 (62 FR 39058; July 21, 1997). This set of requirements is known as the License Termination Rule (LTR). The LTR is based on calculated doses, and it established specific radiological criteria for remediation of lands and structures to complete site decommissioning and successfully terminate the license. The LTR provides an overall approach for license termination for two different site conditions: unrestricted use and restricted conditions for use after license termination. The LTR applies to the decommissioning of facilities licensed under 10 CFR parts 30, 40, 50, 60, 61, 63, 70 and 72. In the **Federal Register** notice publishing the LTR final rule, in response to a public comment that the requirements of then-proposed 10 CFR 20.1406 should apply to all licensees, rather than only to applicants for new licenses, the Commission stated:

> Applicants and existing licensees, including those making license renewals, are already required by 10 CFR part 20 to have radiation protection programs aimed towards reducing exposure and minimizing waste. In particular, Sec. 20.1101(a) requires development and implementation of a radiation protection plan commensurate with the scope and extent of licensed activities and sufficient to ensure compliance with the provisions of 10 CFR part 20. Section 20.1101(b) requires licensees to use, to the extent practicable, procedures and engineered controls to achieve public doses that are ALARA. In addition, lessons learned and documented in reports such as NUREG–1444 have focused attention on the need to minimize and control waste generation during operations as part of development of the required radiation protection plans. Furthermore, the financial assurance requirements issued in the January 27, 1988 (53 FR 24018), rule on planning for decommissioning require licensees to provide adequate funding for decommissioning. These funding requirements create great incentive to minimize contamination and the amount of funds set aside and expended on cleanup. (62 FR 39082; July 21, 1997).

Current 10 CFR 20.1101(a) requires each licensee to implement a radiation protection program to ensure compliance with the regulations in 10 CFR part 20. Current § 20.1101(b) requires each licensee to use, to the extent practical, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and doses to members of the public that are as low as reasonably achievable (ALARA). Licensees need to apply operating procedures and controls to evaluate potential radiological hazards and methods to minimize and control waste generation during facility operations, to achieve doses that are ALARA.

In SRM–SECY–01–0194, dated June 18, 2002, the Commission directed the staff to conduct an analysis of LTR issues. The staff conducted the analysis and presented results and recommendations to the Commission in SECY–03–0069 (*http://www.nrc.gov/reading-rm/doc-collections/commission/srm/2003/2003-0069srm.pdf*), (dated May 2, 2003, and known as the LTR Analysis). One of the recommendations was a set of ''measures to prevent future legacy sites.'' A legacy site is a facility that is in decommissioning status with complex issues and an owner who cannot complete the decommissioning work for technical or financial reasons (as discussed further in Section II.E of this document). The set of measures to prevent future legacy sites had two distinct parts: (1) The need for timely reporting during facility operations of subsurface contamination that has a potential to complicate future decommissioning efforts; and (2) The need for more detailed reporting of licensee financial assurance mechanisms to fund site decommissioning activities and protection of the committed funds in cases of financial distress. The need for timely reporting of subsurface contamination during facility operations was explained in Attachment 8 to SECY–03–0069. Attachment 8, under the heading ''chronic releases,'' recommended revising 10 CFR 20.1406 to extend its minimization of contamination requirements to cover licensees in addition to license applicants. Recommendations for more detailed decommissioning financial assurance requirements are set forth in Attachment 7 to SECY–03–0069.

In SRM–SECY–03–0069 the Commission approved the staff's recommendations summarized above, and authorized this proposed rulemaking. As pertinent to the proposed 10 CFR 20.1406 and 10 CFR 20.1501 revisions, the Commission's SRM states as follows:

> ''The Commission has approved the staff's recommendation related to changes in licensee operations as described in attachment 8. However, in addition to incorporating risk-informed approaches, the staff should ensure that they are performance-based. The staff will have to be very careful when crafting the guidance documents so that it is clear to the licensees and to the staff how much characterization information is enough. The staff should only ask for limited information. Licensees should

not be required to submit the equivalent of a full scale MARSSIM [Multi-Agency Radiation Survey and Site Investigation Manual] survey every year.''

During 2003 and 2004, the NRC staff evaluated the decommissioning program and proposed other improvements to protect public health and safety beyond those identified in the LTR Analysis. To integrate and track regulatory improvements resulting from the LTR Analysis and the Decommissioning Program Evaluation, the NRC adopted an Integrated Decommissioning Improvement Plan (IDIP) for activities during FY 2004 through 2007. Among other actions, the IDIP calls for publication of this proposed rule and written guidance describing changes in the regulations to prevent future legacy sites.

In 2005 and 2006, the operators of several nuclear power plants reported that inadvertent and unmonitored radioactive liquid releases, primarily tritium contained in water, had occurred. In some instances, the release of radioactive liquid was not recognized by the licensee until years after the release apparently started. The NRC Executive Director for Operations chartered a Task Force to conduct a lessons-learned review of these incidents. The Task Force final report dated September 1, 2006, concluded that the levels of tritium and other radionuclides measured thus far do not present a health hazard to the public, and presenting a list of findings and recommendations that the Task Force believed would improve plant operations and public confidence in nuclear plant operations. The findings and recommendations in the Task Force report identified the need to clarify existing licensee requirements to demonstrate that they have achieved public and occupational exposures that are ALARA, during the life cycle of the facility which includes the decommissioning phase.

II. Discussion

A. What Action Is the NRC Taking?

The NRC is proposing changes to its regulations to improve decommissioning planning, and thereby reduce the likelihood that facilities under its jurisdiction will become legacy sites. To help achieve this goal, one set of complementary amendments have been proposed that would revise 10 CFR 20.1406 to make it applicable to licensees with operating facilities as well as to license applicants, and revise 10 CFR 20.1501(a) by replacing its undefined term ''radioactive material'' with ''residual radioactivity,'' a term already defined in 10 CFR part 20. This defined term includes subsurface contamination within its scope. Both 10 CFR 20.1406(c) and 20.1501(a) are being worded to include subsurface contamination within their scope by using the term ''residual radioactivity.'' These changes serve to reinforce the intended linkage between these provisions, and are consistent with NRC policy that licensees conduct operations to minimize the generation of waste, to facilitate later facility decommissioning. A second set of proposed changes to improve decommissioning planning addresses decommissioning financial assurance requirements.

The proposed new 10 CFR 20.1406(c) states as follows:

(c) Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in Subpart B and radiological criteria for license termination in Subpart E of this part.

The proposed revised 10 CFR 20.1501(a) and (b) state as follows:

(a) Each licensee shall make or cause to be made, surveys of areas, including the subsurface, that—

(1) May be necessary for the licensee to comply with the regulations in this part; and

(2) Are reasonable under the circumstances to evaluate—

(i) The magnitude and extent of radiation levels; and

(ii) Concentrations or quantities of residual radioactivity; and

(iii) The potential radiological hazards of the radiation levels and residual radioactivity detected.

(b) Records from surveys describing the location and amount of subsurface residual radioactivity identified at the site must be kept with records important for decommissioning.

As indicated, use of the term ''residual radioactivity'' is a key component of the above proposed requirements, and this term is discussed below.

1. Residual Radioactivity

As set forth in 10 CFR 20.1003:

''*Residual radioactivity* means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site, even if those burials were made in accordance with the provisions of 10 CFR part 20.''

Certain operational events (e.g., slow, long-term leaks), particularly those that cause subsurface soil and ground-water contamination, can significantly increase the cost of decommissioning. To adequately assure that a decommissioning fund will cover the costs of decommissioning, the owner of a facility must have a reasonably accurate estimate of the extent to which residual radioactivity is present at the facility, particularly in the subsurface soil and ground water. As reflected above, the new 10 CFR 20.1406(c) would require that licensees conduct their operations in a manner that will minimize the introduction of residual radioactivity into the site.

Section 20.1501(a) would be revised by replacing its undefined term ''radioactive material'' with ''residual radioactivity.'' To some people, the phrase ''residual radioactivity'' may have a connotation implying radioactive material that is ''left over'' after operations. This is not the meaning. As reflected in its definition stated previously, this term includes everything that the term ''radioactive material'' implies in the current rule language as well as other radioactive material resulting from activities under the licensee's control, such as radioactive material in the subsurface. The use of the term ''residual radioactivity'' in §20.1501(a) also is intended to provide a link with new § 20.1406(c). The amended § 20.1501(a) would retain previous survey requirements, but would add that such requirements include consideration of waste in the form of residual radioactivity. Together, the amended §§ 20.1501(a) and 20.1406(c) specify that compliance with 10 CFR part 20 requirements is a necessary part of effectively planning for decommissioning. The new §§ 20.1406(c) and 20.1501(a) provisions are discussed further in Sections II.I and J of this document. These activities, undertaken during facility operations, would provide a technical basis for licensees and NRC to understand the effects of significant residual radioactivity on decommissioning costs, and to determine whether existing financial assurance provided for site-specific decommissioning is adequate. By using the term ''residual radioactivity,'' the new §§ 20.1406(c) and 20.1501(a) cover any licensed and unlicensed radioactive material that have been introduced to the site by licensee activities.

The new paragraph 10 CFR 20.1501(b) would be revised to require licensees to keep records of surveys of subsurface residual radioactivity identified at the site with records important for decommissioning.

During operations, residual radioactivity that would be significant for decommissioning planning would be a quantity of radioactive material that would later require remediation during decommissioning to meet the unrestricted use criteria of 10 CFR 20.1402. Significant residual radioactivity in subsurface media, such as soil, is a component of waste because it must be removed and disposed of to meet unrestricted use criteria in 10 CFR 20.1402.

During decommissioning, the licensee must evaluate dose from residual radioactivity surveyed at its site using the radiological criteria in Subpart E to 10 CFR part 20. For contamination migrating offsite from previous leaks and spills into the subsurface, a licensee must comply with the applicable license conditions for its facility. Such offsite contamination, released as an effluent in quantities below annual regulatory limits, has been a factor in the decommissioning of a few NRC and Agreement State sites. However, the scope of this rulemaking does not include offsite contamination discovered during decommissioning, unless such contamination is an extension of onsite contamination (e.g., a contaminated ground water plume originating from the licensee's facility).

NRC's technical basis for the effect that significant residual radioactivity in the subsurface has on decommissioning costs is based on a 2005 NRC staff study, ''General Guidance for Inspections and Enforcement to Prevent Future Legacy Sites and Indicators of Higher Risk of Subsurface Contamination'' [NRC ADAMS Accession Number ML052630421]. The purpose of this study was to evaluate experience at sites that have undergone, or were undergoing decommissioning to identify the types of events that have caused subsurface contamination. Associating these events with knowledge of currently operating sites provided a means for NRC staff to evaluate the potential for future subsurface contamination at currently operating facilities. This risk-informed approach concluded that the sites with a higher likelihood of becoming legacy sites shared the following characteristics: relatively large volumes of low specific activity radioactively contaminated liquids; large volumes of long-lived radionuclides; large throughput; liquid processes; or processes that involve large quantities of solid radioactive material stored outdoors. The study identified a number of events that could increase decommissioning costs by increasing the possibility of soil or ground-water contamination, and concluded that these events should cause the licensee to reevaluate its decommissioning cost estimate. Additional discussion on this topic is in Sections II.G and II.H of this document.

NRC considers proposed changes to 10 CFR 20.1406 and 20.1501 to be consistent with existing NRC policy for operating facilities. Under 10 CFR 20.1101(b), licensees must use procedures and engineering controls to achieve occupational doses and doses to members of the public that are ALARA, during operations and during decommissioning. To accomplish this, licensees must be able to demonstrate their knowledge of residual radioactivity in the subsurface, including soil and ground-water contamination, particularly if the subsurface contamination is a significant amount that would require remediation during decommissioning to meet the unrestricted use criteria of 10 CFR 20.1402. This is an extension of the requirements promulgated, with widespread agreement, in the 1997 LTR that were applicable only to license applicants. This action is needed because subsurface residual radioactivity at current operating facilities may be a potential radiological hazard, and a risk to fully fund decommissioning while the facility is in an operating mode. The linkage between new 10 CFR 20.1406(c) and amended 10 CFR 20.1501(a) better institutes existing NRC policy with respect to subsurface contamination during facility operations, to achieve doses that are ALARA, and identifies to licensees that survey requirements may be a necessary part of effectively planning for decommissioning as well as to comply with dose limits.

2. Financial Assurance

The proposed rule (amending §§ 30.35, 40.36, 70.25 and 72.30, and Criterion 9 of appendix A to part 40) would codify certain aspects of existing regulatory guidance to improve the quality of Decommissioning Funding Plans (DFP), and would apply NRC experience to increase the likelihood that adequate funds will be available when needed to complete the decommissioning process. The proposed rule amendments would allow materials licensees to base their financial assurance for decommissioning on a ''certification amount'' only if the licensee's site surveys do not indicate the presence of residual radioactivity in amounts that would prevent the site from meeting the unrestricted use criteria in § 20.1402. The proposed rule would address the potential vulnerability of the parent company guarantee and the self-guarantee as the financial mechanism for decommissioning funding assurance during financial distress of the guarantor. Each of the licensees who use the guarantee mechanism would be required to establish a standby trust fund to receive the guaranteed financial assurance amount should that amount become immediately due and payable.

Licensees with reactors in a decommissioning status would have additional reporting requirements for decommissioning fund status, spent fuel management costs, and estimated decommissioning costs. These proposed reporting requirements, in part, modify the existing Post Shutdown Decommissioning Activities Report requirements set forth in 10 CFR 50.82(a)(4)(i). Additional reporting requirements would require each power reactor licensee undergoing decommissioning to thereafter submit an annual financial assurance status report, as set forth in new paragraphs (a)(8)(v)–(a)(8)(vii) of 10 CFR 50.82(a)(8).

Under the proposed rule, all licensees decommissioning their facilities pursuant to 10 CFR 20.1403 restricted release criteria would be required to use a trust fund to meet the financial assurance requirements. A trust fund would be the only financial assurance mechanism allowed for the long term maintenance and surveillance of restricted release sites unless a government organization either provides a guarantee of funds or assumes custody and ownership of the site. This topic is discussed further in Sections II.M, N and O of this document.

B. Who Would This Action Affect?

Based on the Regulatory Analysis for this proposed rule, NRC estimates that a small number of materials licensees (a total of about 5 NRC and Agreement State licensees) would need to perform additional site surveys due to the presence of significant residual radioactivity. The licensees who will need to perform additional surveys were modeled in the Regulatory Analysis as rare metal extraction facilities with uranium as a soil contaminant. Although the number of licensees affected by the proposed rule is small, the cost to States or the Federal Government to enforce and then fully decommission a single legacy site is much higher than the cost to prevent the occurrence of a legacy site through amended regulations.

For NRC licensees who have subsurface residual radioactivity with no ground water implications, a minimal, routine monitoring plan may remain in effect through license

termination. The routine monitoring plan is described in draft regulatory guidance released concurrently with this proposed rule. Application of a minimal, routine monitoring plan at sites with no ground water implications is meant to improve licensee decommissioning planning and the basis used for decommissioning cost estimates.

The large majority of NRC and Agreement State licensees are not expected to have residual radioactivity because they possess small amounts of short-lived byproduct material or byproduct material that is encased in a capsule designed to prevent leakage or escape of the byproduct material (i.e., a sealed source). This set of licensees is expected to include the non-fuel-cycle nuclear facilities, which either have no significant residual radioactive contamination to be cleaned up, or, if there is contamination, it is localized or will be quickly reduced to low levels by radioactive decay. Licensees who do not have residual radioactivity and do not have an obligation to set aside funds for decommissioning financial assurance would not be affected by this proposed rule. Draft regulatory guidance released concurrently with this proposed rule describes an acceptable method for these licensees to confirm the absence of subsurface residual radioactivity at their facilities.

Approximately 300 NRC materials licensees and over 1,000 Agreement State licensees have an obligation to set aside funds for decommissioning financial assurance. Of these, approximately 50 percent use a certified amount, specified in regulations, with the remaining 50 percent using a site-specific DFP or License Termination Plan to meet the decommissioning financial assurance requirements. If there is significant residual radioactivity at the site, the changes in §§ 30.35, 40.36, 70.25, and 72.30 would require a licensee to switch out of its certified funding amount, and replace the certified amount with a DFP. In preparing this proposed rule, NRC staff was not aware of any licensees using certified amounts for decommissioning that would need to switch to a DFP because of significant residual radioactivity.

Licensees using a site-specific DFP or License Termination Plan to meet decommissioning financial assurance requirements would have additional reporting requirements based on changes in §§ 30.35, 40.36, 50.82, 70.25, and 72.30. The materials licensees under 10 CFR part 30, 40, 70 and 72 would need to provide more details to support their decommissioning cost estimate, such as the assumed cost of an independent contractor to perform all decommissioning activities. The power reactor licensees under 10 CFR part 50 would need to provide more details to support their decommissioning schedule, cost estimates for managing irradiated fuel, and annual financial assurance status report.

The proposed changes to 10 CFR 50.82(a) affect the 12 power reactor licensees undergoing decommissioning. Such licensees would need to provide more details regarding their decommissioning cost estimates, including those for managing irradiated fuel. More specifically, licensees who have submitted a certification of permanent cessation of operations under 10 CFR 50.82(a) would thereafter be subject to annual financial assurance reporting requirements similar to those imposed on operating reactors under existing 10 CFR 50.75(f). The annual reports would identify yearly decommissioning expenditures, the remaining balance of decommissioning funds, and would contain a cost estimate to complete decommissioning. Similar to the one-time reports required by 10 CFR 50.54(bb), the proposed annual reports to be required under 10 CFR 50.82(a)(8) would identify the amount of funds accumulated to manage irradiated fuel, and the projected cost of managing the irradiated fuel until title and possession is transferred to the Secretary of Energy.

Approximately 20 licensees who use an escrow account as a prepayment financial mechanism would be affected by proposed changes in §§ 30.35, 40.36, 70.25, and 72.30 (which would eliminate the escrow account as a prepayment financial assurance method). No licensees are using a line of credit as a financial mechanism; both the escrow account and the line of credit are proposed for elimination as acceptable financial assurance instruments.

Approximately 45 NRC licensees use a parent company guarantee or self-guarantee as a financial assurance mechanism. These licensees may be affected by proposed changes in 10 CFR part 30, appendices A, C, D, and E, which would require establishment of a standby trust fund before the guarantee becomes effective. The standby trust fund would be set up for receipt of funds in the case of financial distress by the guarantor. In the Regulatory Analysis and Paperwork Reduction Act burden estimate, NRC has assumed that a total of 25 of these licensees would need to establish a trust fund to comply with the amended regulations with the other 20 already having an established trust fund.

The Regulatory Analysis for this proposed rule, referenced in Section X of this document, has detailed cost-benefit estimates regarding the licensees who would be affected by the amended regulations.

C. What Steps Did NRC Take To Prepare for This Rulemaking?

The NRC took several initiatives to enhance stakeholder involvement and to improve efficiency during the rulemaking process. On May 28, 2004, the NRC staff issued Regulatory Information Summary (RIS) 2004–08, ''Results of the License Termination Rule Analysis.'' This RIS was the first follow-up action taken in response to SRM–SECY–03–0069. The purpose of the RIS was to inform licensees and stakeholders of NRC's analysis of the issues associated with implementing the LTR, the Commission's direction to resolve these issues, the schedule for future actions, and opportunities for stakeholder comment. The RIS noted that stakeholder involvement would be an important part of developing the planned rulemaking and guidance.

In April 2005, the NRC conducted a two-day decommissioning workshop examining a number of LTR topics, including potential changes in facility operating requirements and changes to financial assurance to prevent legacy sites. Stakeholders addressed the issues and potential resolutions included in this proposed rule. Since then, NRC has maintained a series of web pages with information (*http://www.nrc.gov/about-nrc/regulatory/decommissioning.html*) including draft guidance documents, Commission papers, and a variety of decommissioning program documents. NRC presented papers on the scope of this proposed rulemaking at American Nuclear Society conferences in 2004, 2005 and 2006 and other stakeholder forums.

In June 2006, the NRC formed a proposed rule Working Group of NRC staff and one Agreement State representative from the Organization of Agreement States (OAS). The NRC has held discussions with State and Federal agencies on their experience with trust funds for long-term financial assurance, including a discussion with the U.S. Environmental Protection Agency (EPA) on October 6, 2006.

In January 2007, the NRC held a public roundtable meeting that was attended by about 70 stakeholders. The meeting was held to solicit input from stakeholders and interested members of the public regarding the issues of licensee control and identification of

subsurface residual radioactivity, and proposed changes to decommissioning financial assurance requirements. The Summary Notes and transcript of this public meeting are posted on: *http://www.nrc.gov/about-nrc/regulatory/decommissioning/public-involve.html.*

D. What Alternatives Has NRC Considered?

The rulemaking Working Group considered different alternatives for the proposed rule and agreed on the following for analysis in the Environmental Assessment (see Section VIII of this preamble) and the Regulatory Analysis (see Section XI of this preamble):

Alternative 1: *No Action.*

This alternative provides a baseline to assess the other two alternatives. It assumes that if no changes are made to the regulations, there will be additional legacy sites from currently operating facilities licensed by NRC and Agreement States.

Alternative 2: *Monitoring with proposed changes to financial assurance.*

This alternative would implement the proposed changes in 10 CFR 20.1406(c) and 20.1501, and the proposed changes to decommissioning planning and financial assurance requirements.

Alternative 3: *Monitoring with proposed changes to financial assurance, and collateral.*

This alternative would implement the proposed changes in Alternative 2, and one additional requirement for a security interest in collateral to support the decommissioning assurance pledged in the parent company guarantee and self-guarantee financial assurance mechanisms.

NRC considered two other alternatives, beyond the three noted previously, but did not analyze them in as much detail. One alternative was to require that materials licensees obtain accidental property damage insurance to cover the reasonable costs of decontaminating its facility and site and disposing of contaminated materials in the event of a large, sudden and accidental onsite release of radioactive material. This was prompted, in part, by the objective to apply consistent financial assurance standards to reactors and materials facilities. The NRC requires reactor licensees, under 10 CFR 50.54(w), to obtain insurance to pay for cleaning up an accidental release of radioactive material that causes a present danger of release offsite that would pose a threat to public health and safety. NRC staff evaluated whether it would be appropriate to require onsite property damage insurance for materials facilities to pay costs associated with cleaning up a sudden and accidental event that could, if the operators needed to shut down the facility, overwhelm the decommissioning fund. This issue has been addressed before. On June 7, 1985 (50 FR 23960), the NRC published an advanced notice of proposed rulemaking requesting comments on requiring financial assurance for the cleanup of accidental or unexpected contamination, both onsite or offsite. After several technical studies were conducted, the NRC concluded in 1995 that no such rulemaking was necessary. The NRC has revisited this issue and has found that there have been no significant changes affecting the 1995 conclusion. Accidents at materials facilities that require expensive cleanup continue to be rare, with annual costs of cleanup small. The reportable radioactive material spills and releases from materials facilities over the 15-year period since 1991, as documented in the Nuclear Materials Events Database, have been about 2 events per year. Those events were primarily one-time small spills caused by mechanical failure of a valve, pump or pipe or in a few cases from human error. In the early 1990s there were several reportable events of contaminated drain lines or leakage from a storage pond, but these types of low-level chronic contaminating events have not been reported at facilities since then.

NRC determined that materials licensees are not able to obtain, at reasonable cost, environmental impairment liability insurance, including nuclear contamination events from both sudden and gradual accidental releases. American Nuclear Insurers (ANI), an agent for multiple insurance companies, provides non-reactor nuclear liability policies that provide coverage for third party claims made to cover off-site liability damages. The policies do not cover onsite damages nor do the policies cover the cost of environmental cleanup that would exceed the actual damages to the third party. NRC had determined that non-reactor property insurance is available, but this insurance would exclude ''gradual contamination'' and cover only damages caused by a ''sudden and accidental'' event. Because the events occur only rarely and on a small scale, NRC has decided not to propose amendments to require materials licensees to obtain environmental cleanup insurance.

The occurrence of ''gradual contamination,'' such as leakage outside the licensee's buildings, is intended to be addressed by the proposed changes to §§ 20.1406(c) and 20.1501. Funding to remediate the leakage would be addressed by changes in the requirements for reporting decommissioning fund status and decommissioning cost estimates.

Another alternative considered by NRC is the use of licensee incentives to facilitate decommissioning planning and reduce the likelihood of future legacy sites. In Section II.V of this document, NRC seeks public comments on this topic. The Advisory Committee on Nuclear Waste (ACNW) recommended, in a December 27, 2006, letter to Chairman Klein, that NRC staff should consider offering financial incentives to certain licensees to encourage their use of integrated monitoring and modeling approaches to demonstrate compliance with regulations and to apply site characterization data in a conceptual site model maintained during the facility lifetime. The regulations in 10 CFR 171.11(b) allow the Commission to grant an exemption in a licensee fee that it determines is authorized by law or otherwise in the public interest. NRC staff is not aware of any time the Commission has used a 10 CFR part 171 annual fee exemption for this purpose. NRC staff was aware of 10 CFR part 170 fee exemptions, or fee waivers, for plants to ''pilot'' a new license amendment process. In practice, fee waivers are given very sparingly and only with convincing evidence that there is a public benefit to the waiver. The cost of a fee waiver would have to be paid through annual fees from other NRC licensees.

E. What Is a Legacy Site?

A legacy site is a facility that is in decommissioning status with complex issues and an owner who cannot complete the decommissioning work for technical or financial reasons. These sites have been materials facilities, not reactor facilities.

The purpose of this proposed rulemaking is to improve decommissioning planning and thereby reduce the likelihood that a site will become a legacy site, thus avoiding unnecessary expense and promoting more timely return of licensed sites to other productive uses.

NRC terminates several hundred materials licenses each year. Most of these are routine actions, and the sites require little, if any, remediation to meet NRC's unrestricted use criteria. There are other sites where more complex decommissioning actions are needed. These complex decommissioning sites are described, along with the objectives of NRC decommissioning activities, in the ''Status of Decommissioning

Program 2006 Annual Report'' available at: *http://www.nrc.gov/about-nrc/regulatory/decommissioning/program-docs.html*. This report identifies and describes the status of 32 complex materials sites undergoing decommissioning. Of the total 32 complex sites, NRC considers 8 of these to be legacy sites as of December 31, 2006. Residual radioactivity at the complex decommissioning sites is primarily from the following radionuclides: U–235, U–238, Th–232, Ra–226, Cs–137, Am–241, Sr–90, and H–3. Public or occupational exposure to these radionuclides may be a radiological hazard.

F. What Are Financial Assurances?

Financial assurances are financial arrangements provided by a licensee, whereby funds for decommissioning will be available when needed. Each NRC licensee has a regulatory obligation to properly decommission its facility. However, only licensees whose decommissioning cost is likely to exceed a threshold amount must provide financial assurance. All nuclear power reactors and about 7 percent of NRC materials licensees must provide decommissioning financial assurance. This financial assurance may be funds set aside by the licensee or a guarantee that funds will be available when needed. The guarantee may be provided by a qualified third party or, upon passage of a financial test by the licensee. The third party may be the parent company of the licensee, which is the case for about 10 percent of the NRC materials licensees who are obligated to have decommissioning financial assurance.

Nuclear power reactors have financial assurance obligations that are different from materials licensees. The minimum amount of financial assurance for reactors is defined in 10 CFR 50.75, and the acceptable financial assurance mechanisms are defined in § 50.75(e)(1). An external sinking fund is used to provide financial assurance for about 90 percent of the reactors. The remaining 10 percent of reactors have assurance through prepaid funds and/or guarantees. No changes in these requirements are planned for power reactor licensees.

As of December 31, 2006, there are about 300 NRC materials licensees that have a regulatory obligation to provide approved financial assurance mechanisms. An acceptable financial assurance mechanism for unrestricted use decommissioning is any of the following four types of financial instruments:

- A prepayment of the applicable decommissioning costs;
- A guarantee to pay the decommissioning costs issued by a qualified third party or the licensee;
- A statement of intent from a Federal, state or local government licensee; or
- An external sinking fund.

The prepayment method is full payment in advance of decommissioning using an account segregated from licensee assets and outside the licensee's administrative control. About 11 percent of current financial assurance mechanisms for materials licensees are prepayment methods, with most of these being escrow accounts. Currently accepted prepayment mechanisms include escrow accounts (8 percent), trust funds (2 percent), certificates of deposit (1 percent), government funds (0 percent), and deposits of government securities (0 percent). The proposed rule would eliminate all prepayment mechanisms except the trust fund, for reasons discussed under Section II.N.2 of this document.

The guarantee method can be used by licensees that demonstrate adequate financial strength through their annual completion of financial tests contained in appendices A, C, D, and E of 10 CFR part 30. About 51 percent of current financial assurance mechanisms for materials licensees are guarantee methods. Currently accepted guarantee mechanisms include letters of credit (28 percent), parent company guarantees (8 percent), licensee self-guarantees (7 percent), surety bonds (8 percent), lines of credit (0 percent), and insurance policies (0 percent). The proposed rule would eliminate the line of credit as an acceptable mechanism, for reasons discussed under Section II.N.10 of this document.

The statement of intent is a commitment from a Federal, state or local government licensee that it will request and obtain decommissioning funds from its funding body, when necessary for decommissioning an NRC licensed site. It is available for use only by governmental entities. Approximately 38 percent of the NRC materials licensees with financial assurance use the statement of intent as a means to provide financial assurance.

The external sinking fund allows the licensee to gradually prepay the decommissioning cost estimate, with the amount that is not prepaid covered by a surety mechanism or insurance, for materials licensees, or by surety, insurance, or a guarantee method for power reactor licensees. In a final rulemaking for power reactor financial assurance, the NRC allowed use of a parent company guarantee or self-guarantee with an external sinking fund (63 FR 50465; September 22, 1998). Analogous reasoning applies to materials licensees. The proposed rule amendments would make conforming changes in the financial assurance requirements for materials licensees (10 CFR 30.35, 40.36, 70.25, and 72.30) to provide greater consistency with the 10 CFR part 50 regulations. None of the NRC materials licensees that have an obligation to provide decommissioning financial assurance currently use an external sinking fund.

The previous discussion was for financial assurance to decommission a site for unrestricted use under 10 CFR 20.1402. If a licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403 for restricted use, financial assurance for long-term surveillance and control may be provided by a trust fund or by a government entity assuming ownership and custody of the site.

G. Why Might Some Materials Licensees Not Have Funds To Decommission Their Facility?

In SECY–03–0069, NRC evaluated licensee decommissioning experience and identified the following five reasons why some licensees may not have enough funds to complete their decommissioning activities.

1. Licensees at complex sites may underestimate decommissioning costs, if the assumption that the site will qualify for a restricted release proves incorrect. The cost for a restricted release is usually significantly lower than unrestricted release given the high offsite disposal costs of licensed material when compared to the cost of onsite controls. If it turns out that the licensee cannot meet the 10 CFR 20.1403 criteria for restricted conditions, the licensee may then not be able to meet its decommissioning financial obligations. To address this problem, the NRC proposes to amend 10 CFR 30.35, 40.36, 70.25 and 72.30 to require licensees to obtain NRC approval of their DFP based on a decommissioning cost estimate for unrestricted release, unless the ability to meet the restricted release criteria can be adequately shown.

2. Certain operational events, particularly those that cause soil or ground-water contamination, can increase decommissioning costs if not addressed during the life of the facility. If the licensee does not identify these events, assess the problem in a timely manner, and update its decommissioning cost estimate based on new conditions, the licensee may find it

difficult to later meet its decommissioning obligations. To address this problem, the NRC proposes to amend 10 CFR 20.1406 as discussed in Section II.A above. Licensees also would be required, in proposed amendments to 10 CFR 30.35, 40.36, 70.25 and 72.30, to factor in residual radioactivity information in arriving at decommissioning cost estimates.

3. Certain financial assurance methods may not be effective in bankruptcy situations, given that funds held in them may be accessible to creditors. For example, title to property held in escrow remains with the licensee, making the property potentially vulnerable to claims by creditors. Another example is the parent and self-guarantees. The guarantees promise performance rather than payment. In the past, two companies used corporate reorganization to isolate the decommissioning obligations with the subsidiary company, but with insufficient funds to perform the work. In one case, the parent company reorganized without NRC approval and transferred to the subsidiary few assets and low levels of operating profits, so that the subsidiary was able to fund only a small portion of its decommissioning costs. In the second case, the parent company purchased the licensee before the time the financial assurance regulations were in effect. The licensee was permanently shut down after the purchase and was unable to provide full financial assurance. To address this problem, the NRC proposes to amend 10 CFR 30.35, 40.36, 70.25, 72.30, and 10 CFR part 30 appendices A, C, D, and E by eliminating the use of an escrow account as a financial assurance option, and requiring a guarantor, as a condition of using the parent company guarantee and self-guarantee financial assurance options, to establish a standby trust fund and to submit to a Commission order, if the guarantor is in financial distress, to immediately pay the guaranteed funds into the standby trust.

4. The funds set aside by licensees to carry out decommissioning may decline in value over time. To address this problem, the NRC proposes to amend 10 CFR 30.35(h), 40.36(f), 70.25(h), and 72.30(g) to require that licensees monitor the status of its decommissioning funds and, if necessary, add funds if the balance falls below the estimated cost of decommissioning.

5. The initial funding of a trust fund to cover the recurring costs of long-term surveillance and control for license termination under restricted release criteria may be inadequate if it is based on a high assumed rate of return for the trust fund. To address this problem, the NRC proposes to amend 10 CFR 20.1403 to require that licensees assume only a 1 percent real rate of return in establishing the initial funding amount.

H. Why Is 10 CFR 50.82 Being Amended?

Several power reactor licensees have successfully decommissioned their reactor sites consistent with 10 CFR part 20 requirements. In some cases, reactor decommissioning costs have exceeded the initial decommissioning cost estimate. For example, the Connecticut Yankee Nuclear Plant experienced higher decommissioning costs than planned, due in part to a larger volume of contaminated soil than was identified in the initial site characterization.

In the past, NRC has not required licensees to submit details of decommissioning costs on grounds that the typical reactor licensee was part of a public utility with access to substantial assets and revenues and that the minimum required amount for decommissioning financial assurance was adequate. A licensee's status as a regulated public utility provided access to cost of service rate recovery to help provide additional funds. A public utility had access to sales revenues to fund its obligations, even if rate recovery was limited.

Deregulation of the electric industry now permits a reactor licensee to operate as a merchant plant not subject to rate regulation or rate recovery of costs of service. When it ceases operation, it may have no sales revenues. The licensee may be organized as a separate company or a subsidiary of a holding company to isolate the risks and rewards of selling electricity on the open market. Without access to rate relief, no sales revenues, and with the licensee's owner protected by limited liability, shortfalls in decommissioning funding may jeopardize timely completion of decommissioning. Additional oversight is necessary to assure that the licensee anticipates potential shortfalls and takes steps to control costs to stay within its budget or obtain additional funds.

I. What Changes Are Being Proposed to 10 CFR 20.1406?

New 10 CFR 20.1406(c) states as follows:

(c) Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in Subpart B and radiological criteria for license termination in Subpart E of this part.

The term ''to the extent practical'' is intended to limit the scope of this provision to actions that are already manifested in practice or action. The same phrase is used in existing 10 CFR 20.1101(b), which requires that licensees keep occupational and public radiological doses to ALARA levels. Draft regulatory guidance released with this proposed rule specifies that the intent of the proposed rule is to address amounts of residual radioactivity at a site that are significant to achieve effective decommissioning planning. For operating facilities, these events result in residual radioactivity in a quantity that would later require remediation during decommissioning to meet the unrestricted use criteria of 10 CFR 20.1402.

The current 10 CFR 20.1101 requirements are related to those in proposed 10 CFR 20.1406(c). Section 20.1101(a) requires each licensee to implement a radiation protection program to ensure compliance with the regulations in 10 CFR part 20. The current 10 CFR 20.1101(b) requires each licensee to use, to the extent practical, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and doses to members of the public that are ALARA. To achieve doses that are ALARA during facility operations and decommissioning, the § 20.1101(b) operating procedures and controls must apply to potential radiological hazards and to methods used by the licensee to minimize and control waste generation.

In furtherance of these existing requirements, the new 10 CFR 20.1406(c) includes the term ''residual radioactivity,'' as discussed previously in Section II.A. This new section would apply to current licensee operations, in contrast to the § 20.1406(a) and (b) requirements which are imposed on license applicants. Residual radioactivity excludes background radiation. All licensees with operating facilities must have performed an assessment of background radiation prior to operating their facility, to be compliant with the requirements in 10 CFR 20.1301(a)(1).

The proposed rule's use of the term ''subsurface'' designates the area below the surface by at least 15 centimeters, as defined in NUREG–1575, ''Multi-Agency Radiation Survey and Site Investigation Manual.'' Under current regulations, residual radioactivity that enters the ground at a site may go undetected because there are generally no NRC requirements to monitor the

ground water onsite for contamination. Based on past NRC experience, significant concentrations or quantities of undetected and unmonitored contamination, caused primarily by subsurface migration or ground water, has been a major contributor to a site becoming a legacy site and a potential radiological hazard.

Several hundred NRC materials licensees possess radioactive material and have liquid processes that could cause subsurface contamination. These licensees generally are compliant with regulations that limit effluent release to the environment over a specified time. Some of these licensees may not have documented onsite residual radioactivity, such as spills, leaks and onsite burials that may be costly to remediate during decommissioning and should be considered in arriving at an accurate decommissioning cost estimate. There have been instances of previously unidentified soil and ground-water contamination at uranium recovery and rare earth sites undergoing decommissioning in several states, notably Colorado and Pennsylvania. Two contributing factors to the accumulation of unidentified subsurface contamination is reluctance among some licensees to spend funds during operations to perform surveys and document spills and leaks that may affect site characterization, and to implement procedures for waste minimization.

The vast majority of NRC materials licensees do not have processes that would cause subsurface contamination. NRC's expectation is that these licensees, including those that release and monitor effluents of short-lived radionuclides to municipal sewer systems, will not be impacted by 10 CFR 20.1406(c). The accumulation of radionuclides at municipal waste treatment facilities was the subject of an Interagency Steering Committee on Radiation Standards (ISCORS) study (NUREG–1775, November 2003, ADAMS accession number ML033140171), which concluded that these facilities do not have significant concentrations of long-lived radionuclides. Other classes of licensees that are, in general, not expected to introduce significant residual radioactivity into the subsurface include broad scope academic, broad scope medical, and small research and test reactors (less than 1 MWt). The draft regulatory guidance released concurrently with this proposed rule describes an acceptable method for these licensees to confirm the absence of subsurface contamination at their facility.

Power reactor licensees have exhibited a high level of ALARA discipline with respect to effluent release and known spills and leaks. Current NRC regulations in §§ 20.1301, 20.1302 and 50.36a ensure that power reactor licensees maintain adequate monitoring and surveys of radioactive effluent discharges, with annual reporting requirements outlined in § 50.36a(2) that are made available to the public on the NRC web site at *http://www.reirs.com/effluent/*. Several nuclear power plants recently reported abnormal releases of liquid tritium, which resulted in ground-water contamination. To address this issue, the Nuclear Energy Institute (NEI) developed voluntary guidance for licensees in the Industry Ground Water Protection Initiative (GPI). The voluntary GPI, planned for implementation by all licensed power reactors as of September 2008, is a site-specific ground water protection program to manage situations involving inadvertent releases of licensed material to ground water and to provide informal communication to appropriate State/Local officials, with follow-up notification to the NRC as appropriate. On May 5, 2006, the NRC staff issued a revised baseline inspection module (Procedure 71122.01) used to inspect leaks and spills at power reactor sites.

J. What Surveys Are Required Under Proposed Changes to 10 CFR 20.1501(a)?

Existing § 20.1501(a) requires licensees to perform surveys necessary to comply with part 20 requirements, including surveys reasonable under the circumstances to evaluate potential radiological hazards. Slow and long-lasting leaks of radioactive material into the onsite subsurface may eventually produce radiological hazards and pose a risk for creation of a legacy site if contaminant characteristics are not identified when the facility is operating. The staff views radiological hazards as including those resulting from subsurface contaminating events, when these events produce subsurface residual radioactivity that would later require remediation during decommissioning to meet the unrestricted use criteria of 10 CFR 20.1402. An effective approach to understand the extent of subsurface residual radioactivity is through the use of radiological surveys.

Appropriate surveys are essential for determining the adequacy of financial assurance for materials licensees, and need to be done periodically on a limited basis during operations when the DFP and financial assurance can be adjusted while the licensee is still generating revenue. This is far superior to the current practice at some facilities to delay even limited survey work of the site until after the facility has been shut down.

Facilities that process large quantities of licensed material, especially in liquid form, have the potential for causing significant environmental contamination. Leaks from these facilities can lead to large amounts of radioactive contamination entering the subsurface environment over an extended period of time. The estimated doses from this contamination are below the limits in 10 CFR part 20 that would initiate immediate regulatory action. Another factor the staff has considered in this rulemaking is the high cost to dispose of radioactive materials offsite. These costs are a concern even when the material contains relatively low concentrations of radioactivity. A continued trend of high disposal costs could increase the number of environmental contamination incidents at operating facilities, resulting in substantially higher decommissioning costs. A third factor that could cause future legacy sites is the delayed identification of contamination on the site. Over a long time, contamination that migrates in subsurface soil or ground water does not cause immediate exposure to either workers or the public that approach the limits specified in 10 CFR part 20. It is only after operations have ceased when the possible results of unlimited access to the site, and associated exposure pathways (*i.e.*, ingestion and inhalation) are being evaluated, that the extent of contamination has become apparent.

As discussed previously in Section II.A, in accordance with proposed changes to 10 CFR 20.1501(a), licensees would be required to perform contamination surveys to comply with current 10 CFR part 20 requirements, and the new § 20.1406(c). The magnitude and extent of radiation levels are typically defined in units of radioactivity measurement, such as in micro-rem per hour (μrem/hr). The concentrations or quantities of residual radioactivity are typically defined in units of radioactivity associated with a specific radionuclide, for example picocurie per liter of tritium (pCi/L of H–3).

The amended § 20.1501(a) would retain previous survey requirements and would specify that such requirements include consideration of subsurface residual radioactivity. Survey requirements may include ground-water monitoring if reasonable under the site specific conditions. Soil sampling also

may be warranted based on site specific conditions, for example if there is no ground-water monitoring at the site or if known subsurface contamination has not migrated to the ground water wells. Draft regulatory guidance released concurrently with the proposed rule describes a variety of acceptable methods to evaluate subsurface characteristics. The NRC recognizes that ground-water monitoring may be a surrogate for subsurface monitoring at some sites, that soil sampling may be appropriate at other sites, and that there are sites with no subsurface residual radioactivity where the existing monitoring method is appropriate. Also, the NRC recognizes that an area within the footprint of a building, during licensed operations, may not be a suitable area for subsurface residual radioactivity surveys if the process of sampling would have an adverse impact on facility operations. The decision to perform subsurface residual radioactivity sampling in a particular area should be balanced against the potential to jeopardize the safe operation of the facility. The purpose of amended 10 CFR 20.1501(a) and 20.1406(c) is to specify that compliance with 10 CFR part 20 survey and recordkeeping requirements is necessary to demonstrate compliance with existing regulations and to plan effectively for decommissioning, including effects from subsurface contamination.

Other proposed amendments (revised 10 CFR 30.35(e)(2), 40.36(d)(2), 70.25(e)(2), and 72.30(c)) would require licensees who have a DFP or a License Termination Plan to factor in the results of surveys, performed under § 20.1501(a), in estimating decommissioning costs. This new requirement would apply only to licensees who are required to have a DFP, and would assure that these licensees properly consider the extent of subsurface residual radioactivity in their decommissioning cost estimates, thus improving decommissioning planning and helping to reduce the likelihood of future legacy sites.

For the materials licensees with a certified amount as decommissioning financial assurance, NRC assumes their current monitoring methods are adequate. If these licensees detect onsite contamination that would later require remediation during decommissioning to meet the unrestricted use criteria of 10 CFR 20.1402, the licensees would be required to submit a decommissioning cost estimate.

For the materials licensees who are not required to have financial assurance for decommissioning based on a license possession limit that is below the financial assurance threshold values in appendix B of 10 CFR part 30, NRC's expectation is that the monitoring performed under proposed § 20.1501(a) would be of a simple form, as discussed in draft regulatory guidance released with this proposed rule. Simple form monitoring is a method that confirms the absence of leaks or spills to the subsurface. The risk is low that any of these sites would cause contamination to create a potential radiological hazard or a future legacy site.

NRC's expectation is that no additional surveys will be required of power reactor licensees and fuel cycle facilities. For power reactors, NRC staff concludes that the monitoring and survey processes and related reports prepared at power reactor sites likely would contain sufficient information to satisfy the proposed §§ 20.1406(c) and 20.1501 requirements. NRC is not requiring licensees to submit reports, but the information must be kept onsite in records that are available for review. It is not expected that power reactor licensees would need to install additional monitoring equipment or modify existing operating procedures to satisfy the proposed 20.1501(a) requirements. But, it may be necessary for such licensees to take these actions if, for example, significant residual radioactivity is identified at a power reactor site at a level higher than had been previously identified. In any such situations, the need for additional monitoring would be determined on a case-by-case basis.

Fuel cycle facilities, such as uranium fuel fabrication plants, the gaseous diffusion enrichment plants, and the dry process natural uranium conversion/de-conversion facility, also perform surveys to detect radioactive release to the ground water. NRC staff concludes that the monitoring and survey processes and related reports prepared at these facilities likely would contain sufficient information to satisfy the proposed §§ 20.1406(c) and 20.1501 requirements. A high level of ALARA discipline for onsite spills and leaks is expected of the centrifuge enrichment plants and mixed oxide fabrication plant based on the information in their license applications (these facilities have not begun operations).

K. What Information Must the Licensee Collect Under Proposed Changes to 10 CFR 20.1501?

NRC is proposing, at certain facilities that have significant subsurface contamination, licensee documentation of contaminating events and survey results, including ground water monitoring surveys, and the retention of survey records until license termination, to facilitate later decommissioning of the facility.

For 10 CFR 20.1501(a), licensees must be able to demonstrate compliance with the regulations in part 20 through surveys that evaluate the magnitude and extent of radiation levels, and concentrations or quantities of residual radioactivity including that in the subsurface, and any potential radiation hazards of the radiation levels and residual radioactivity detected. The sampling results would include the date, time, location, contaminants of interest and contamination levels, and the concentrations at which action is required to comply with regulations. The contaminants of interest are those used within the facility with half-lives long enough that they would require remediation during decommissioning to meet the unrestricted use criteria under 10 CFR 20.1402. Contaminants may also include both chemicals and radionuclides in the ground water from sources upstream of the NRC-licensed site because of the potential for interaction with releases from other sites. When ground water is being monitored, the surveys conducted by the licensee also would include hydro-geologic evaluations that lead to a determination of effective sampling and analysis, including accurate placement and installation of the wells, and well locations to determine the nominal ground water flow direction and preferential flow paths for each ''aquifer'' underlying the site. Licensees may need to perform surveys to demonstrate compliance with the new proposed paragraph 10 CFR 20.1406(c).

For 10 CFR 20.1501(b), licensees would document the records from surveys of subsurface residual radioactivity at the site as records important for decommissioning, under the requirements of §§ 30.35(g), 40.36(f), 50.75(g), 70.25(g), and 72.30(d). These records can be as simple as a description of the event, to include date, time, location, and the estimated quantities and activity levels of radioactive materials that were spilled or leaked. The documentation may describe the activation of a moisture alarm system used to indicate the presence of liquid in an area that is supposed to be dry. Contamination survey results must be included in these records if the surveys are considered important for decommissioning planning. The intent of 10 CFR 20.1501(b) recordkeeping is to address onsite subsurface residual radioactivity that would later require remediation during decommissioning to meet the

unrestricted use criteria of 10 CFR 20.1402.

L. How Would Licensees Report Required Information to the NRC?

There are no reporting requirements for licensees under proposed changes to 10 CFR 20.1406(c) and 20.1501.

Instead, NRC would require licensees to collect information and to have that information available for review. The information would need to be retained by licensees in records important for decommissioning under §§ 30.35(g), 40.36(f), 50.75(g), 70.25(g), and 72.30(d).

Under changes proposed to financial assurance regulations, under §§ 30.35(e), 40.36(d), Part 40 Appendix A Criterion 9(b), 70.25(e), and 72.30, reporting requirements would increase for materials licensees who must prepare a detailed cost estimate for decommissioning. Reporting requirements also would increase under § 50.82(a) for power reactor licensees who prepare a post-shutdown decommissioning activities report (PSDAR) or an annual financial assurance status report.

Under changes proposed to 10 CFR part 30, appendix A, licensees who use the parent company guarantee as financial assurance for decommissioning will have increased reporting requirements in proposed changes to the paragraph A.1 financial test, and in reporting of off-balance sheet transactions and verification of bond ratings, and in annual documentation of continuing eligibility to use the parent company guarantee. Licensees who use the self-guarantee as financial assurance for decommissioning under 10 CFR part 30, appendices C, D and E, also would have increased reporting requirements in proposed changes to report off-balance sheet transactions and annual documentation of continuing eligibility to use the self-guarantee.

Licensees would continue to submit information to the NRC by certified mail or through approved Electronic Information Exchange (EIE) methods. NRC requests comments regarding licensee reporting using a secure Web site accessible by licensees from the NRC public Web site. This would include submittal and updating of the DFP, decommissioning cost estimates, information in the financial tests for the parent company guarantee and self-guarantees, decommissioning power reactor annual financial assurance status report, and other information for which licensees believe the use of a secure Web site would reduce their labor hours in responding to reporting requirements. Section IX of this document, Paperwork Reduction Act Statement, provides an estimate of the hours needed annually for licensees to complete the reporting requirements for each part with amended regulations.

M. What Financial Assurance Information Must Licensees Currently Report to the NRC?

Materials licensees with a license possession limit that is below the financial assurance threshold in 10 CFR part 30, appendix B, are not required to have financial assurance for decommissioning. For the licensees under 10 CFR parts 30, 40 and 70 with a license possession limit above the financial assurance threshold in 10 CFR part 30, appendix B, but below the threshold requiring a DFP, these licensees have an option of providing financial assurance based on an amount specified by regulation or based on a DFP with a site-specific cost estimate. Materials licensees with a license possession limit above the financial assurance threshold, and all 10 CFR part 72 licenses, must submit at intervals not exceeding 3 years, a DFP which includes a site-specific cost estimate, a description of the methods used to assure the funds, and a description of the means of adjusting the cost estimate.

Except for 10 CFR part 72 licensees, materials licensees must also provide the original of the financial instrument obtained to satisfy the financial assurance requirement.

For materials licensees, Chapter 4 in NUREG–1757, Volume 3, ''Consolidated NMSS Decommissioning Guidance,'' provides details on information necessary to satisfy their financial assurance requirements. This document is available on the NRC Web site at: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1757/*.

Power reactor licensees, as required by 10 CFR 50.75(f)(1), must report on the status of their decommissioning funds at 2-year intervals. A power reactor licensee that is within 5 years of the end of its projected life, or will close within 5 years (before the end of its licensed life), or has already closed, must submit the report of funds status on an annual basis.

Applicants for power reactor and non-power reactor licenses, and reactor license holders, must submit a decommissioning report as required by 10 CFR 50.33(k). The decommissioning report is submitted once, and contains information indicating how reasonable assurance will be provided that funds will be available to decommission the facility, the method used to provide funds for decommissioning, and the means for adjusting periodically the amount to be provided.

For nuclear power reactor licensees, Chapter 2 in Regulatory Guide 1.159, ''Assuring the Availability of Funds for Decommissioning Nuclear Reactors,'' provides details on the information necessary to satisfy their financial assurance requirements. This document is available on the NRC Web site at: *http://www.nrc.gov/reading-rm/doc-collections/reg-guides/power-reactors/active/*.

N. What Are the Proposed Changes to the Financial Assurance Regulations?

Most of the proposed amendments are changes to financial assurance regulations for materials licensees. A few changes apply to decommissioning financial assurance for power reactor licensees. The proposed changes to financial assurance regulations are discussed in this section, under the following headings:

N.1 Require a trust fund for decommissioning under restricted release.
N.2 Require a trust fund for the prepayment option.
N.3 Require an upfront standby trust fund for the parent guarantee and self-guarantee options.
N.4 Require parent company to inform NRC of financial distress and submit to an Order.
N.5 Require guarantor payment immediately due to standby trust.
N.6 Allow intangible assets, with an investment grade bond, to meet some financial tests.
N.7 Increase the minimum tangible net worth for the guarantees' financial tests.
N.8 Clarify guarantees' bond ratings and annual demonstration submittals.
N.9 Invalidate the use of certification for financial assurance if there is contamination.
N.10 Other changes to financial assurance regulations.

Many of the proposed changes are currently in NRC guidance and are being codified in this proposed rule. The proposed amendments strengthen and clarify the financial assurance requirements. The NRC seeks to improve decommissioning planning and reduce the number of funding shortfalls caused in the past by: (1) Overly optimistic decommissioning assumptions; (2) Lack of adequate updating of cost estimates during operation; and (3) Licensees falling into financial distress with financial assurance funds unavailable for decommissioning. The proposed changes increase licensee reporting requirements. The added reporting burden is estimated as part of the Paperwork Reduction Act Statement (Section IX of this document). The costs

and benefits of other aspects of these proposed amendments are evaluated in the Regulatory Analysis in Section X of this document.

N.1 Require a Trust Fund for Decommissioning Under Restricted Release

NRC is proposing changes to the regulations related to decommissioning financial assurance applied to planned restricted release sites.

The proposed rule would require, under § 20.1403(c), that the funds for financial assurance of long-term care and maintenance of a restricted release site must be placed into a trust segregated from the licensee's assets and outside the licensee's administrative control. Section 20.1403(c)(1) currently contains a cross reference to § 30.35(f)(1) that allows use of any of the financial instruments listed in § 30.35(f)(1) for providing financial assurance for long-term care and maintenance. The proposed rule would eliminate the reference to § 30.35(f)(1).

The effect of this change would be to eliminate, as prepayment options, the escrow account, sureties and insurance, and the parent company and self-guarantee methods at restricted release sites. To date, no licensee has chosen to use, at a restricted release site, the options that the NRC is now proposing to eliminate. These options that would no longer be allowed possess characteristics that make their use inadvisable in the types of long-term care and maintenance situations involved in restricted release sites. The proposed rule would continue to permit government entities to use a statement of intent or to assume custody and ownership of a site.

Escrow accounts are not well suited to the protection of funds over a long term. The purpose normally served by an escrow is to collect or hold funds for an expense to be paid in the relatively near future (e.g., property tax escrows). The EPA concluded that a trust was more protective of funds because, under trust law, the title to property in a trust is transferred to the trustee (46 FR 2802, 2827; January 12, 1981). In an escrow account, title to the property remains with the grantor. Thus, escrow property is more likely to be subject to a creditor's claim than property held in trust. In addition, the law of trusts places obligations on the trustee to act in the interest of the beneficiary. In contrast, an escrow agent is responsible only for what is specified in the escrow agreement. The EPA concluded that it would be extremely difficult to draft an escrow agreement that adequately specifies all the actions that an escrow agent would need to take in all situations to assure the instrument served its intended purpose.

The surety methods and insurance also are not well suited to protect funds over the long term because these depend on contracts made by the former licensee. There are no actual funds set aside for future costs, rather, the methods are promises made by the issuer to pay at a future time. These methods require renewal to remain effective. They depend on the former licensee continuing to exist to make renewal payments for the surety or insurance instruments. The instrument lapses if the payments are not made. Under the existing rule, NRC may require the issuer to pay the face amount before the lapse occurs. However, issuers may resist making the payment, which could delay obtaining and possibly reduce the amount of funds for long-term care and maintenance. Whether making the payment is resisted or not, when the funds are paid for the face amount, the funds will be placed in a trust account. That is, the response to the non-renewal of a surety is to create a trust to hold funds. The long-term nature of the obligation increases the possibility that circumstances may arise that would require a demand for payment. In view of the potential difficulties and delays, and recognizing that a trust fund is the preferred long-term instrument for holding funds, the surety and insurance methods of financial assurance for long-term maintenance and control would be eliminated.

Likewise, the parent company and self-guarantee mechanisms are not well suited for providing financial assurance at restricted release sites because these were designed to assure funding for the relatively limited time needed to complete most decommissioning projects under 10 CFR 20.1402. The former licensee, or its parent, must continue to exist to pay for long-term control and maintenance costs. If the former licensee, or its parent, ceases to exist, the self-guarantee or parent company guarantee have no source of funds to pay the costs. In addition, these guarantees presume the existence of a licensee subject to NRC authority. However, when the license is terminated, the NRC has no regulatory authority over the former licensee. Therefore, the self-guarantee and parent company guarantee would be eliminated as a financial assurance options at restricted release sites.

In contrast, the trust fund is best suited as a financial mechanism to assure the necessary long-term care and maintenance at restricted release sites. The trust fund can exist for long periods without need for renewal. It exists independently of the former licensee, and can continue to serve the purposes of control and maintenance even if the former licensee ceases to exist. The trustee has a fiduciary duty to serve the beneficiaries of the trust. The funds placed in the trust become property of the trust, and generally cannot be reached by creditors of the former licensee. Trust funds have traditionally been used to provide for the long-term care and maintenance of parks and other public facilities, to care for cemeteries, and for similar purposes. The NRC is proposing to require the use of trust funds for the financial assurance for long-term care and maintenance at restricted release sites, unless a government entity provides long-term funding or assumes custody and ownership of the site.

A further change to 10 CFR 20.1403(c)(1) would be the addition of a requirement that the initial amount of the trust fund established for long-term care and maintenance be based on a 1 percent annual real rate of return on investment. A similar provision is currently contained in 10 CFR part 40, appendix A, Criterion 10, which provides that if a site-specific evaluation shows that a sum greater than the minimum amount specified in the rule is necessary for long-term surveillance following decontamination and decommissioning of a uranium mill site, the total amount to cover the cost of long-term surveillance must be that amount that would yield interest in an amount sufficient to cover the annual costs of site surveillance, assuming a 1 percent annual real rate of interest.

The NRC has concluded that a conservative estimate of the annual real rate of return is justified in the case of financial assurance for long-term care and maintenance under § 20.1403(c)(1). Although the NRC in 10 CFR 50.75(e)(1)(ii) allows a licensee of a nuclear power reactor that is using an external sinking fund to take credit for projected earnings on the external sinking funds (using up to a 2 percent annual real rate of return from the time of the future fund's collection through the decommissioning period), the reactor situation is distinguished by the continuing presence of the reactor licensee, who is obligated to provide additional funds if necessary. Long-term trust funds for surveillance and control are created when license termination relieves the licensee of any further obligation regarding the site. Therefore, no licensee is available to make up shortfalls in the fund, which reduces the likelihood that funds will be available

when needed. A long period of low returns could deplete a trust fund so that later higher returns would be insufficient to return the fund to the value needed to permit earnings to cover the recurring long-term costs. Consequently, a conservative rate of return is necessary to assure that funds will be available when needed. Over the past 30 years, 1975–2005, the annual real rate of return is 1.58 for U.S. Treasury Bills and 4.87 for government bonds. Thus, a 1 percent real rate of return is appropriate for assuring funds under the proposed § 20.1403(c)(1). The actual rate of return may exceed the 1 percent real rate. The trust agreement may contain provisions to return excess funds to the trust grantor if the fund balance significantly exceeds the amount needed to cover the recurring costs at the 1 percent rate.

The proposed rule would add a new § 20.1404(a)(5) specifying that one of the factors that the Commission must consider in determining whether to terminate a license under alternate criteria is whether the licensee has provided sufficient financial assurance to enable an independent third party (including a government custodian of a site) to assume and carry out responsibilities for any necessary control and maintenance of the site. This new section also would require that the financial assurance must be in the form of a trust fund, as specified in § 20.1403(c). Although a requirement to supply financial assurance can be inferred from the current rule, this requirement is not stated explicitly.

N.2 Require a Trust Fund for the Prepayment Option

The proposed rule would amend the list of prepayment financial methods that may be used to provide financial assurance for decommissioning to provide that prepayment shall only be in the form of a trust established for decommissioning costs (§§ 30.35(f)(1), 40.36(e)(1), 70.25(f)(1), and 72.30(c)(1)). The proposed rule would eliminate the four other prepayment options currently listed in those sections (i.e., the escrow account, government fund, certificate of deposit, and deposit of government securities). Three of these options (the government fund, certificate of deposit, and deposit of government securities) initially were authorized for use to provide alternatives to licensees that elected not to use a trust fund as their prepayment mechanism, even though the NRC recognized that in the event of the licensee's bankruptcy, they provided somewhat less assurance that the funds would remain available to pay for decommissioning. However, no licensees have elected to use the government fund and deposit of government securities options, and only two have used a certificate of deposit. Because of their relative risk in bankruptcy and their non-use by licensees, the NRC has decided to eliminate them as alternatives for providing financial assurance for decommissioning.

The NRC recognizes that elimination of the escrow account option would affect some licensees who currently use escrows. The latest data compiled from the NRC's License Tracking System (LTS) indicates that approximately 25 escrows are in use. Because some licensees use more than one escrow, the number of licensees using escrows is slightly less than the number of escrows.

The staff has reviewed several studies of the situation of escrows in bankruptcy, and has concluded that the most accurate summary of the various assessments is as follows. The funds contained in escrows that are set up correctly before a licensee's entry into bankruptcy will likely be secure from transfer into the bankruptcy estate as assets of the debtor and they will not be reachable by the bankruptcy trustee using doctrines of fraudulent conveyance or voidable preference. However, correctly setting up an escrow is difficult, as noted in Section II.N.1 of this document. The NRC also is concerned that a determination of the legal status of an escrow may be subject to considerable delay. In addition to the time necessary to carry out a legal standing analysis, a bankruptcy trustee could attempt to use the automatic stay provisions of the bankruptcy code to stop payment by an escrow agent under the escrow, if that payment is occurring following the commencement of the bankruptcy action. While this attempt may fail, it could postpone the NRC's access to the funds held in the escrow and thereby preclude the prompt commencement of decommissioning. Finally, the administrative costs of a trust fund are comparable to an escrow, so there is little economic benefit to using the escrow.

Elimination of the use of escrow accounts was discussed at the public stakeholder meeting held January 10, 2007. No stakeholders objected to the elimination of the escrow as a financial assurance method. Therefore, the proposed rule would eliminate the escrow as a method to provide financial assurance.

N.3 Require an Upfront Standby Trust Fund for Parent Guarantee and Self-Guarantee Options

The proposed rule would amend appendices A, C, D, and E to 10 CFR part 30 (amend Section III.D of appendix A; amend Section III.F and add a new Section III.G to appendix C; amend Section III.D and add a new Section III.E to appendix D; and add a new Section III.F to appendix E). The amendments would clarify that a parent company providing a parent company guarantee and a licensee providing a self-guarantee are required to set up a standby trust before they may rely on the guarantee for financial assurance, and would add criteria for selecting an acceptable trustee.

The existing regulations do not require the guarantor to set up a standby trust before it provides a parent company or self-guarantee. Instead, a standby trust must be set up and used to hold funds for decommissioning only in the event the NRC requires the guarantor to provide such funding for decommissioning. Setting up a standby trust at the time the guarantee is drawn upon could lead to a significant delay, and therefore creation of a standby trust at the commencement of the guarantee is recommended in regulatory guidance. A standby trust is necessary because the NRC cannot accept decommissioning funds directly. Under the ''miscellaneous receipts'' statute, 31 U.S.C. 3302(b), the NRC must turn over all payments received to the U.S. Treasury. Therefore, a standby trust is necessary to receive funds in the event the NRC requires the guarantor to put the funds into a segregated account. Creating a standby trust before the guarantee is provided will avoid potential delays in initiating decommissioning that may be caused by delays in setting up the trust at a later date. In addition, the use of a trust protects the funds from creditors' claims, which may be necessary in the event the guarantor faces financial distress. Therefore, the proposed rule would require that the guarantor set up a standby trust. In addition, the proposed rule would provide that the Commission has the right to change the trustee. That power is necessary to assure that the trustee will faithfully execute its duties. Finally, to assure the trust agreement is adequate, the proposed rule would specify that an acceptable trust is one that meets the regulatory requirements of the Commission.

N.4 Require Parent Company To Inform NRC of Financial Distress and Submit to an Order

Because a parent company is not usually an NRC licensee subject to the NRC's authority, the parent company guarantee option will include a contractual agreement by the parent company to submit to NRC payment orders (10 CFR part 30, appendix A, Section III.F).

The parent company has no present requirement to inform the NRC of financial distress that may adversely affect its ability to meet its guarantee obligations. Because the NRC needs to know if the parent guarantor is in financial distress to take steps to protect the funds guaranteed for decommissioning, the proposed rule would require the parent guarantor to notify the NRC in case of its financial distress, and its plan to transfer the guaranteed amount to the standby trust. In these situations, payments from the parent company will be immediately due and payable to the standby trust pursuant to an acceleration clause, discussed in Section II.N.5 of this document. A similar notification requirement is not necessary for a licensee guarantor because NRC regulations under 10 CFR 30.34(h), 40.41(f), 70.32(a)(9), and 72.44(a)(6) already require licensees to notify NRC of bankruptcy proceedings.

N.5 Require Guarantor Payment Immediately Due to Standby Trust

The existing regulations do not address the possibility that the guarantor of the parent guarantee or self-guarantee may be in financial distress when it is required to provide alternate financial assurance. In cases where decommissioning is not being conducted at the time of an insolvency proceeding, creditors could argue that the debtor owes performance of decommissioning in the future, not money at the present time. That argument could potentially support a finding that no payment is owed to the standby trust. In that event, a division of assets to satisfy creditors' claims may not adequately protect resources needed to fund decommissioning. To provide a money claim on the assets of the guarantor that would cover the cost of decommissioning at the time of a division of assets, the proposed rule would authorize the Commission to make the amount guaranteed immediately due and payable to the standby trust (i.e., an acceleration clause).

The proposed rule would clarify that the guarantor's obligation is not capped at the guaranteed amount, but include costs in excess of the guaranteed amount if additional funds are required to complete decommissioning and termination of the license.

N.6 Allow Intangible Assets, With an Investment Grade Bond, To Meet Some Financial Tests

The existing regulations allow guarantees to be used as financial assurance for decommissioning by companies whose financial statements demonstrate a low risk of default for corporate obligations. A set of financial tests are prescribed in 10 CFR part 30, appendices A, C, D and E for companies who may qualify to use the guarantee methods. A requirement to use the parent company guarantee or self-guarantee as a financial assurance option is passing the tests on an annual basis. Some of the financial tests in 10 CFR part 30, appendices A, C, and E are done using bond valuations. In the past, only tangible assets were considered within the calculations performed under the financial tests. In response to an inquiry during the public stakeholder meeting on January 10, 2007, NRC staff considered whether allowing the use of intangible assets would materially increase the risk of a shortfall in decommissioning funds. Staff concluded the risk of a shortfall in funding would not materially increase under the amendments in this proposed rule.

Financial accounting standards issued since the original decommissioning regulations were issued in 1988 now provide objective methods to value intangible assets. The change in accounting standards provides assurance that intangible asset valuation is reasonable. In addition, bond rating agencies include intangible assets in their evaluation of the financial stability of a company's bonds. This provides an independent check of the reasonableness of the company's valuation of its assets. The default rate remains low for bonds rated investment grade. To further assure a current bond rating adequately reflects the company's financial stability, amendments in the proposed rule would specify that the bond must be uninsured, uncollateralized, and unencumbered to be used in the financial test. Finally, the value of the nuclear facilities, both as tangible and intangible assets, are excluded from the calculation of net worth on grounds that those assets would not be available to produce funds for decommissioning after the facility is shut down. The staff concluded that permitting the use of intangible assets in conjunction with an investment grade bond rating would not materially increase the risk of a shortfall in decommissioning funding.

In addition, the guarantee methods require annual repassage of the test. Historical trends in bond ratings show that the time between receiving a rating that is below investment grade to the time of default is five years, on the average. The annual repassage requirement will normally provide adequate time for the guarantor to obtain alternative financial assurance. For the few cases where a default may occur in a short time, the acceleration clause discussed in N.4 and N.5 of this document, will provide a method to obtain funds in situations of financial distress.

Therefore, the proposed rule would allow the use of intangible assets, used in conjunction with an investment grade bond rating, to meet specified criteria in the financial tests for parent company and self-guarantees.

N.7 Increase the Minimum Tangible Net Worth for the Guarantees' Financial Tests

The current regulations require the entity seeking to pass the relevant financial test to have tangible net worth of at least $10 million. The proposed rule amendments would require tangible net worth of at least $19 million.

The $10 million in tangible net worth requirement was first adopted by the EPA in 1981, and the financial test adopted by the NRC in 1988 used the same criterion. The NRC believes that the criterion should be adjusted to represent the value in current dollars of $10 million in 1981. Therefore, it has calculated the new proposed tangible net worth amount using the most recent Implicit Price Deflator for Gross Domestic Product published by the Department of Commerce in its Survey of Current business, and the equivalent Implicit Price Deflator for 1981, by dividing the 2005 Implicit Price Deflator by the 1981 Implicit Price Deflator and multiplying the product times $10 million, as follows: (112.134 / 59.119) = 1.897 × $10 million = $19 million.

The proposed rule also would add a requirement in Section II.A.(1) of appendix C to 10 CFR part 30 for tangible net worth of at least $19 million. Currently, that component of the financial test for self-guarantee specifies only that the applicant or licensee must have tangible net worth at least 10 times the current decommissioning cost estimate or certification amount. The proposed amendment would specify tangible net worth of $19 million and 10 times the

amount required. This proposed amendment would make the self-guarantee financial test in appendix C to 10 CFR part 30 consistent with the tests in appendices A and D to 10 CFR part 30.

N.8 Clarify Guarantees' Bond Ratings and Annual Demonstration Submittals

The proposed rule amendments would specify that the current rating of the most recent bond issuance of AAA, AA, or A by Standard and Poor's could include adjustments of + or − (i.e., AAA+, AA+, or A+ and AAA−, AA−, and A− would meet the criterion) and the current rating of Aaa, Aa, or A by Moody's could include adjustments of 1, 2, or 3.

Standard and Poor's and Moody's have introduced the plus or minus and numerical adjustments to refine the precision of their ratings. As a result, licensees have been uncertain whether a rating that includes these adjustments, and in particular ratings that might be considered below the unadjusted ratings specified in the appendices (e.g., A−) could be used. Based on the minimal difference in default rate associated with the qualifiers, the proposed rule would state that all the bonds within a specified rating level meet the regulatory standard.

In addition, the proposed rule would amend Section II.A.2.(i) of appendix A to 10 CFR part 30 and Section II.A.(3) of appendix C to 10 CFR part 30 to require the bond to be the most recent ''uninsured, uncollateralized, and unencumbered'' bond issuance. This amendment would make the bond criterion in appendix A to 10 CFR part 30 and appendix C to 10 CFR part 30 consistent with the bond criterion in appendix E to 10 CFR part 30. As explained in NUREG/CR–6514, where a rated bond has insurance or pledged assets to provide additional security, the bond rating may not directly reflect the creditworthiness of the bond issuer. Therefore, the proposed rule would add the requirement that the bond rating used to pass the financial test must be uninsured, uncollateralized, and unencumbered.

The proposed rule would make a conforming change in Section III.E. of appendix E to 10 CFR part 30 to provide that if, at any time, the licensee's most recent bond issuance ceases to be rated in any category of A or above by both Standard and Poor's and Moody's, the licensee no longer would meet the requirements of the financial test.

The proposed amendments to the bond rating criterion in appendices A and C to 10 CFR part 30 are intended to clarify the intent of the rule, eliminate an unintended apparent inconsistency among the different financial tests that may be used, and to make administration of the financial assurance requirements more efficient by eliminating recurring questions.

The proposed rule would require a certified public accountant to verify that a bond rating, if used to demonstrate passage of the financial test, meets the requirements. Some financial tests received by the NRC did not apply the requirement correctly. Requiring an audit of the bond rating would minimize the potential that an error would be made.

The existing regulations require the licensee to repeat passage of the financial test each year, but do not explicitly state that the licensee must annually submit documentation to the NRC to verify its passage of the test. However, the parent company and self-guarantee agreements illustrated in regulatory guidance include a provision that the licensee will annually submit to NRC revised financial statements, financial test data, and an auditor's special report. Submittal of the documents permits NRC to verify the licensee's continuing eligibility to use the parent company guarantee without incurring the expense of an onsite inspection. Therefore, the proposed rule would codify the regulatory guidance to require annual submittal of documentation that the guarantor passed the financial test.

The existing regulations are unclear in stating that the parent company guarantee and financial test remain in effect until the license is terminated. The proposed regulations would clarify that the NRC's written acceptance of an alternate financial assurance by the parent company or licensee would allow the guarantee and financial test to lapse.

N.9 Invalidate the Use of Certification for Financial Assurance if There Is Contamination

NRC is proposing additions to the regulations related to decommissioning financial assurance as applied to certifications. The proposed changes affect §§ 30.35(c)(6), 40.36(c)(5), and 70.25(c)(5).

The existing rule prescribes specific amounts of financial assurance for licensees that are authorized to possess relatively small amounts of radioactive material. Licensees authorized to possess radioactive materials in higher amounts must submit a DFP, which includes a site-specific cost estimate for decommissioning. The site-specific cost estimate is almost always higher than the prescribed certification amounts.

The proposed rule would require licensees who qualify to use the certification amounts to submit a DFP in the event that survey results detect significant residual radioactivity within the site boundary, including the subsurface. A significant amount would be residual radioactivity that would, if left uncorrected, prevent the site from meeting the criteria for unrestricted use. Remediating subsurface contamination can be very expensive. However, licensees that qualify to use the certification amounts have no regulatory requirement to increase the amount of financial assurance to cover subsurface remediation costs. In the event subsurface contamination occurred at such a site, there would be no regulatory basis to require the licensee to increase its financial assurance to cover the potentially higher decommissioning cost. The proposed rule would provide the regulatory basis to require these licensees to cover the full cost, not just the certification amount.

N.10 Other Changes to Financial Assurance Regulations

The proposed regulations would eliminate the line of credit option from 10 CFR 30.35(f), 40.36(e), 70.25(f), and 72.30(e) from the list of surety, insurance, or other guarantee methods that may be used to provide financial assurance for decommissioning. Although the line of credit was initially authorized for use to provide an alternative to licensees that elected not to use a surety or letter of credit, the NRC recognized that it posed a greater risk than the other two surety methods, because it might be subject to underlying loan covenants that could make it more vulnerable to cancellation if the licensee experienced financial difficulties. However, since 1988, no licensees have elected to use a line of credit to provide financial assurance for decommissioning. Because of its greater risk of cancellation and its non-use by licensees, the NRC has decided to eliminate the line of credit as an alternative for providing financial assurance for decommissioning.

The proposed rule would exclude, in the financial tests for the parent guarantee and self-guarantee, the net book value of the nuclear facility and site from the calculation of tangible net worth. The existing rule requires that the calculation of tangible net worth must exclude the book value of the ''nuclear units.'' That requirement may lead to confusion because it implies that it applies to nuclear reactor units, and not other kinds of nuclear facilities. However, other kinds of nuclear facilities should be excluded from the

tangible net worth calculation because they are unlikely to provide funds for decommissioning. The existing rule does not specify whether the nuclear site, as distinguished from the facility, may be included in the calculation of tangible net worth. The value of the site is likely to depend on the probability that the decommissioning will be completed, and is subject to some degree of uncertainty. Therefore, the calculation of tangible net worth would be changed to exclude the net book value of the nuclear facility and site.

The proposed rule would require a certified public accountant to include an evaluation of off-balance sheet transactions, for the parent guarantee and self-guarantee. Generally accepted accounting principles (GAAP) permit certain kinds of transactions to be accounted for off the company's balance sheet. Many companies, as a means of managing risk and/or taking advantage of legitimate tax minimization opportunities, create off-balance-sheet transactions. It is important to understand the nature and the reason for each off-balance-sheet item, and ensure that any such relationships are adequately disclosed. (*Management's Summary of Off-Balance Sheet Transactions*, American Institute of Certified Public Accountants, *http://www.aicpa.org*, last visited February 8, 2007). The volume and risk of the off-balance-sheet activities need to be considered. (*Risk Management Manual of Examination Policies*, Federal Deposit Insurance Corporation, *http://www.fdic.gov*, last visited February 8, 2007). The existing rule does not require the independent certified public accountant's special report to examine off-balance sheet transactions. However, these transactions have the potential to materially affect the guarantor's ability to fund decommissioning obligations. Therefore, the proposed rule would require the auditor to include an evaluation of off-balance sheet transactions.

O. Will Some Licensees Who Currently Do Not Have Financial Assurance Need To Get Financial Assurance?

No. Licensees who are not required to provide financial assurance for decommissioning will not have to obtain financial assurance as a result of amendments in this proposed rule.

The decommissioning planning and financial assurance amendments in this proposed rule only apply to licensees who currently have, or will have in the future, decommissioning financial assurance requirements under 10 CFR 30.35, 40.36, 50.75, 70.25, and 72.30.

If a licensee has survey records of residual radioactivity under the proposed new requirements in § 20.1501(b) or in an application for license transfer consistent with the proposed language in §§ 30.34(b)(2), 40.46(a)(2), or 70.36(a)(2), and the licensee has a possession and use quantity that is below the possession limit thresholds for financial assurance, then no decommissioning financial assurance is required.

All operating power reactor licensees are required to have financial assurance, consistent with 10 CFR 50.75(c), and all licensees with an independent spent fuel storage installation regulated under 10 CFR part 72 must have financial assurance for decommissioning in accordance with 10 CFR 72.30(c).

P. What is Changing With Respect to Materials Facilities' Decommissioning Funding Plan (DFP) and Decommissioning Cost Estimate (DCE)?

The proposed rule would require certain licensees under 10 CFR part 72 to adjust their DCE within 3 years of the previous DCE. This was done by final rule on October 3, 2003 (68 FR 57327) for licensees under 10 CFR parts 30, 40 and 70. This provision in the proposed rule would make the timing basis for DCE adjustments consistent among all materials facilities.

Regarding DFPs, the proposed rule would make changes in §§ 30.35(e), 40.36(d), 70.25(e), and 72.30(b) to require additional information from licensees. NRC's experience indicates that underestimation of decommissioning costs can occur when the licensee assumes it will qualify for a restricted site release by meeting all of the 10 CFR 20.1403 requirements. If it turns out that these requirements cannot be met, and that an unrestricted site release under 10 CFR 20.1402 will be required, the licensee may not have the ability to fund a potentially more expensive cleanup. For example, if instead of leaving large volumes of slightly contaminated soil onsite in a restricted release decommissioning, the licensee must ship this material offsite for disposal to support an unrestricted site release, the decommissioning will typically be much more expensive due to high offsite disposal costs. Therefore, the proposed rule would require the licensee to estimate and cover the costs to decommission the facility to meet unrestricted use criteria. The option of meeting the 10 CFR 20.1403 restricted release requirements will be available, but the licensee would have to demonstrate it can meet those criteria before a cost estimate based on that assumption would be acceptable.

In addition, certain operational events can increase decommissioning costs above the original estimate. These events include spills, increases in onsite waste inventory, increases in waste disposal costs, facility modifications, changes in authorized possession limits, actual remediation costs that exceed the initial cost estimate, onsite disposal, and use of settling ponds. The proposed amendments to 10 CFR 30.35(e)(2), 40.36(d)(2), 70.25(e)(2), and 72.30(b) would require the 3 year update of the DFP to consider these events for the effect, if any, they may have on the estimated cost of decommissioning. Subsurface contamination can be very expensive to remediate. The new regulations would require the licensee to estimate the volume of contaminated subsurface material that would require remediation, and provide financial assurance for the estimated cost of remediation. Early consideration and funding arrangements to cover increased costs will improve decommissioning planning and increase the likelihood that funds will be available when needed for site decommissioning.

Existing regulatory guidance identifies recommended methods for arriving at decommissioning cost estimates, and the NRC is codifying some of these recommended methods. To assure that funds will be adequate to complete decommissioning in the event the licensee is unable to do so, cost estimates would be required to include contractor overhead and profit. An adequate contingency factor is necessary to cover unanticipated costs that can arise after the decommissioning project begins. The key assumptions underlying the cost estimate would have to be identified to aid the staff in evaluating the adequacy of the estimate. Codification of these recommendations is expected to improve the quality of DFP submittals, facilitate the staff's review of these submittals, and result in regulatory efficiencies.

NRC is aware of the records important for decommissioning reporting requirements licensees have under §§ 30.36(g)(1), 40.36(f)(1), 50.75(g)(1), 70.25(g)(1), and 72.30(d)(1). The proposed additional reporting requirements are designed to foster a better understanding of the impact the spill or contaminating event has on the decommissioning cost estimate.

Q. What is Changing With Respect to License Transfer Regulations for Materials Licensees?

The NRC proposes to make a set of parallel changes to §§ 30.34(b)(2), 40.46(a)(2), and 70.36(a)(2). This would codify NRC regulatory guidance to

require the licensee to provide information on the proposed transferee's technical and financial qualifications, and to provide decommissioning financial assurance as a condition for approval of the transfer if the licensee is required to have financial assurance. The information and financial assurance are necessary to evaluate the adequacy of the proposed transferee. Placing these provisions in the regulation, rather than keeping them in regulatory guidance, will improve regulatory efficiency by improving the quality of license transfer requests. It also will ensure that a prospective license transferee provides to the NRC the information necessary to determine that public health and safety are not compromised by the transfer and that the radiation safety aspects of the program are not degraded.

R. What Is Changing With Respect to Permanently Shutdown Reactor Decommissioning Fund Status and Spent Fuel Management Plan Reporting?

The proposed rule would revise § 50.82(a)(4)(i), and add three new provisions (v–vii) to § 50.82(a)(8). The revised § 50.82(a)(4)(i) would require that the post-shutdown decommissioning activities report (PSDAR) include, if applicable, a cost estimate for managing irradiated fuel. Currently, the PSDAR must include a description of the planned decommissioning activities, a schedule for their accomplishment, and an estimate of expected costs.

The proposed additions to § 50.82(a)(8) would require each power reactor licensee undergoing decommissioning to submit, in the form of an annual financial assurance status report, information (specified below) regarding its decommissioning funds. Currently, under § 50.75(f)(1), the information reported to NRC by power reactor licensees is focused on collection of funds before permanent shutdown, and does not require information on the actual funds spent. To assess the adequacy of power reactor decommissioning funding after permanent shutdown, NRC needs to know the actual costs being incurred at decommissioned facilities. To obtain this information, the annual report would be required to include, among other things, the amount spent on decommissioning over the previous calendar year; the remaining balance of any decommissioning funds; and an estimate of the costs to complete decommissioning. If the annual report reveals a projected funding shortfall, additional financial assurance to cover the cost to complete decommissioning will have to be provided. These proposed changes are expected to improve NRC oversight of decommissioning planning and increase the likelihood that funds for decommissioning will be available when needed. In Section II.V of this document, NRC seeks public comment on this topic.

Under proposed § 50.82(a)(8)(vii), the annual financial assurance status report must also include the status of funds to manage irradiated fuel. Due to the cessation of operating revenues, spent fuel management and related funding are a concern after the reactor is permanently shut down. Therefore, the proposed rule would require that the amount of funds accumulated to cover the cost of managing the spent fuel be specified; and that an estimate of the projected costs of spent fuel management until the Department of Energy takes title to the spent fuel be provided; and that a plan to obtain additional funds if the accumulated funds do not cover the projected cost be identified. These proposed changes are expected to increase the likelihood that funds for spent fuel management will be available when needed. In Section II.V of this document, NRC seeks public comment on this topic.

S. When Do These Proposed Actions Become Effective?

The new regulations would become effective 60 days after the final rule is published in the **Federal Register**. The NRC estimates that, at the earliest, the final rule will be published in October 2008.

T. Has NRC Prepared a Cost-Benefit Analysis of the Proposed Actions?

NRC staff has prepared a draft Regulatory Analysis for this rulemaking. The analysis examines the costs and benefits of the proposed action and two alternatives. Under the proposed action, the estimated total costs (2007$) are $109 million and $77 million over a 15-year analysis period at 3 percent and 7 percent discount rates, respectively. The estimated total costs were higher for each of the two alternatives. The cost (2007$) of implementing the proposed rule over the 15-year analysis period is about $43 million at 3 percent discount rate, with NRC licensee costs at $6 million, Agreement State licensee costs at $22 million, NRC administrative costs at $3 million, and Agreement State administrative costs at $12 million. The primary benefits of the proposed rule are due to reduction in the number of legacy sites and higher reliability of obtaining sufficient funds pledged for decommissioning financial assurance to complete the decommissioning work through license termination. The NRC seeks public comment on the draft Regulatory Analysis. For example, the NRC and Agreement States are aware of the existence of facilities and sites which have the potential to become contaminated with significant amounts of radium-226 from past practices or operations, or from the accumulation of radium-226 sources. Do members of the public have information about these sites to include them in the Regulatory Analysis as licensees affected by this proposed rule?

More information on this subject is in Section XI of this document.

The Backfit Analysis is included in the Regulatory Analysis, and is discussed in Section XIII of this document. The NRC seeks public comment on the Backfit Analysis.

U. Has NRC Evaluated the Additional Paperwork Burden to Licensees?

This proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). NRC staff has estimated the impact this proposed rule would have on reporting and recordkeeping requirements of NRC and Agreement State licensees. The NRC seeks public comment on these estimates of additional burden to licensees from the proposed rule. More information on this subject is in Section IX, Paperwork Reduction Act Statement, of this document.

V. What Should I Consider as I Prepare My Comments to NRC?

When submitting your comments on this proposed rule:

1. Identify the rulemaking (RIN 3150-AH45).
2. Explain why you agree or disagree with the NRC proposal; suggest alternatives and substitute language for your requested changes.
3. Describe any assumptions and provide any technical information and/or data that you used.
4. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow NRC to reproduce your results.
5. Provide specific examples to illustrate your concerns, and suggest alternatives.
6. Explain your views as clearly as possible.
7. Submit your comments by the comment period deadline.
8. NRC has specifically requested comments regarding the following items:

(a) Can ''fee incentives'' be used, as permitted in 10 CFR 171.11(b), to

induce licensees to characterize subsurface residual radioactivity while their facility is operating instead of waiting until the facility is in decommissioning?

(b) Should NRC investigate the use of a secure Web site for use by licensees to submit and update decommissioning reporting requirements, information in the financial tests for parent guarantees and self-guarantees, and other information that licensees believe will improve the efficiency of the decommissioning planning and reporting process?

(c) Can the additional details that would be required of decommissioned power reactor licensees in the PSDAR under proposed 10 CFR 50.82(a)(4)(i), and reporting of the actual costs of decommissioning before license termination as proposed under 10 CFR 50.82(a)(8)(v), be provided to NRC accurately without reference to confidential information so that NRC may apply the information in reviewing similar decommissioning activities that are planned or in progress?

(d) Are the input assumptions, methodology and results in the draft Regulatory Analysis correct, including the Backfit Analysis? Is the conclusion in the draft Environmental Assessment correct of no significant environmental impact from the proposed rule?

(e) The NRC and Agreement States are aware of the existence of facilities and sites which have the potential to become contaminated with significant amounts of radium-226 from past practices or operations, or from the accumulation of radium-226 sources. Do members of the public have information about these sites to include them in the Regulatory Analysis as licensees affected by this proposed rule?

III. Discussion of Proposed Amendments by Section

As stated previously, the Commission approved the staff's recommendation to proceed with a proposed rulemaking in SRM–SECY–03–0069 dated November 17, 2003. Staff's recommendations for changes in licensee operations to prevent future legacy sites were described in attachment 8 to the SECY. Two factors that were common among the existing legacy sites were: (1) They had chronic releases of radioactive material to the subsurface environment, and (2) NRC did not recognize the extent of this contamination until near cessation of operations. To address the problem of chronic releases, staff recommended a revision to § 20.1406 to make it applicable to current licensees. Staff recommended that it would emphasize procedural changes for existing licensees, and that physical changes to the facility only would be warranted when procedures fail to reduce releases. These recommendations are proposed for implementation in § 20.1406(c). To address the reporting deficiencies, staff recommended a risk-informed approach to require sites that experience events that contaminate the subsurface to perform surveys to characterize the extent and migration of resultant plume(s), based on site conditions, and to record the survey information in records important for decommissioning. These are proposed for implementation in §§ 20.1501(a) and 20.1501(b).

SRM–SECY–03–0069 also approved staff's plans to add new, and amend existing financial assurance regulations, including the preparation of decommissioning cost estimates, the contents of DFPs, and acceptable financial assurance instruments used to support the DFP or the certification of funds used only by materials facilities. The recommended changes to financial assurance regulations and reporting requirements were described in attachment 7 to the SECY. Following analysis by NRC staff and input from stakeholders during public meetings, changes are proposed for implementation in 10 CFR parts 30, 40, 50, 70, and 72 to require more detailed reporting of decommissioning financial assurance information and to provide greater certainty to the NRC that adequate financial assurance will be available at the start of decommissioning activities.

The proposed amendments are discussed in numerical order below.

Section 20.1403 Criteria for License Termination Under Restricted Conditions

The proposed rule would amend § 20.1403(c)(1) to require financial assurance funds to be placed into a trust segregated from the licensee's assets and outside the licensee's administrative control. The proposed rule would eliminate the licensee's option to use other prepayment financial mechanisms, such as the escrow account, government fund, certificate of deposit, or deposit of government securities. No licensee to date has used these other prepayment mechanisms to provide financial assurance for a restricted release site.

Amended § 20.1403(c)(1) would require that the initial amount of the trust fund established for long-term care and maintenance be based on a conservative assumption of a 1 percent annual real rate of return on investment.

The current § 20.1403(c)(2) would be deleted. This would remove the licensee's option to use a surety method, insurance, or other guarantee method to provide financial assurance for a restricted release site. The NRC has concluded that these mechanisms are more suitable for short-term rather than long-term investments, and are not well adapted to provide assurance that an independent third party will have the requisite funds to carry out necessary control and maintenance of the site following license termination. No licensee has to date used these financial mechanisms to provide financial assurance for long-term care of a restricted release site. The provisions for government entities to provide financial assurance for long term control and maintenance contained in existing §§ 20.1403(c)(3) and (4) would be retained but redesignated as §§ 20.1403(c)(2) and (3). Section II.N.1 of this document has more information on this proposed amendment.

Section 20.1404 Alternate Criteria for License Termination

The proposed rule would add a new § 20.1404(a)(5) specifying a fifth criterion that the NRC must consider in determining whether to terminate a license under alternate site release criteria. This new fifth criterion is if the licensee has provided sufficient financial assurance in the form of a trust fund to enable an independent third party, including a government custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site.

Section 20.1406 Minimization of Contamination

The proposed addition of a new § 20.1406(c) is an extension of the policy articulated by the Commission in 1997, when the LTR was established (62 FR 39082; July 21, 1997). This policy is that licensees must conduct their operations to minimize waste during facility operations to facilitate later decommissioning and to achieve occupational and public doses that are ALARA. The term ''residual radioactivity,'' as already defined in 10 CFR part 20, best identifies the type and scope of radioactive material that must be considered by licensees to effectively plan for decommissioning activities during facility operations. The term includes licensed and unlicensed radioactive material. Section II.A of this document has more information on the proposed addition of § 20.1406(c).

Section 20.1501 General

The 10 CFR 20.1501 survey requirements were added to the regulations in 1991, when 10 CFR part 20 was substantially revised (56 FR 23360; May 21, 1991). To date, these surveys have been done primarily to demonstrate compliance with occupational and public exposure limits, and effluent release regulations.

The current § 20.1501(a) requires licensees to perform surveys of potential radiological hazards. Subsurface contaminating events are not often a risk to occupational or public health and safety; however, experience has shown that these events, because they are not obvious or evident, are a risk for creation of a legacy site if contaminant characteristics are not addressed early when the facility is operating. A legacy site is a potential radiological hazard.

The proposed changes to § 20.1501(a) specify that these survey requirements include consideration of residual radioactivity, conforming to the new § 20.1406(c). The linkage between new § 20.1406(c) and amended § 20.1501(a) will require that surveys be performed if there is reason to believe that significant subsurface contamination is present which constitutes a potential radiological hazard. Section II.A describes these survey requirements in more detail.

The proposed new § 20.1501(b) would require licensees to maintain records from surveys describing the location and amount of subsurface residual radioactivity identified at the site with records important for decommissioning. Existing § 20.1501(b) would be designated as (c) and existing § 20.1501(c) would be designated as (d).

Section 30.34 Terms and Conditions of Licenses

Section 30.34(b) pertains to license transfers. Existing § 30.34(b) would be designated as (b)(1) and a new paragraph (b)(2) would be added to require that an application for license transfer must include the proposed transferee's identity, its technical and financial qualifications, and a showing that it will be able to provide adequate financial assurance for decommissioning.

Existing §§ 40.46 and 70.36 contain parallel provisions to those in § 30.34(b). Sections 40.46 and 70.36 would be re-designated as §§ 40.46(a) and 70.36(a). New §§ 40.46(b) and 70.36(b) will parallel the new § 30.34(b)(2) provisions described previously.

Section 30.35 Financial Assurance and Recordkeeping for Decommissioning

Several changes would be made to these requirements, and parallel changes would be made in §§ 40.36(c) and 70.25(c). These proposed changes are discussed below.

A new paragraph (c)(6) would be added to 10 CFR 30.35 [and parallel §§ 40.36(c)(5) and 70.25(c)(5)], to reflect the proposed changes being made to the § 20.1501(a) survey requirements. If these surveys detect residual radioactivity at a site at levels that would, if left uncorrected, prevent the site from meeting the § 20.1402 criteria for unrestricted use, the licensee must submit a DFP within one year of when the survey is complete.

Existing § 30.35(e) [and in parallel add §§ 40.36(d)(1) and (d)(2), part 40 Appendix A, 70.25(e)(1) and (e)(2), and 72.30(b) and (c)] would be amended to contain new paragraphs (e)(1) and (e)(2). Section 30.35(e)(1) would require that each DFP submitted for review and approval must contain a DCE based on three cost components. Two of the cost components (a dollar amount adequate to cover the cost of an independent contractor to perform all decommissioning activities, and an adequate contingency factor) are described in existing guidance. The new cost component is an estimate of the volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the decommissioning criteria. Additionally, the DCE must be based on the cost of meeting the § 20.1402 criteria for unrestricted use unless it can be adequately shown that the requirements of § 20.1403 will be met.

A new provision, § 30.35(e)(1)(ii), would require the licensee to identify and justify the basis for all key assumptions underlying the DCE.

Section 30.35(e)(1)(iii) retains the existing § 30.35(e) provision requiring a description of the method of assuring funds for decommissioning. Section 30.35(e)(1)(iv) retains the existing § 30.35(e) provision requiring a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the DCE. Section 30.35(e)(1)(v) retains the existing § 30.35(e) requirement that the DFP include ''a signed original of the financial instrument'' being used to provide financial assurance, if it has not been previously submitted and accepted as the financial instrument to cover the cost estimate for decommissioning.

New § 30.35(e)(2) would require that the DFP be submitted at the time of license renewal, and at intervals not exceeding 3 years with adjustments as necessary to account for changes in costs and the extent of contamination. The updated DFP must specifically consider the effect of the following events on the cost of decommissioning:

- Spills of radioactive material producing additional residual radioactivity in onsite subsurface material;
- Waste inventory increasing above the amount previously estimated;
- Waste disposal costs increasing above the amount previously estimated;
- Facility modifications;
- Changes in authorized possession limits;
- Actual remediation costs that exceed the previous cost estimate;
- Onsite disposal; and
- Use of a settling pond.

As discussed below, the proposed rule would amend the introductory language in 10 CFR 30.35(f), and amend paragraphs (f)(1) through (f)(3). Parallel changes would be made in §§ 40.36(e), 40.36(e)(1), (e)(2) and (e)(3), 70.25(f), 70.25(f)(1), (f)(2) and (f)(3), 72.30(e), 72.30(e)(1), (e)(2) and (e)(3)].

Section 30.35(f) would be amended to require that the financial instrument used for decommissioning funding assurance include the licensee's name, license number, and docket number, and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. If there are any changes to this information, the licensee must submit financial instruments reflecting these changes within 30 days.

Revised § 30.35(f)(1) requires that the prepayment financial method be in the form of a trust. This parallels the rule text change in § 20.1403, eliminating the four other prepayment mechanisms (i.e., the escrow account, government fund, certificate of deposit, and deposit of government securities). No byproduct material licensees have elected to use the government fund and deposit of government securities mechanisms, and only 2 have used a certificate of deposit. Because of their relative risk in bankruptcy and their lack of use by licensees, the NRC has decided to eliminate them as alternatives for providing financial assurance for decommissioning. Approximately 25 byproduct material licensees use escrow accounts.

In § 30.35(f)(2), the proposed rule would eliminate the existing line of credit option as a guarantee method for financial assurance. No licensees have elected to use a line of credit to provide

financial assurance for decommissioning.

In § 30.35(f)(3), the proposed rule would require an external sinking fund to be in the form of a trust, eliminating the escrow account, government fund, certificate of deposit, and deposit of government securities because of their relative risk of loss during bankruptcy.

A new § 30.35(h) [and in parallel new §§ 40.36(f), 70.25(h), and 72.30(g)] would be added, specifying that each licensee must use its financial assurance funds only for decommissioning activities. The new section also would require monitoring by the licensee of its investment balance in the decommissioning trust account. Conservative investments are expected in the trust account. If the investment balance in the trust account is below the estimated cost of decommissioning, but is not below 75 percent of the cost, then the licensee must, within 5 days after the end of the calendar quarter, deposit funds into the trust account to fully cover the estimated cost. If the loss results in a balance that is below 75 percent of the amount necessary to cover the decommissioning cost, the licensee must, within 5 days of such occurrence, deposit funds into the trust account to fully cover the estimated cost. The licensee must report taking such actions to the NRC within 30 days.

Part 30 Appendices A, C, D, and E

The proposed rule would make a set of parallel amendments to 10 CFR part 30, appendices A, C, D, and E. More information on these proposed changes is discussed in Sections II.N.3 through II.N.8 of this document. The types of guarantors for which the financial tests in these appendices apply are:

- Appendix A, Parent company guarantees;
- Appendix C, Self-guarantees;
- Appendix D, Self-guarantees by companies that have no rated commercial bonds;
- Appendix E, Self-guarantees by non-profit colleges, universities and hospitals.

In the financial test in section II.A in appendices A, C and D of part 30, the proposed rule would add language to allow the inclusion of intangible assets in the determination of net worth. Net worth is defined to exclude the net book value and goodwill of the nuclear facility and site. Tangible net worth is defined to exclude all intangible assets and the net book value of the nuclear facility and site. In appendix A, section II.A.2.(ii) would be revised to require the licensee to perform a net worth calculation instead of a tangible net worth calculation.

In the financial test in section II.A in appendices A, C and D of part 30, the proposed rule would require that the guarantor's tangible net worth be at least $19 million to pass one of the criteria for that financial test. The current rule requires the company seeking to pass the Section II.A financial test to have tangible net worth of at least $10 million.

Each set of changes to Appendices A, C, D, and E would require the independent certified public accountant (who compares the data used in the financial tests against data in year-end financial statements) to evaluate the guarantor's off-balance sheet transactions regarding the impact these transactions may have on the guarantor's ability to pay decommissioning costs. The accountant would also have to verify bond ratings if these are used to pass the financial test.

For those licensees or guarantors that issue bonds and use the financial test under section II.B of appendices A, C and E of part 30, the proposed rule would specify that the current rating of the most recent bond issuance of AAA, AA, or A by Standard and Poor's could include adjustments of + or − (i.e., AAA+, AA+, or A+ and AAA−, AA−, and A− would meet the criterion) and the current rating of Aaa, Aa, or A by Moody's could include adjustments of 1, 2, or 3. In each of these appendices, the proposed rule also would require the bond to be the most recent ''uninsured, uncollateralized, and unencumbered'' bond issuance.

In each appendix A, C, D, and E of part 30, the proposed rule would make changes to the 90-day test to show continued eligibility for the licensee and guarantor. The current rule requires only the licensee to repeat passage of the test within 90 days after the close of each succeeding fiscal year. The proposed rule would apply the same requirement to the guarantor.

In each appendix A, C, D, and E to part 30, the proposed rule would amend section III to clarify that the guarantor would be required to set up a standby trust, with new criteria for selecting an acceptable trustee.

In appendix A to part 30, the proposed rule would amend section III to require that the parent company guarantor agree to make itself subject to Commission orders (e.g., order to make payments under the guarantee agreement). The parent company guarantor also would have to agree to make itself jointly and severally liable with the licensee for the full cost of decommissioning with any additional costs not paid by the licensee to be paid by the parent company guarantor.

In each appendix A, C, D, and E to part 30, the proposed rule would amend section III to allow the Commission, in cases of the guarantor company's financial distress, to declare the financial assurance guaranteed by the guarantor to be immediately due and payable to the standby trust. The guarantor companies also would be required to notify the NRC, in writing, immediately following the occurrence of events signifying financial distress.

Section 40.36 Financial Assurance and Recordkeeping for Decommissioning

The proposed rule would amend § 40.36(c)(5) in changes that are parallel to those described under § 30.35(c)(6); would amend § 40.36(d)(1) and (d)(2) in changes that are parallel to those described under § 30.35(e)(1) and (e)(2); would amend § 40.36(e) in changes that are parallel to those described under § 30.35(f); and would amend § 40.36(f) in changes that are parallel to those described under § 30.35(h).

Section 40.46 Inalienability of Licenses

The proposed rule would amend § 40.46. The proposed changes are described under the section for § 30.34, above.

Part 40 Appendix A

The proposed rule would amend Appendix A, Criterion 9, to part 40. The proposed changes are parallel to those described under §§ 30.35(e)(1) and 30.35(e)(2).

Section 50.75 Reporting and Recordkeeping for Decommissioning Planning

The proposed rule would eliminate the line of credit in § 50.75(e)(1)(iii)(A) as a guarantee method for financial assurance. No reactor licensees have elected to use a line of credit to provide financial assurance for decommissioning.

Section 50.82 Termination of License

The proposed rule would revise § 50.82(a)(4)(i) requiring that additional details be included in the PSDAR. The PSDAR must now include a description of the planned decommissioning activities, a schedule for their accomplishment, and an estimate of expected costs. The proposed revision specifies that the PSDAR cost estimates include those for managing irradiated fuel.

The proposed rule also would add paragraphs (v) through (vii) to existing § 50.82(a)(8). New paragraph (v) would

require that a power reactor licensee, that has submitted its certification of permanent cessation of operation, must report annually on the status of its radiological decommissioning funding on a calendar-year basis. The information contained in this financial assurance status report is discussed in Section II.R of this document.

New paragraph (vi) would require that if funds reported in the financial assurance status report are below the estimated cost to complete the decommissioning, the licensee would have to make up the difference.

New paragraph (vii) would require an annual report on the status of funds for managing irradiated fuel. This report would include the accumulated amount, the projected costs until title to the fuel is transferred to the Secretary of Energy, and the plan to obtain the necessary additional funds if the total projected cost is higher than the accumulated amount.

Section 70.25 Financial Assurance and Recordkeeping for Decommissioning

The proposed rule would amend § 70.25. The proposed changes are parallel to those described under § 30.35.

Section 70.36 Inalienability of Licenses

The proposed rule would amend § 70.36. The proposed changes are parallel to those described under § 30.34.

Section 72.13 Applicability

References in § 72.13(c) to § 72.30 are corrected to conform with the proposed changes to § 72.30, whereby § 72.30(c) would become § 72.30(e), and § 72.30(d) would become § 72.30(f).

Section 72.30 Financial Assurance and Recordkeeping for Decommissioning

The proposed rule would amend § 72.30. The proposed changes are similar to those described under § 30.35(e), and two existing paragraphs are redesignated.

Section 72.50 Transfer of License

The proposed rule would amend § 72.50 by adding a new paragraph (b)(3), requiring that the license transfer application describe the financial assurance that will be provided for the decommissioning under § 72.30.

IV. Criminal Penalties

For the purpose of Section 223 of the Atomic Energy Act (AEA), the Commission is proposing to amend 10 CFR parts 20, 30, 40, 50, 70, and 72 under one or more of Sections 161b, 161i, or 161o of the AEA. Willful violations of the rule would be subject to criminal enforcement.

V. Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this proposed rule would be a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among the Agreement States and the NRC requirements. The NRC staff analyzed the proposed rule in accordance with the procedure established within Part III, ''Categorization Process for NRC Program Elements,'' of Handbook 5.9 to Management Directive 5.9, ''Adequacy and Compatibility of Agreement State Programs'' (a copy of which may be viewed at *http://www.nrc.gov/reading-rm/doc-collections/management-directives/*).

NRC program elements (including regulations) are placed into four compatibility categories (See the Draft Compatibility Table in this section). In addition, the NRC program elements also can be identified as having particular health and safety significance or as being reserved solely to the NRC. Compatibility Category A establishes program elements that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. An Agreement State should adopt Category A program elements in an essentially identical manner to provide uniformity in the regulation of agreement material on a nationwide basis. Compatibility Category B establishes program elements that apply to activities that have direct and significant effects in multiple jurisdictions. An Agreement State should adopt Category B program elements in an essentially identical manner. Compatibility Category C establishes program elements that do not meet the criteria of Category A or B, but the essential objectives of which an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. An Agreement State should adopt the essential objectives of the Category C program elements. Compatibility Category D establishes program elements that do not meet any of the criteria of Category A, B, or C, above, and, thus, do not need to be adopted by Agreement States for purposes of compatibility.

Health and Safety (H&S) are program elements that are not required for compatibility but are identified as having a particular health and safety role (*i.e.*, adequacy) in the regulation of agreement material within the State. Although not required for compatibility, the State should adopt program elements in this H&S category based on those of the NRC that embody the essential objectives of the NRC program elements, because of particular health and safety considerations. Compatibility Category NRC establishes program elements that address areas of regulation that cannot be relinquished to Agreement States under the Atomic Energy Act, as amended, or provisions of Title 10 of the Code of Federal Regulations. These program elements are not adopted by Agreement States.

The following table lists the parts and sections that would be revised and their corresponding categorization under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs.''

COMPATIBILITY TABLE FOR DECOMMISSIONING PLANNING PROPOSED RULE

Section	Change	Subject	Compatibility	
			Existing	New *
20.1403(c)(1)	Amend	Trust fund for restricted use	C	C
20.1403(c)(2)	Deleted	Acceptable financial assurance methods	C	C
20.1403(c)(3) & (4)	Redesignated	Government entity financial assurance	C	C
20.1404(a)(5)	Add	Trust fund for alternate criteria		C
20.1406(c)	Add	Minimize residual radioactivity		C
20.1501(a)	Amend	Surveys and monitoring	H&S	H&S
20.1501(b)	Add	Records from surveys		H&S

COMPATIBILITY TABLE FOR DECOMMISSIONING PLANNING PROPOSED RULE—Continued

Section	Change	Subject	Compatibility	
			Existing	New *
30.34(b)(1)	Redesignated	License transfer requirements	C	C
30.34(b)(2)	Add	License transfer requirements		C
30.35(c)(6)	Add	Assess subsurface contamination		D
30.35(d)	No change	Certification amounts financial assurance	H&S **	D
30.35(e)(1)	Amend	Contents of decommissioning funding plan	D ***	H&S
30.35(e)(2)	Amend	Updates of decommissioning funding plan	D ***	H&S
30.35(f)	Amend	Methods for financial assurance	D	D
30.35(h)	Add	Monitor the balance of funds		D
30 Appendix A	Amend	Parent company guarantee	D	D
30 Appendix C	Amend	Self-guarantee with bonds	D	D
30 Appendix D	Amend	Self-guarantee without bonds	D	D
30 Appendix E	Amend	Self-guarantee nonprofits	D	D
40.36(c)(5)	Add	Assess subsurface contamination		D
40.36(d)(1)	Amend	Contents of decommissioning funding plan	H&S	H&S
40.36(d)(2)	Amend	Updates of decommissioning funding plan	H&S	H&S
40.36(e)	Amend	Methods for financial assurance	D	D
40.36(g)	Add	Monitor the balance of funds		D
40.46(a)	Redesignated	License transfer requirements	C	C
40.46(b)	Add	License transfer information requirements		C
40 Appendix A Criterion 9(b)	Amend	Decommissioning cost estimates and financial surety [with 11e.(2)].	C	C
40 Appendix A Criterion 9(b)	Amend	Decommissioning cost estimates and financial surety [without 11e.(2)].	NRC	NRC
50.75(e)(1)	Amend	Surety as bond or letter of credit	NRC	NRC
50.82(a)(4)	Amend	Cost information in the PSDAR	NRC	NRC
50.82(a)(8)(v), (vi) & (vii)	Add	Cost information in the annual financial assurance status report.		NRC
70.25(c)(5)	Add	Assess subsurface contamination		D
70.25(d)	No change	Certification amounts financial assurance	H&S **	D
70.25(e)(1)	Amend	Contents of decommissioning funding plan	D ***	H&S
70.25(e)(2)	Amend	Updates of decommissioning funding plan	D ***	H&S
70.25(f)	Amend	Methods for financial assurance	D	D
70.25(h)	Add	Monitor the balance of funds		D
70.36(b)	Add	License transfer requirements		C
72.30(b)	Amend	Contents of decommissioning funding plan	NRC	NRC
72.30(c)	Add	Updates of decommissioning funding plan		NRC
72.30(d)	Add	Assess subsurface contamination		NRC
72.30(e)	Amend	Methods for financial assurance	NRC	NRC
72.30(g)	Add	Monitor the balance of funds		NRC
72.50(b)(3)	Add	License transfer requirements		NRC

* Proposed compatibility category.
** The compatibility category for §§ 30.35(d) and 70.25(d) were incorrectly specified in the 68 FR 57334, October 3, 2003, Financial Assurance for Materials Licensees final rule. The correct category for both of these sections is D.
*** The compatibility category for §§ 30.35(e) and 70.25(e) were incorrectly specified in the 68 FR 57334. The correct category for both of these sections is H&S.

VI. Plain Language

The Presidential memorandum dated June 1, 1998, entitled ''Plain Language in Government Writing'' directed that the Government's writing be in plain language. The NRC requests comments specifically with respect to the clarity of the language used in the proposed rule. Comments should be sent to the address listed under the **ADDRESSES** caption of the preamble.

VII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. There are no consensus standards regarding the methods for preparing decommissioning cost estimates or providing financial assurance for decommissioning that would apply to the requirements that would be imposed by this rule. Thus, the provisions of the Act do not apply to this rule.

VIII. Environmental Assessment and Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR part 51, that this rule, if adopted, would not have any significant environmental impacts, and therefore this rulemaking does not warrant the preparation of an environmental impact statement.

A copy of the Environmental Assessment and rule are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html* for 75 days after the signature date of this notice.

The proposed rule would require licensees to conduct their operations so as to identify the occurrence of residual radioactivity at their sites, particularly in the subsurface soil and ground water, and minimize the introduction of additional residual radioactivity. There are a variety of monitoring methods to evaluate subsurface characteristics, and these are highly site specific with

respect to their effectiveness. One or more of the licensees affected by this proposed rulemaking may find that compliance with the monitoring requirements will mean the installation of ground water monitoring wells and surface monitoring devices at their sites. The installation of these monitoring devices and wells is generally expected to result in small environmental impacts due to their very localized nature.

During sampling and testing, the proposed rule introduces the potential for a small amount of increased occupational exposures. These exposures are expected to remain within 10 CFR part 20 limits and to be ALARA. If subsurface contamination is detected, licensees may choose to remediate when contamination levels are lower and more manageable, which could result in reduced future occupational exposure rates than if the contamination conditions were allowed to remain and become increasingly more hazardous. Licensees may alternatively choose to provide adequate funding in response to their knowledge of the extent of any subsurface contamination, which will better ensure that the area is remediated following decommissioning to a degree that supports public health and safety, and protection of the environment.

If significant onsite residual radioactivity in the subsurface is found due to the monitoring imposed by this rulemaking, such knowledge will better ensure the protection of public health and safety, and protection of the environment. Identifying and resolving the source of the contamination will better ensure that waste is not allowed to migrate offsite. Early identification also provides more time to plan waste remediation strategies that are both safe and cost effective.

The NRC finds that this proposed rulemaking will not have a significant environmental impact. Comments on the draft Environmental Assessment may be submitted to the NRC as indicated under the **ADDRESSES** heading.

IX. Paperwork Reduction Act Statement

This proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements.

Type of submission, new or revision: Revision.

The title of the information collection: 10 CFR parts 20, 30, 40, 50, 70 and 72, Decommissioning Planning, Proposed Rule.

The form number if applicable: Not applicable.

How often the collection is required: Initially, periodically based on regulated activity, quarterly, annually, and at license termination.

Who will be required or asked to report: Licensees and applicants for nuclear power plants and research and test facilities; applicants for and holders of NRC licenses authorizing receipt, possession, use or transfer of radioactive source and byproduct material.

An estimate of the number of annual responses: 239 responses (10 CFR 20—0 responses; 10 CFR 30—151 responses; 10 CFR 40—29 responses; 10 CFR 50—9 responses; 10 CFR 70—49 responses; 10 CFR 72—1 response).

The estimated number of annual respondents: 227 (10 CFR 20—0 respondents; 10 CFR 30—139 respondents; 10 CFR 40—29 respondents; 10 CFR 50—9 respondents; 10 CFR 70—49 respondents; and 10 CFR 72—1 respondent).

An estimate of the total number of hours needed annually to complete the requirement or request: The total burden increase for this rulemaking is 1,210.5 hours (10 CFR 20—0 hours; 10 CFR 30—853.5 hours; 10 CFR 40—132.5 hours; 10 CFR 50—48 hours; 10 CFR 70—172.5 hours; 10 CFR 72—4 hour).

Abstract: The NRC is proposing to amend its regulations to improve decommissioning planning by its licensees who have operating facilities or who are required to have decommissioning financial assurance. A new section in 10 CFR 20.1406(c) and an amended § 20.1501(a) would require licensees to conduct their operations to minimize waste and to perform surveys of subsurface contamination. The amended regulations also would require licensees to report additional details in their decommissioning cost estimates, would eliminate two currently approved financial assurance mechanisms, and would modify the parent company guarantee and self-guarantee financial assurance mechanisms to authorize the Commission to make the amount guaranteed immediately due and payable to a standby trust if the guarantor is in financial distress. Finally, the amended regulations would require decommissioning power reactor licensees to report additional information on the costs of decommissioning and spent fuel management.

The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the information collections contained in the proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

A copy of the OMB clearance package may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. The OMB clearance package and rule are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html* for 75 days after the signature date of this notice.

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the above issues, by February 21, 2008 to the Records and FOIA/Privacy Services Branch (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV* and to the Desk Officer, Nathan Frey, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0014; 0017; 0020; 0011; 0009; and 0132), Office of Management and Budget, Washington, DC 20503. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. You may also e-mail comments to *Nathan.Frey@omb.eop.gov* or comment by telephone at (202) 395–4650.

X. Public Protection Notification

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

XI. Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed rulemaking. An analysis of the proposed rule was performed comparing it against two other alternatives over a 15-year analysis period, using 3 percent and 7 percent real discount rates. The NRC considers the costs of the proposed rule justified in view of the benefits. The primary benefit is a reduction in the number of legacy sites that may occur in the future. The baseline of the analysis assumes No Action is taken and five additional legacy sites require

government assistance to achieve completion of decommissioning consistent with unrestricted use criteria. The estimated cost of the proposed rule, with amended regulations as presented in Section III of this document, is about 40 percent lower than if No Action is taken. A third alternative was evaluated that would provide a higher level of assurance than the proposed rule of obtaining funds guaranteed for decommissioning financial assurance, but this requirement of collateral for the guaranteed amount was too costly in relation to the added level of assurance it would provide.

The estimated cost to implement the proposed rule is about $43 million (2007$) at 3 percent discount rate, of which NRC licensee costs are about $6 million, Agreement State licensee costs are about $22 million, NRC administrative costs are about $3 million, and Agreement State administrative costs are about $12 million. The Regulatory Analysis provides a cost breakdown for activities related to implementation of the proposed rule by 10 CFR parts 20, 30, 40, 50, 70 and 72.

The Commission requests public comment on the draft Regulatory Analysis. A copy of the Regulatory Analysis and rule are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html* for 75 days after the signature date of this notice.

XII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. Only about 300 NRC materials licensees are required to have decommissioning financial assurance and the large majority of these organizations do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

XIII. Backfit Analysis

As discussed more fully in the draft Regulatory Analysis, the NRC has determined that the NRC's rules on backfitting, 10 CFR 50.109, 70.76, 72.62, and 76.76, do not require the preparation of a backfit analysis for this proposed rule. A backfit is the modification of equipment or procedures required to operate a facility resulting from new or amended NRC regulations, or the imposition of a regulatory staff position interpreting the Commission rules that is either new or different from a previously applicable staff position. The new or amended regulations in this proposed rule either clarify existing requirements, or require the collection and reporting of information using existing equipment and procedures. The proposed changes to requirements are not regulatory actions to which the backfit rule applies. The new and amended NRC regulations being proposed in this rulemaking are summarized below.

The ''Minimization of contamination'' requirements in 10 CFR 20.1406 would be amended by adding a new paragraph (c) to read as follows:

> (c) Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with existing radiation protection requirements in Subpart B and radiological criteria for license termination in Subpart E of this part.

This is not a backfit because it clarifies licensee requirements under two existing regulations applicable to licensed operations. To comply with the current ALARA dose requirements in 10 CFR 20.1101(b) and 10 CFR 20.1402 (within existing subparts B and E, respectively), licensees must have operating procedures to minimize the introduction of residual radioactivity into their site, including the subsurface. Otherwise, licensees may lack information to provide a basis to demonstrate that they have achieved—during the life cycle of the facility which includes the decommissioning phase—public and occupational exposures that are ALARA. Licensees should already have these procedures in place as part of their radiation protection program, and the proposed 20.1406(c) clarifies this requirement.

Existing 10 CFR 20.1501(a) is being revised by replacing its undefined phrase ''radioactive material'' with a defined term ''residual radioactivity.'' As defined in existing 10 CFR 20.1003, residual radioactivity includes subsurface contamination within its scope, and the word ''subsurface'' is being added to 10 CFR 20.1501(a). This regulation (10 CFR 20.1501(a)(2)(iii)) already requires the evaluation of potential radiological hazards. Thus, as amended, 10 CFR 20.1501(a) makes clear that subsurface residual radioactivity is a potential radiological hazard, and that the radiological surveys required by this section must address subsurface residual radioactivity. This clarification of existing requirements does not require the preparation of a backfit analysis.

Another proposed amendment would add a new paragraph (b) to 10 CFR 20.1501, requiring that survey records describing the location and amount of subsurface residual radioactivity identified at a licensed site be kept with records important for decommissioning.

Regulatory changes imposing information collection and reporting requirements do not constitute regulatory actions to which the backfit rule applies. Additionally, NRC licensees are already required to keep records important for decommissioning. See, *e.g.*, 10 CFR 50.75(g), 70.25(g), and 72.30(d). Moreover, the new 10 CFR 20.1501(b) is not intended to require recordkeeping of any and all amounts of subsurface residual radioactivity, but only amounts that are significant to achieve effective decommissioning planning and ALARA dose requirements. For operating facilities, significant residual radioactivity is a quantity of radioactive material that would later require remediation during decommissioning to meet the unrestricted use criteria of 10 CFR 20.1402. Significant residual radioactivity in subsurface media, such as soil, is a component of waste because it must be removed and disposed of to meet unrestricted use criteria.

The proposed rule also revises decommissioning planning and financial assurance requirements in 10 CFR parts 30, 40, 50, 70 and 72. These revisions do not entail modifying any equipment or procedures required to operate the types of NRC-licensed facilities governed by 10 CFR Parts 50, 70 or 72. The proposed changes concern administrative matters which are outside the scope of protection afforded by the NRC's backfitting rules (10 CFR 50.109, 70.76, and 72.62). Therefore, preparation of a backfit analysis is not required for the proposed revisions to the decommissioning planning and financial assurance requirements.

Accordingly, the proposed rule's provisions do not constitute a backfit and a backfit analysis need not be performed. The draft regulatory analysis identifies the benefits and costs of the proposed rule, discusses the voluntary GPI, and evaluates other options for addressing the identified issues. The draft regulatory analysis constitutes a ''disciplined approach'' for evaluating the merits of the proposed rule and is consistent with the intent of the backfit rule.

The Commission requests public comment on the backfit issues summarized above and as set forth more fully in the draft Regulatory Analysis

(which is available as discussed under the **ADDRESSES** heading). Single copies may be obtained from the contact listed under the **FOR FURTHER INFORMATION CONTACT** heading. Comments on the draft Backfit Analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

List of Subjects

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 30

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

10 CFR Part 40

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

10 CFR Part 50

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

10 CFR Part 70

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

10 CFR Part 72

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

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 20, 30, 40, 50, 70, and 72.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note), Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 594 (2005).

2. In § 20.1403, paragraph (c)(2) is removed, paragraph (c)(3) is redesignated as paragraph (c)(2), and paragraph (c)(4) is redesignated as paragraph (c)(3), and paragraph (c)(1) is revised to read as follows:

§ 20.1403 Criteria for license termination under restricted conditions.

* * * * *

(c) * * *

(1) Funds placed into a trust segregated from the licensee's assets and outside the licensee's administrative control, and in which the adequacy of the trust funds is to be assessed based on an assumed annual 1 percent real rate of return on investment;

* * * * *

3. In § 20.1404, paragraph (a)(5) is added to read as follows:

§ 20.1404 Alternate criteria for license termination.

(a) * * *

(5) Has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site. Acceptable financial assurance mechanisms are specified in § 20.1403(c) of this part.

* * * * *

4. In § 20.1406, paragraph (c) is added to read as follows:

§ 20.1406 Minimization of contamination.

* * * * *

(c) Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in Subpart B and radiological criteria for license termination in Subpart E of this part.

5. In § 20.1501, paragraph (b) is redesignated as paragraph (c) and paragraph (c) is redesignated as paragraph (d), the introductory text of paragraphs (a) and (a)(2) and paragraphs (a)(2)(ii) and (a)(2)(iii) are revised, and a new paragraph (b) is added to read as follows:

§ 20.1501 General.

(a) Each licensee shall make or cause to be made, surveys of areas, including the subsurface, that—

* * * * *

(2) Are reasonable under the circumstances to evaluate —

* * * * *

(ii) Concentrations or quantities of residual radioactivity; and

(iii) The potential radiological hazards of the radiation levels and residual radioactivity detected.

(b) Records from surveys describing the location and amount of subsurface residual radioactivity identified at the site must be kept with records important for decommissioning.

* * * * *

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

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

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

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

7. In § 30.34, paragraph (b) is redesignated as paragraph (b)(1) and a new paragraph (b)(2) is added to read as follows:

§ 30.34 Terms and conditions of licenses.

* * * * *

(b) * * *

(2) An application for transfer of license must include:

(i) The identity, technical and financial qualifications of the proposed transferee; and

(ii) Financial assurance for decommissioning information required by § 30.35.

* * * * *

8. In § 30.35, a new paragraph (c)(6) is added, and paragraph (e), the

introductory text in paragraph (f), paragraph (f)(1), the introductory text of paragraph (f)(2) and paragraph (f)(3) are revised, and a new paragraph (h) is added to read as follows:

§ 30.35 Financial assurance and recordkeeping for decommissioning.

* * * * *

(c) * * *

(6) If, in surveys made under § 20.1501(a), residual radioactivity in the facility and environment, including the subsurface, is detected at levels that would, if left uncorrected, prevent the site from meeting the 10 CFR 20.1402 criteria for unrestricted use, the licensee must submit a decommissioning funding plan within one year of when the survey is completed.

* * * * *

(e)(1) Each decommissioning funding plan must be submitted for review and approval and must contain—

(i) A detailed cost estimate for decommissioning, in an amount reflecting:

(A) The cost of an independent contractor to perform all decommissioning activities;

(B) The cost of meeting the 10 CFR 20.1402 criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria;

(C) The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination; and

(D) An adequate contingency factor.

(ii) Identification of and justification for using the key assumptions contained in the decommissioning cost estimate;

(iii) A description of the method of assuring funds for decommissioning from paragraph (f) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;

(iv) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and

(v) A signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning).

(2) At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be re-submitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted, this can not be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:

(i) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material;

(ii) Waste inventory increasing above the amount previously estimated;

(iii) Waste disposal costs increasing above the amount previously estimated;

(iv) Facility modifications;

(v) Changes in authorized possession limits;

(vi) Actual remediation costs that exceed the previous cost estimate;

(vii) Onsite disposal; and

(viii) Use of a settling pond.

(f) The financial instrument must include the licensee's name, license number, and docket number, and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. When any of the foregoing information changes, the licensee must, within 30 days, submit financial instruments reflecting such changes. The financial instrument submitted must be a signed original or signed original duplicate, except where a copy of the signed original is specifically permitted. Financial assurance for decommissioning must be provided by one or more of the following methods:

(1) *Prepayment.* Prepayment is the deposit before the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment must be made into a trust account, and the trustee and the trust must be acceptable to the Commission.

(2) *A surety method, insurance, or other guarantee method.* These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, or letter of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix A to this part. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix C to this part. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in appendix D to this part. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in appendix E to this part. Except for an external sinking fund, a parent company guarantee or a guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this section. A guarantee by the applicant or licensee may not be used in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

(3) *An external sinking fund in which deposits are made at least annually, coupled with a surety method, insurance, or other guarantee method, the value of which may decrease by the amount being accumulated in the sinking fund.* An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund must be in the form of a trust. If the other guarantee method is used, no surety or insurance may be combined with the external sinking fund. The surety, insurance, or other guarantee provisions must be as stated in paragraph (f)(2) of this section.

* * * * *

(h) In providing financial assurance under this section, each licensee must use the financial assurance funds only for decommissioning activities and each licensee must monitor the balance of funds held to account for market variations. The licensee must replenish the funds, and report such actions to the NRC, as follows:

(1) If, at the end of a calendar quarter, the fund balance is below the amount necessary to cover the cost of decommissioning, but is not below 75 percent of the cost, the licensee must increase the balance to cover the cost, and must do so within 5 days after the end of the calendar quarter.

(2) If, at any time, the fund balance falls below 75 percent of the amount necessary to cover the cost of decommissioning, the licensee must increase the balance to cover the cost, and must do so within 5 days of the occurrence.

(3) Within 30 days of taking the actions required by paragraphs (h)(1) or (h)(2) of this section, the licensee must report such actions to the NRC, and state the new balance of the fund.

9. In appendix A to part 30, section II, the introductory text of paragraph A, paragraphs A.1.(ii), A.1.(iii), A.2.(i), A.2.(ii), A.2.(iii), B and C.1. are revised, in section III paragraphs B, C and D are revised, and new paragraphs E, F, G and H are added to read as follows:

Appendix A to Part 30—Criteria Relating to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning

* * * * *

II. Financial Test

A. To pass the financial test, the parent company must meet the criteria of either paragraph A.1 or A.2 of this section. For purposes of applying the appendix A criteria, tangible net worth must be calculated to exclude all intangible assets and the net book value of the nuclear facility and site, and net worth must be calculated to exclude the net book value and goodwill of the nuclear facility and site.

* * * * *

(1) * * *

(ii) Net working capital and tangible net worth each at least six times the amount of decommissioning funds being assured by a parent company guarantee for the total of all nuclear facilities or parts thereof (or prescribed amount if a certification is used); and

(iii) Tangible net worth of at least $19 million; and

* * * * *

(2) * * *

(i) A current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, A, or BBB (including adjustments of + and −) as issued by Standard and Poor's or Aaa, Aa, A, or Baa (including adjustment of 1, 2, or 3) as issued by Moody's; and

(ii) Net worth at least six times the amount of decommissioning funds being assured by a parent company guarantee for the total of all nuclear facilities or parts thereof (or prescribed amount if a certification is used); and

(iii) Tangible net worth of at least $19 million; and

* * * * *

B. The parent company's independent certified public accountant must compare the data used by the parent company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. The accountant must evaluate the parent company's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the parent company's ability to pay for decommissioning costs. The accountant must verify that a bond rating, if used to demonstrate passage of the financial test, meets the requirements of paragraph A of this section. In connection with the auditing procedure, the licensee must inform NRC within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

C.(1) After the initial financial test, the parent company must annually pass the test and provide documentation of its continued eligibility to use the parent company guarantee to the Commission within 90 days after the close of each succeeding fiscal year.

* * * * *

III. Parent Company Guarantee

* * * * *

B. If the licensee fails to provide alternate financial assurance as specified in the Commission's regulations within 90 days after receipt by the licensee and Commission of a notice of cancellation of the parent company guarantee from the guarantor, the guarantor will provide alternative financial assurance that meets the provisions of the Commission's regulations in the name of the licensee.

C. The parent company guarantee and financial test provisions must remain in effect until the Commission has terminated the license, accepted in writing the parent company's alternate financial assurances, or accepted in writing the licensee's financial assurances.

D. A standby trust to protect public health and safety and the environment must be established for decommissioning costs before the parent company guarantee agreement is submitted. The trustee and trust must be acceptable to the Commission. An acceptable trustee includes an appropriate State or Federal Government agency or an entity which has the authority to act as a trustee, whose trust operations are regulated and examined by a Federal or State agency. The Commission has the right to change the trustee. An acceptable trust will meet the regulatory criteria established in these regulations that govern the issuance of the license for which the guarantor has accepted the obligation to pay for decommissioning costs.

E. The guarantor must agree that it is jointly and severally liable with the licensee for the full cost of decommissioning, and that if the costs of decommissioning and termination of the license exceed the amount guaranteed, the guarantor will pay such additional costs that are not paid by the licensee.

F. The guarantor must agree that it would be subject to Commission orders to make payments under the guarantee agreement.

G. The guarantor must agree that if the guarantor admits in writing its inability to pay its debts generally, or makes a general assignment for the benefit of creditors, or any proceeding is instituted by or against the guarantor seeking to adjudicate it as bankrupt or insolvent, or seeking dissolution, liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian, or other similar official for the guarantor or for any substantial part of its property, or the guarantor takes any action to authorize or effect any of the actions stated in this paragraph, then the Commission may:

(1) Declare that the financial assurance guaranteed by the parent company guarantee agreement is immediately due and payable to the standby trust set up to protect the public health and safety and the environment, without diligence, presentment, demand, protest or any other notice of any kind, all of which are expressly waived by guarantor; and

(2) Exercise any and all of its other rights under applicable law.

H. (1) The guarantor must agree to notify the NRC, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of title 11 (Bankruptcy) of the United States Code, or the occurrence of any other event listed in paragraph G of this Appendix, by or against:

(i) The guarantor;

(ii) The licensee;

(iii) An entity (as that term is defined in 11 U.S.C. 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or

(iv) An affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

(2) This notification must include:

(i) A description of the event, including major creditors, the amounts involved, and the actions taken to assure that the amount of funds guaranteed by the parent company guarantee for decommissioning will be transferred to the standby trust as soon as possible;

(ii) If a petition of bankruptcy was filed, the identity of the bankruptcy court in which the petition for bankruptcy was filed; and

(iii) The date of filing of any petitions.

10. In appendix C to part 30, in section II paragraphs A., B.(2) and B.(3) are revised, in section III paragraphs E and F are revised, and paragraphs G, H and I are added to read as follows:

Appendix C to Part 30—Criteria Relating to Use of Financial Tests and Self Guarantees for Providing Reasonable Assurance of Funds for Decommissioning

* * * * *

II. Financial Test

A. To pass the financial test a company must meet all of the criteria set forth below. For purposes of applying the appendix C criteria, tangible net worth must be calculated to exclude all intangible assets and the net book value of the nuclear facility

and site, and net worth must be calculated to exclude the net book value and goodwill of the nuclear facility and site. These criteria include:

(1) Tangible net worth of at least $19 million, and net worth at least 10 times the amount of decommissioning funds being assured by a self-guarantee, for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used).

(2) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the amount of decommissioning funds being assured by a self-guarantee, for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used).

(3) A current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A (including adjustments of + and −) as issued by Standard and Poor's, or Aaa, Aa, or A (including adjustments of 1, 2, or 3) as issued by Moody's.

B. * * *

(2) The company's independent certified public accountant must compare the data used by the company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. The accountant must evaluate the company's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the company's ability to pay for decommissioning costs. The accountant must verify that a bond rating, if used to demonstrate passage of the financial test, meets the requirements of section II paragraph A of this appendix. In connection with the auditing procedure, the licensee must inform NRC within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(3) After the initial financial test, the company must annually pass the test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.

* * * * *

III. Company Self-Guarantee

* * * * *

E. (1) If, at any time, the licensee's most recent bond issuance ceases to be rated in any category of ''A'' or above by either Standard and Poor's or Moody's, the licensee will notify the Commission in writing within 20 days after publication of the change by the rating service.

(2) If the licensee's most recent bond issuance ceases to be rated in any category of A or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirements of section II.A. of this appendix.

F. The applicant or licensee must provide to the Commission a written guarantee (a written commitment by a corporate officer) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the Commission, the licensee will fund the standby trust in the amount guaranteed by the self-guarantee agreement.

G. (1) A standby trust to protect public health and safety and the environment must be established for decommissioning costs before the self-guarantee agreement is submitted.

(2) The trustee and trust must be acceptable to the Commission. An acceptable trustee includes an appropriate State or Federal Government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency. The Commission has the right to change the trustee. An acceptable trust will meet the regulatory criteria established in these regulations that govern the issuance of the license for which the guarantor has accepted the obligation to pay for decommissioning costs.

H. The guarantor must agree that if the guarantor admits in writing its inability to pay its debts generally, or makes a general assignment for the benefit of creditors, or any proceeding is instituted by or against the guarantor seeking to adjudicate it as bankrupt or insolvent, or seeking dissolution, liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian, or other similar official for the guarantor or for any substantial part of its property, or the guarantor takes any action to authorize or effect any of the actions stated in this paragraph, then the Commission may:

(1) Declare that the financial assurance guaranteed by the parent company guarantee agreement is immediately due and payable to the standby trust set up to protect the public health and safety and the environment, without diligence, presentment, demand, protest or any other notice of any kind, all of which are expressly waived by guarantor; and

(2) Exercise any and all of its other rights under applicable law.

I. The guarantor must notify the NRC, in writing, immediately following the occurrence of any event listed in paragraph H of this appendix, and must include a description of the event, including major creditors, the amounts involved, and the actions taken to assure that the amount of funds guaranteed by the self-guarantee agreement for decommissioning will be transferred to the standby trust as soon as possible.

11. In appendix D to part 30 in section II, the introductory text of paragraph A., paragraphs A.(1), B.(1), and B.(2) are revised, in section III paragraph D is revised and paragraphs E, F and G are added to read as follows:

Appendix D to Part 30—Criteria Relating to Use of Financial Tests and Self-Guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Commercial Companies That Have No Outstanding Rated Bonds

* * * * *

II. Financial Test

A. To pass the financial test a company must meet all of the criteria set forth below. For purposes of applying the appendix D criteria, tangible net worth must be calculated to exclude all intangible assets and the net book value of the nuclear facility and site.

(1) Tangible net worth greater than $19 million, or at least 10 times the amount of decommissioning funds being assured by a self-guarantee, whichever is greater, for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used).

* * * * *

B. * * *

(1) The company's independent certified public accountant must compare the data used by the company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. The accountant must evaluate the company's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the company's ability to pay for decommissioning costs. In connection with the auditing procedure, the licensee must inform NRC within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(2) After the initial financial test, the company must annually pass the test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.

* * * * *

III. Company Self-Guarantee

* * * * *

D. The applicant or licensee must provide to the Commission a written guarantee (a written commitment by a corporate officer) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the Commission, the licensee will fund the standby trust in the amount of the current cost estimates for decommissioning.

E. A standby trust to protect public health and safety and the environment must be established for decommissioning costs before the self-guarantee agreement is submitted. The trustee and trust must be acceptable to

the Commission. An acceptable trustee includes an appropriate State or Federal Government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency. The Commission will have the right to change the trustee. An acceptable trust will meet the regulatory criteria established in the part of these regulations that governs the issuance of the license for which the guarantor has accepted the obligation to pay for decommissioning costs.

F. The guarantor must agree that if the guarantor admits in writing its inability to pay its debts generally, or makes a general assignment for the benefit of creditors, or any proceeding is instituted by or against the guarantor seeking to adjudicate it as bankrupt or insolvent, or seeking dissolution, liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian, or other similar official for the guarantor or for any substantial part of its property, or the guarantor takes any action to authorize or effect any of the actions stated in this paragraph, then the Commission may:

(1) Declare that the financial assurance guaranteed by the self-guarantee agreement is immediately due and payable to the standby trust set up to protect the public health and safety and the environment, without diligence, presentment, demand, protest or any other notice of any kind, all of which are expressly waived by guarantor; and

(2) Exercise any and all of its other rights under applicable law.

G. The guarantor must notify the NRC, in writing, immediately following the occurrence of any event listed in paragraph H of this appendix, and must include a description of the event, including major creditors, the amounts involved, and the actions taken to assure that the amount of funds guaranteed by the self-guarantee agreement for decommissioning will be transferred to the standby trust as soon as possible.

12. In appendix E to part 30, in section II, paragraphs A.(1), B.(1), C.(1), and C.(2) are revised, in section III paragraphs D and E are revised and paragraphs F, G and H are added to read as follows:

Appendix E to Part 30—Criteria Relating to Use of Financial Tests and Self-Guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Nonprofit Colleges, Universities, and Hospitals

* * * * *

II. Financial Test

A. * * *

(1) For applicants or licensees that issue bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A (including adjustments of + or −) as issued by Standard and Poor's (S&P) or Aaa, Aa, or A (including adjustments of 1, 2, or 3) as issued by Moody's.

B. * * *

(1) For applicants or licensees that issue bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A (including adjustments of + or −) as issued by Standard and Poor's or Aaa, Aa, or A (including adjustments of 1, 2, or 3) as issued by Moody's.

* * * * *

C. * * *

(1) The licensee's independent certified public accountant must compare the data used by the licensee in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. The accountant must evaluate the licensee's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the licensee's ability to pay for decommissioning costs. The accountant must verify that a bond rating, if used to demonstrate passage of the financial test, meets the requirements of section II of this appendix. In connection with the auditing procedure, the licensee must inform NRC within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the licensee no longer passes the test.

(2) After the initial financial test, the licensee must repeat passage of the test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.

* * * * *

III. Self-Guarantee

* * * * *

D. The applicant or licensee must provide to the Commission a written guarantee (a written commitment by a corporate officer or officer of the institution) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the Commission, the licensee will fund the standby trust in the amount of the current cost estimates for decommissioning.

E. (1) If, at any time, the licensee's most recent bond issuance ceases to be rated in any category of ''A'' or above by either Standard and Poor's or Moody's, the licensee shall notify the Commission in writing within 20 days after publication of the change by the rating service.

(2) If the licensee's most recent bond issuance ceases to be rated in any category of A or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirements of section II.A. of this appendix.

F. (1) A standby trust to protect public health and safety and the environment must be established for decommissioning costs before the self-guarantee agreement is submitted.

(2) The trustee and trust must be acceptable to the Commission. An acceptable trustee includes an appropriate State or Federal Government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency. The Commission has the right to change the trustee. An acceptable trust will meet the regulatory criteria established in the part of these regulations that governs the issuance of the license for which the guarantor has accepted the obligation to pay for decommissioning costs.

G. The guarantor must agree that if the guarantor admits in writing its inability to pay its debts generally, or makes a general assignment for the benefit of creditors, or any proceeding is instituted by or against the guarantor seeking to adjudicate it as bankrupt or insolvent, or seeking dissolution, liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian, or other similar official for guarantor or for any substantial part of its property, or the guarantor takes any action to authorize or effect any of the actions stated in this paragraph, then the Commission may:

(1) Declare that the financial assurance guaranteed by the self-guarantee agreement is immediately due and payable to the standby trust set up to protect the public health and safety and the environment, without diligence, presentment, demand, protest or any other notice of any kind, all of which are expressly waived by guarantor; and

(2) Exercise any and all of its other rights under applicable law.

H. The guarantor must notify the NRC, in writing, immediately following the occurrence of any event listed in paragraph G of this appendix, and must include a description of the event, including major creditors, the amounts involved, and the actions taken to assure that the amount of funds guaranteed by the self-guarantee agreement for decommissioning will be transferred to the standby trust as soon as possible.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

13. The authority citation for part 40 continues to read as follows:

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

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).

Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

14. In § 40.36, a new paragraph (c)(5) is added, paragraph (d), the introductory text in paragraph (e), and paragraphs (e)(1), the introductory text of paragraph (e)(2) and paragraph (e)(3) are revised, and a new paragraph (g) is added to read as follows:

§ 40.36 Financial assurance and recordkeeping for decommissioning.

* * * * *

(c) * * *

(5) If, in surveys made under 10 CFR 20.1501(a), residual radioactivity in the facility and environment, including the subsurface, is detected at levels that would, if left uncorrected, prevent the site from meeting the 10 CFR 20.1402 criteria for unrestricted use, the licensee must submit a decommissioning funding plan within one year of when the survey is completed.

(d)(1) Each decommissioning funding plan must be submitted for review and approval and must contain—

(i) A detailed cost estimate for decommissioning, in an amount reflecting:

(A) The cost of an independent contractor to perform all decommissioning activities;

(B) The cost of meeting the 10 CFR 20.1402 criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria;

(C) The volume of onsite subsurface material containing residual radioactivity that will require remediation; and

(D) An adequate contingency factor.

(ii) Identification of and justification for using the key assumptions contained in the decommissioning cost estimate;

(iii) A description of the method of assuring funds for decommissioning from paragraph (e) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;

(iv) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and

(v) A signed original, or if permitted, a copy, of the financial instrument obtained to satisfy the requirements of paragraph (e) of this section (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning).

(2) At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be re-submitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted, this can not be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:

(i) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material;

(ii) Waste inventory increasing above the amount previously estimated;

(iii) Waste disposal costs increasing above the amount previously estimated;

(iv) Facility modifications;

(v) Changes in authorized possession limits;

(vi) Actual remediation costs that exceed the previous cost estimate;

(vii) Onsite disposal; and

(viii) Use of a settling pond.

(e) The financial instrument must include the licensee's name, license number, and docket number; and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. When any of the foregoing information changes, the licensee must, within 30 days, submit financial instruments reflecting such changes. The financial instrument submitted must be a signed original or signed original duplicate, except where a copy is specifically permitted. Financial assurance for decommissioning must be provided by one or more of the following methods:

(1) *Prepayment.* Prepayment is the deposit before the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment must be made into a trust account, and the trustee and the trust must be acceptable to the Commission.

(2) *A surety method, insurance, or other guarantee method.* These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, or letter of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix A to this part. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix C to this part. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in appendix D to this part. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in appendix E to this part. Except for an external sinking fund, a parent company guarantee or guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this section. A guarantee by the applicant or licensee may not be used in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

(3) *An external sinking fund in which deposits are made at least annually, coupled with a surety method, insurance, or other guarantee method, the value of which may decrease by the amount being accumulated in the sinking fund.* An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund must be in the form of a trust. If the other guarantee method is used, no surety or insurance may be combined with the external sinking fund. The surety, insurance, or other guarantee provisions must be as stated in paragraph (e)(2) of this section.

* * * * *

(g) In providing financial assurance under this section, each licensee must use the financial assurance funds only for decommissioning activities and each licensee must monitor the balance of funds held to account for market variations. The licensee must replenish the funds, and report such actions to the NRC, as follows:

(1) If, at the end of a calendar quarter, the fund balance is below the amount necessary to cover the cost of decommissioning, but is not below 75

percent of the cost, the licensee must increase the balance to cover the cost, and must do so within 5 days after the end of the calendar quarter.

(2) If, at any time, the fund balance falls below 75 percent of the amount necessary to cover the cost of decommissioning, the licensee must increase the balance to cover the cost, and must do so within 5 days of the occurrence.

(3) Within 30 days of taking the actions required by paragraphs (g)(1) or (g)(2) of this section, the licensee must report such actions to the NRC, and state the new balance of the fund.

15. In § 40.46, the current paragraph is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 40.46 Inalienability of licenses.

* * * * *

(b) An application for transfer of license must include:

(1) The identity, technical and financial qualifications of the proposed transferee; and

(2) Financial assurance for decommissioning information required by § 40.36 or appendix A to this part, as applicable.

16. In appendix A to part 40, section II Criterion 9 is revised to read as follows:

Appendix A to Part 40—Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material From Ores Processed Primarily for Their Source Material Content

* * * * *

II. Financial Criteria

Criterion 9—(a) Financial surety arrangements must be established by each mill operator before the commencement of operations to assure that sufficient funds will be available to carry out the decontamination and decommissioning of the mill and site and for the reclamation of any tailings or waste disposal areas. The amount of funds to be ensured by such surety arrangements must be based on Commission-approved cost estimates in a Commission-approved plan, or a proposed revision to the plan submitted to the Commission for approval, if the proposed revision contains a higher cost estimate, for

(1) Decontamination and decommissioning of mill buildings and the milling site to levels which allow unrestricted use of these areas upon decommissioning, and

(2) The reclamation of tailings and/or waste areas in accordance with technical criteria delineated in Section I of this appendix.

(b) Each cost estimate must contain—

(1) A detailed cost estimate for decontamination, decommissioning, and reclamation, in an amount reflecting:

(i) The cost of an independent contractor to perform the decontamination, decommissioning and reclamation activities; and

(ii) An adequate contingency factor;

(2) An estimate of the amount of residual radioactive material in onsite subsurface material;

(3) Identification of and justification for using the key assumptions contained in the decommissioning cost estimate; and

(4) A description of the method of assuring funds for decontamination, decommissioning, and reclamation.

(c) The licensee shall submit this plan in conjunction with an environmental report that addresses the expected environmental impacts of the milling operation, decommissioning and tailings reclamation, and evaluates alternatives for mitigating these impacts. The plan must include a signed original of the financial instrument obtained to satisfy the surety arrangement requirements of this criterion (unless a previously submitted and approved financial instrument continues to cover the cost estimate for decommissioning). The surety arrangement must also cover the cost estimate and the payment of the charge for long-term surveillance and control required by Criterion 10 of this section.

(d) To avoid unnecessary duplication and expense, the Commission may accept financial sureties that have been consolidated with financial or surety arrangements established to meet requirements of other Federal or state agencies and/or local governing bodies for decommissioning, decontamination, reclamation, and long-term site surveillance and control, provided such arrangements are considered adequate to satisfy these requirements and that the portion of the surety which covers the decommissioning and reclamation of the mill, mill tailings site and associated areas, and the long-term funding charge is clearly identified and committed for use in accomplishing these activities.

(e) The licensee's surety mechanism will be reviewed annually by the Commission to assure that sufficient funds would be available for completion of the reclamation plan if the work had to be performed by an independent contractor.

(f) The amount of surety liability should be adjusted to recognize any increases or decreases resulting from:

(1) Inflation;

(2) Changes in engineering plans;

(3) Activities performed;

(4) Spills, leakage or migration of radioactive material producing additional residual radioactivity in onsite subsurface material that must be remediated to meet license termination criteria;

(5) Waste inventory increasing above the amount previously estimated;

(6) Waste disposal costs increasing above the amount previously estimated;

(7) Facility modifications;

(8) Changes in authorized possession limits;

(9) Actual remediation costs that exceed the previous cost estimate;

(10) Onsite disposal; and

(11) Any other conditions affecting costs.

(g) Regardless of whether reclamation is phased through the life of the operation or takes place at the end of operations, an appropriate portion of surety liability must be retained until final compliance with the reclamation plan is determined.

(h) The appropriate portion of surety liability retained until final compliance with the reclamation plan is determined will be at least sufficient at all times to cover the costs of decommissioning and reclamation of the areas that are expected to be disturbed before the next license renewal. The term of the surety mechanism must be open ended, unless it can be demonstrated that another arrangement would provide an equivalent level of assurance. This assurance would be provided with a surety instrument which is written for a specified period of time (e.g., 5 years) that which must be automatically renewed unless the surety notifies the beneficiary (the Commission or the State regulatory agency) and the principal (the licensee) with reasonable time (e.g., 90 days) before the renewal date of their intention not to renew. In such a situation the surety requirement still exists and the licensee would be required to submit an acceptable replacement surety within a brief period of time to allow at least 60 days for the regulatory agency to collect.

(i) Proof of forfeiture must not be necessary to collect the surety. In the event that the licensee cannot provide an acceptable replacement surety within the required time, the surety shall be automatically collected before its expiration. The surety instrument must provide for collection of the full face amount immediately on demand without reduction for any reason, except for trustee fees and expenses provided for in a trust agreement, and that the surety will not refuse to make full payment. The conditions described previously would have to be clearly stated on any surety instrument which is not open-ended, and must be agreed to by all parties. Financial surety arrangements generally acceptable to the Commission are:

(1) Trust funds.

(2) Surety bonds.

(3) Irrevocable letters or credit.

(4) Parent company guarantee under appendix A to 10 CFR part 40.

(iv) Combinations of the above or other types of arrangements as may be approved by the Commission. If a trust is not used, then a standby trust must be set up to receive funds in the event the Commission or State regulatory agency exercises its right to collect the surety. The surety arrangement and the surety or trustee, as applicable, must be acceptable to the Commission. Self insurance, or any arrangement which essentially constitutes self insurance (e.g., a contract with a State or Federal agency), will not satisfy the surety requirement because this provides no additional assurance other than that which already exists through license requirements.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

17. The authority citation for part 50 continues to read as follows:

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

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5841). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

18. In § 50.75, the introductory text of paragraph (e)(1)(iii)(A) is revised to read as follows:

§ 50.75 Reporting and recordkeeping for decommissioning planning.

* * * * *

(e) * * *

(1) * * *

(iii) * * *

(A) These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, or letter of credit. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

19. In § 50.82, paragraph (a)(4)(i) is revised, and paragraphs (a)(8)(v), (a)(8)(vi), and (a)(8)(vii) are added to read as follows:

§ 50.82 Termination of license.

* * * * *

(a) * * *

(4)(i) Within 2 years following permanent cessation of operations, the licensee shall submit a post-shutdown decommissioning activities report (PSDAR) to the NRC, and a copy to the affected State(s). The PSDAR must contain a description of the planned decommissioning activities along with a schedule for their accomplishment, a discussion that provides the reasons for concluding that the environmental impacts associated with site-specific decommissioning activities will be bounded by appropriate previously issued environmental impact statements, and a site-specific decommissioning cost estimate, including the projected cost of managing irradiated fuel.

* * * * *

(8) * * *

(v) After submitting its site-specific decommissioning cost estimate required by paragraph (a)(4)(i) of this section, and until the licensee has completed its final radiation survey and demonstrated that residual radioactivity has been reduced to a level that permits termination of its license, the licensee must annually submit to the NRC, by March 31, a financial assurance status report. The report must include the following information, current through the end of the previous calendar year:

(A) The amount spent on decommissioning, both cumulative and over the previous calendar year, the remaining balance of any decommissioning funds, and the amount provided by other financial assurance methods being relied upon;

(B) An estimate of the costs to complete decommissioning, reflecting any difference between actual and estimated costs for work performed during the year, and the decommissioning criteria upon which the estimate is based;

(C) Any modifications occurring to a licensee's current method of providing financial assurance since the last submitted report; and

(D) Any material changes to trust agreements or financial assurance contracts.

(vi) If the sum of the balance of any remaining decommissioning funds, plus earnings on such funds calculated at not greater than a 2 percent real rate of return, together with the amount provided by other financial assurance methods being relied upon, does not cover the estimated cost to complete the decommissioning, the financial assurance status report must include additional financial assurance to cover the estimated cost of completion.

(vii) After submitting its site-specific decommissioning cost estimate required by paragraph (a)(4)(i) of this section, the licensee must annually submit to the NRC, by March 31, a report on the status of its funding for managing irradiated fuel. The report must include the following information, current through the end of the previous calendar year:

(A) The amount of funds accumulated to cover the cost of managing the irradiated fuel;

(B) The projected cost of managing irradiated fuel until title to the fuel and possession of the fuel is transferred to the Secretary of Energy; and

(C) If the funds accumulated do not cover the projected cost, a plan to obtain additional funds to cover the cost.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

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

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

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

21. In § 70.25, a new paragraph (c)(5) is added, paragraph (e), the introductory text in paragraph (f), and paragraph (f)(1), the introductory text of paragraph (f)(2) and paragraph (f)(3) are revised, and a new paragraph (h) is added to read as follows:

§ 70.25 Financial assurance and recordkeeping for decommissioning.

* * * * *

(c) * * *

(5) If, in surveys made under 10 CFR 20.1501(a), residual radioactivity in the facility and environment, including the subsurface, is detected at levels that would, if left uncorrected, prevent the site from meeting the 10 CFR 20.1402 criteria for unrestricted use, the licensee must submit a decommissioning funding plan within one year of when the survey is completed.

* * * * *

(e)(1) Each decommissioning funding plan must be submitted for review and approval and must contain—

(i) A detailed cost estimate for decommissioning, in an amount reflecting:

(A) The cost of an independent contractor to perform all decommissioning activities;

(B) The cost of meeting the 10 CFR 20.1402 criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria;

(C) The volume of onsite subsurface material containing residual radioactivity that will require remediation; and

(D) An adequate contingency factor.

(ii) Identification of and justification for using the key assumptions contained in the decommissioning cost estimate;

(iii) A description of the method of assuring funds for decommissioning from paragraph (f) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;

(iv) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and

(v) A signed original, or, if permitted, a copy, of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning).

(2) At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be re-submitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted, this cannot be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:

(i) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material;

(ii) Waste inventory increasing above the amount previously estimated;

(iii) Waste disposal costs increasing above the amount previously estimated;

(iv) Facility modifications;

(v) Changes in authorized possession limits;

(vi) Actual remediation costs that exceed the previous cost estimate;

(vii) Onsite disposal; and

(viii) Use of a settling pond.

(f) The financial instrument must include the licensee's name, license number, and docket number; and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. When any of the foregoing information changes, the licensee must, within 30 days, submit financial instruments reflecting such changes. Financial assurance for decommissioning must be provided by one or more of the following methods:

(1) *Prepayment.* Prepayment is the deposit before the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment must be made into a trust account, and the trustee and the trust must be acceptable to the Commission.

(2) *A surety method, insurance, or other guarantee method.* These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, or letter of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix A to this part. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix C to this part. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in appendix D to this part. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in appendix E to this part. Except for an external sinking fund, a parent company guarantee or a guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this section. A guarantee by the applicant or licensee may not be used in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

(3) *An external sinking fund in which deposits are made at least annually, coupled with a surety method, insurance, or other guarantee method, the value of which may decrease by the amount being accumulated in the sinking fund.* An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund must be in the form of a trust. If the other guarantee method is used, no surety or insurance may be combined with the external sinking fund. The surety, insurance, or other guarantee provisions must be as stated in paragraph (f)(2) of this section.

* * * * *

(h) In providing financial assurance under this section, each licensee must use the financial assurance funds only for decommissioning activities and each licensee must monitor the balance of funds held to account for market variations. The licensee must replenish the funds, and report such actions to the NRC, as follows:

(1) If, at the end of a calendar quarter, the fund balance is below the amount necessary to cover the cost of decommissioning, but is not below 75 percent of the cost, the licensee must increase the balance to cover the cost, and must do so within 5 days after the end of the calendar quarter.

(2) If, at any time, the fund balance falls below 75 percent of the amount necessary to cover the cost of decommissioning, the licensee must increase the balance to cover the cost, and must do so within 5 days of the occurrence.

(3) Within 30 days of taking the actions required by paragraphs (h)(1) or (h)(2) of this section, the licensee must report such actions to the NRC, and state the new balance of the fund.

22. In § 70.36, the current paragraph is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 70.36 Inalienability of licenses.

* * * * *

(b) An application for transfer of license must include:

(1) The identity, technical and financial qualifications of the proposed transferee; and

(2) Financial assurance for decommissioning information required by § 70.25.

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

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

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended; sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended; 202, 206, 88 Stat. 1242, as amended; 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951, as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241; sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–10 (42 U.S.C. 2014, 2021, 2021b, 2111).

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

24. In § 72.13, paragraph (c) is revised to read as follows:

§ 72.13 Applicability.

* * * * *

(c) The following sections apply to activities associated with a general license: §§ 72.1; 72.2(a)(1), (b), (c), and (e); 72.3 through 72.6(c)(1); 72.7 through 72.13(a) and (c); 72.30(e) and (f); 72.32(c) and (d); 72.44(b) and (f); 72.48; 72.50(a); 72.52(a), (b), (d), and (e); 72.60; 72.62; 72.72 through 72.80(f); 72.82 through 72.86; 72.104; 72.106; 72.122; 72.124; 72.126; 72.140 through 72.176; 72.190; 72.194; 72.210 through 72.220, and 72.240(a).

* * * * *

25. In § 72.30, paragraph (b) is revised, paragraph (c) is redesignated as paragraph (e) and the introductory text of the newly redesignated paragraph (e), paragraphs (e)(1), the introductory text of paragraph (e)(2) and paragraph (e)(3) are revised, paragraph (d) is redesignated as paragraph (f), and new paragraphs (c), (d), and (g) are added to read as follows:

§ 72.30 Financial assurance and recordkeeping for decommissioning.

* * * * *

(b) Each holder of, or applicant for, a license under this part must submit for NRC review and approval a decommissioning funding plan that must contain:

(1) Information on how reasonable assurance will be provided that funds will be available to decommission the ISFSI or MRS.

(2) A detailed cost estimate for decommissioning, in an amount reflecting:

(i) The cost of an independent contractor to perform all decommissioning activities;

(ii) An adequate contingency factor; and

(iii) The cost of meeting the § 20.1402 of this chapter criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of § 20.1403, the cost estimate may be based on meeting the § 20.1403 criteria.

(3) Identification of and justification for using the key assumptions contained in the decommissioning cost estimate.

(4) A description of the method of assuring funds for decommissioning from paragraph (e) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility.

(5) The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination.

(6) A certification that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning.

(c) At the time of license renewal and at intervals not to exceed 3 years the decommissioning funding plan must be re-submitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted, this cannot be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan and must specifically consider the effect of the following events on decommissioning costs:

(1) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material.

(2) Facility modifications.

(3) Changes in authorized possession limits.

(4) Actual remediation costs that exceed the previous cost estimate.

(d) If, in surveys made under 10 CFR 20.1501(a), residual radioactivity in soils or ground water is detected at levels that would require such radioactivity to be reduced to a level permitting release of the property for unrestricted use under the decommissioning requirements in part 20 of this chapter, the licensee must submit a new or revised decommissioning funding plan (as described in paragraph (e) of this section) within one year of when the survey is completed.

(e) The financial instrument must include the licensee's name, license number, and docket number; and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. When any of the foregoing information changes, the licensee must, within 30 days, submit financial instruments reflecting such changes. Financial assurance for decommissioning must be provided by one or more of the following methods:

(1) *Prepayment.* Prepayment is the deposit before the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment must be made into a trust account, and the trustee and the trust must be acceptable to the Commission.

(2) *A surety method, insurance, or other guarantee method.* These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, or letter of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix A to part 30 of this chapter. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix C to part 30 of this chapter. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in appendix D to part 30 of this chapter. Except for an external sinking fund, a parent company guarantee or a guarantee by the applicant or licensee may not be used in combination with

other financial methods to satisfy the requirements of this section. A guarantee by the applicant or licensee may not be used in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

(3) *An external sinking fund in which deposits are made at least annually, coupled with a surety method, insurance, or other guarantee method, the value of which may decrease by the amount being accumulated in the sinking fund.* An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund must be in the form of a trust. If the other guarantee method is used, no surety or insurance may be combined with the external sinking fund. The surety, insurance, or other guarantee provisions must be as stated in paragraph (e)(2) of this section.

* * * * *

(g) In providing financial assurance under this section, each licensee must use the financial assurance funds only for decommissioning activities and each licensee must monitor the balance of funds held to account for market variations. The licensee must replenish the funds, and report such actions to the NRC, as follows:

(1) If, at the end of a calendar quarter, the fund balance is below the amount necessary to cover the cost of decommissioning, but is not below 75 percent of the cost, the licensee must increase the balance to cover the cost, and must do so within 5 days after the end of the calendar quarter.

(2) If, at any time, the fund balance falls below 75 percent of the amount necessary to cover the cost of decommissioning, the licensee must increase the balance to cover the cost, and must do so within 5 days of the occurrence.

(3) Within 30 days of taking the actions required by paragraphs (g)(1) or (g)(2) of this section, the licensee must report such actions to the NRC, and state the new balance of the fund.

25. In Section 72.50, paragraph (b)(3) is added to read as follows:

§ 72.50 Transfer of license.

* * * * *

(b) * * *

(3) The application shall describe the financial assurance that will be provided for the decommissioning of the facility under § 72.30.

* * * * *

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 7th day of January 2008.

Annette Vietti-Cook,

Secretary for the Commission.

[FR Doc. E8–574 Filed 1–18–08; 8:45 am]

BILLING CODE 7590–01–P

Federal Register

Tuesday,
January 22, 2008

Part III

The President

Presidential Determination No. 2008–6 of December 12, 2007—Suspension of Limitations Under the Jerusalem Embassy Act

Presidential Determination No. 2008–7 of December 14, 2007—Waiver of Reimbursement Under the U.N. Participation Act To Support UNAMID Efforts in Darfur

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Presidential Documents

Title 3—

The President

Presidential Determination No. 2008–6 of December 12, 2007

Suspension of Limitations Under the Jerusalem Embassy Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me as President by the Constitution and the laws of the United States, including section 7(a) of the Jerusalem Embassy Act of 1995 (Public Law 104–45) (the ''Act''), I hereby determine that it is necessary to protect the national security interests of the United States to suspend for a period of 6 months the limitations set forth in sections 3(b) and 7(b) of the Act. My Administration remains committed to beginning the process of moving our Embassy to Jerusalem.

You are hereby authorized and directed to transmit this determination to the Congress, accompanied by a report in accordance with section 7(a) of the Act, and to publish the determination in the **Federal Register**.

This suspension shall take effect after transmission of this determination and report to the Congress.

THE WHITE HOUSE,
Washington, December 12, 2007.

[FR Doc. 08–240
Filed 1–18–08; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2008–7 of December 14, 2007

Waiver of Reimbursement Under the U.N. Participation Act To Support UNAMID Efforts in Darfur

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 10(d)(1) of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287e–2(d)(1)), I hereby determine that transfer to the United Nations/African Union Mission in Darfur (UNAMID) of camps and other items furnished as assistance for the African Union Mission in Sudan (AMIS) and assistance required to preserve continuity of functions during the immediate transition from AMIS to UNAMID without reimbursement from the United Nations is important to the security interests of the United States.

You are authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register**.

THE WHITE HOUSE,
Washington, December 14, 2007.

[FR Doc. 08–241
Filed 1–18–08; 8:45 am]
Billing code 4710–10–P

Federal Register

Tuesday,
January 22, 2008

Part IV

The President

Proclamation 8216—Martin Luther King, Jr., Federal Holiday, 2008

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Presidential Documents

Title 3—

The President

Proclamation 8216 of January 16, 2008

Martin Luther King, Jr., Federal Holiday, 2008

By the President of the United States of America

A Proclamation

Dr. Martin Luther King, Jr., changed our Nation forever through his leadership, service, and clarity of vision. On the Martin Luther King, Jr., Federal Holiday, we honor the lasting legacy of this great American, remember the ideals for which he fought, and recommit ourselves to ensuring that our country's promise extends to all Americans across this great land.

In the brief time Dr. King walked upon this earth, he devoted his life to strengthening the content of the American character and called on our Nation to live up to its founding principles of life, liberty, and the pursuit of happiness for all its citizens. Dr. King's faith in the Almighty gave him the courage to confront discrimination and segregation, and he preached that all the powers of evil are ultimately no match for even one individual armed with eternal truths. Through his determination, spirit, and resolve, Dr. King helped lift souls and lead one of the greatest movements for equality and freedom in history.

Our Nation has made progress toward realizing Dr. King's dream, yet the work to achieve liberty and justice for all is never-ending. In July of 2006, I was honored to sign the ''Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006,'' to renew the Voting Rights Act of 1965 and reaffirm our commitment to securing the voting rights of all Americans. My Administration will continue to protect the rights won through the sacrifice of Dr. King and other civil rights leaders, and our country will never rest until equality is real, opportunity is universal, and all citizens are empowered to realize their dreams.

As we observe Dr. King's birthday, I encourage all Americans to celebrate his memory by performing acts of kindness through service to others. Let us live out Dr. King's teachings as we continue to work for the day when the dignity and humanity of every person is respected.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 21, 2008, as the Martin Luther King, Jr., Federal Holiday. I encourage all Americans to observe this day with appropriate civic, community, and service programs and activities in honor of Dr. King's life and legacy.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of January, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 08–255
Filed 1–18–08; 8:51 am]
Billing code 3195–01–P

Federal Register

Tuesday,
January 22, 2008

Part V

The President

Notice of January 18, 2008—Continuation of the National Emergency With Respect to Terrorists Who Threaten To Disrupt the Middle East Peace Process

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Presidential Documents

Title 3—

The President

Notice of January 18, 2008

Continuation of the National Emergency With Respect to Terrorists Who Threaten To Disrupt the Middle East Peace Process

On January 23, 1995, by Executive Order 12947, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by grave acts of violence committed by foreign terrorists who threaten to disrupt the Middle East peace process. On August 20, 1998, by Executive Order 13099, the President modified the Annex to Executive Order 12947 to identify four additional persons, including Usama bin Laden, who threaten to disrupt the Middle East peace process.

Because these terrorist activities continue to threaten the Middle East peace process and to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, the national emergency declared on January 23, 1995, as expanded on August 20, 1998, and the measures adopted on those dates to deal with that emergency must continue in effect beyond January 23, 2008. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to foreign terrorists who threaten to disrupt the Middle East peace process.

This notice shall be published in the **Federal Register** and transmitted to the Congress.

THE WHITE HOUSE,
January 18, 2008.

[FR Doc. 08–258
Filed 1–18–08; 10:56 am]
Billing code 3195–01–P

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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.

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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.

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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2	(869–062–00002–2)	5.00	Jan. 1, 2007
3 (2006 Compilation and Parts 100 and 102)	(869–062–00003–1)	35.00	[1] Jan. 1, 2007
4	(869–062–00004–9)	10.00	[5] Jan. 1, 2007
5 Parts:			
1–699	(869–062–00005–7)	60.00	Jan. 1, 2007
700–1199	(869–062–00006–5)	50.00	Jan. 1, 2007
1200–End	(869–062–00007–3)	61.00	Jan. 1, 2007
6	(869–062–00008–1)	10.50	Jan. 1, 2007
7 Parts:			
1–26	(869–062–00009–0)	44.00	Jan. 1, 2007
27–52	(869–062–00010–3)	49.00	Jan. 1, 2007
53–209	(869–062–00011–1)	37.00	Jan. 1, 2007
210–299	(869–062–00012–0)	62.00	Jan. 1, 2007
300–399	(869–062–00013–8)	46.00	Jan. 1, 2007
400–699	(869–062–00014–6)	42.00	Jan. 1, 2007
700–899	(869–062–00015–4)	43.00	Jan. 1, 2007
900–999	(869–062–00016–2)	60.00	Jan. 1, 2007
1000–1199	(869–062–00017–1)	22.00	Jan. 1, 2007
1200–1599	(869–062–00018–9)	61.00	Jan. 1, 2007
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8	(869–062–00024–3)	63.00	Jan. 1, 2007
9 Parts:			
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10 Parts:			
1–50	(869–062–00027–8)	61.00	Jan. 1, 2007
51–199	(869–062–00028–6)	58.00	Jan. 1, 2007
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200–1199	(869–062–00043–0)	50.00	Jan. 1, 2007
1200–End	(869–062–00044–8)	45.00	Jan. 1, 2007
15 Parts:			
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16 Parts:			
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17 Parts:			
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18 Parts:			
1–399	(869–062–00054–5)	62.00	Apr. 1, 2007
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19 Parts:			
1–140	(869–062–00056–1)	61.00	Apr. 1, 2007
141–199	(869–062–00057–0)	58.00	Apr. 1, 2007
200–End	(869–062–00058–8)	31.00	Apr. 1, 2007
20 Parts:			
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400–499	(869–062–00060–0)	64.00	Apr. 1, 2007
500–End	(869–062–00061–8)	63.00	Apr. 1, 2007
21 Parts:			
1–99	(869–062–00062–6)	40.00	Apr. 1, 2007
100–169	(869–062–00063–4)	49.00	Apr. 1, 2007
170–199	(869–062–00064–2)	50.00	Apr. 1, 2007
200–299	(869–062–00065–1)	17.00	Apr. 1, 2007
300–499	(869–062–00066–9)	30.00	Apr. 1, 2007
500–599	(869–062–00067–7)	47.00	Apr. 1, 2007
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1300–End	(869–062–00070–7)	25.00	Apr. 1, 2007
22 Parts:			
1–299	(869–062–00071–5)	63.00	Apr. 1, 2007
300–End	(869–062–00072–3)	45.00	Apr. 1, 2007
23	(869–062–00073–7)	45.00	Apr. 1, 2007
24 Parts:			
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200–499	(869–062–00075–8)	50.00	Apr. 1, 2007
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1700–End	(869–062–00078–2)	30.00	Apr. 1, 2007
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§§ 1.641–1.850	(869–062–00087–1)	61.00	Apr. 1, 2007
§§ 1.851–1.907	(869–062–00088–0)	61.00	Apr. 1, 2007
§§ 1.908–1.1000	(869–062–00089–8)	60.00	Apr. 1, 2007
§§ 1.1001–1.1400	(869–062–00090–1)	61.00	Apr. 1, 2007
§§ 1.1401–1.1550	(869–062–00091–0)	58.00	Apr. 1, 2007
§§ 1.1551–End	(869–062–00092–8)	50.00	Apr. 1, 2007
2–29	(869–062–00093–6)	60.00	Apr. 1, 2007
30–39	(869–062–00094–4)	41.00	Apr. 1, 2007
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50–299	(869–062–00096–1)	42.00	Apr. 1, 2007

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500–599	(869–062–00098–7)	12.00	[6] Apr. 1, 2007
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27 Parts:			
1–39	(869–062–00100–2)	64.00	Apr. 1, 2007
40–399	(869–062–00101–1)	64.00	Apr. 1, 2007
400–End	(869–062–00102–9)	18.00	Apr. 1, 2007
28 Parts:			
0–42	(869–062–00103–7)	61.00	July 1, 2007
43–End	(869–062–00104–5)	60.00	July 1, 2007
29 Parts:			
0–99	(869–062–00105–3)	50.00	[9] July 1, 2007
100–499	(869–062–00106–1)	23.00	July 1, 2007
500–899	(869–062–00107–0)	61.00	[9] July 1, 2007
900–1899	(869–062–00108–8)	36.00	July 1, 2007
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1910 (§§ 1910.1000 to end)	(869–062–00110–0)	46.00	July 1, 2007
1911–1925	(869–062–00111–8)	30.00	July 1, 2007
1926	(869–062–00112–6)	50.00	July 1, 2007
1927–End	(869–062–00113–4)	62.00	July 1, 2007
30 Parts:			
1–199	(869–062–00114–2)	57.00	July 1, 2007
200–699	(869–062–00115–1)	50.00	July 1, 2007
700–End	(869–062–00116–9)	58.00	July 1, 2007
31 Parts:			
0–199	(869–062–00117–7)	41.00	July 1, 2007
200–499	(869–062–00118–5)	46.00	July 1, 2007
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1–190	(869–062–00120–7)	61.00	July 1, 2007
191–399	(869–062–00121–5)	63.00	July 1, 2007
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630–699	(869–062–00123–1)	37.00	July 1, 2007
700–799	(869–062–00124–0)	46.00	July 1, 2007
800–End	(869–062–00125–8)	47.00	July 1, 2007
33 Parts:			
1–124	(869–062–00126–6)	57.00	July 1, 2007
125–199	(869–062–00127–4)	61.00	July 1, 2007
200–End	(869–062–00128–2)	57.00	July 1, 2007
34 Parts:			
1–299	(869–062–00129–1)	50.00	July 1, 2007
300–399	(869–062–00130–4)	40.00	July 1, 2007
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36 Parts:			
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200–299	(869–062–00133–9)	37.00	July 1, 2007
300–End	(869–062–00134–7)	61.00	July 1, 2007
37	(869–062–00135–5)	58.00	July 1, 2007
38 Parts:			
0–17	(869–062–00136–3)	60.00	July 1, 2007
18–End	(869–062–00137–1)	62.00	July 1, 2007
39	(869–062–00138–0)	42.00	July 1, 2007
40 Parts:			
1–49	(869–062–00139–8)	60.00	July 1, 2007
50–51	(869–062–00140–1)	45.00	July 1, 2007
52 (52.01–52.1018)	(869–062–00141–0)	60.00	July 1, 2007
52 (52.1019–End)	(869–062–00142–8)	64.00	July 1, 2007
53–59	(869–062–00143–6)	31.00	July 1, 2007
60 (60.1–End)	(869–062–00144–4)	58.00	July 1, 2007
60 (Apps)	(869–062–00145–2)	57.00	July 1, 2007
61–62	(869–062–00146–1)	45.00	July 1, 2007
63 (63.1–63.599)	(869–062–00147–9)	58.00	July 1, 2007
63 (63.600–63.1199)	(869–062–00148–7)	50.00	July 1, 2007
63 (63.1200–63.1439)	(869–062–00149–5)	50.00	July 1, 2007
63 (63.1440–63.6175)	(869–062–00150–9)	32.00	July 1, 2007
63 (63.6580–63.8830)	(869–062–00151–7)	32.00	July 1, 2007
63 (63.8980–End)	(869–062–00152–5)	35.00	July 1, 2007
64–71	(869–062–00153–3)	29.00	July 1, 2007
72–80	(869–062–00154–1)	62.00	July 1, 2007
81–84	(869–062–00155–0)	50.00	July 1, 2007
85–86 (85–86.599–99)	(869–062–00156–8)	61.00	July 1, 2007
86 (86.600–1–End)	(869–062–00157–6)	61.00	July 1, 2007
87–99	(869–062–00158–4)	60.00	July 1, 2007
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150–189	(869–062–00161–4)	50.00	July 1, 2007
190–259	(869–062–00162–2)	39.00	[9] July 1, 2007
260–265	(869–062–00163–1)	50.00	July 1, 2007
266–299	(869–062–00164–9)	50.00	July 1, 2007
300–399	(869–062–00165–7)	42.00	July 1, 2007
400–424	(869–062–00166–5)	56.00	[9] July 1, 2007
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1–100	(869–062–00170–3)	24.00	July 1, 2007
101	(869–062–00171–1)	21.00	July 1, 2007
102–200	(869–062–00172–0)	56.00	July 1, 2007
201–End	(869–062–00173–8)	24.00	July 1, 2007
42 Parts:			
1–399	(869–062–00174–6)	61.00	Oct. 1, 2007
400–413	(869–060–00174–3)	32.00	Oct. 1, 2006
414–429	(869–062–00176–2)	32.00	Oct. 1, 2007
430–End	(869–060–00176–0)	64.00	Oct. 1, 2006
43 Parts:			
1–999	(869–060–00177–8)	56.00	Oct. 1, 2006
1000–end	(869–062–00179–7)	62.00	Oct. 1, 2007
44	(869–060–00179–4)	50.00	Oct. 1, 2006
45 Parts:			
1–199	(869–062–00181–9)	60.00	Oct. 1, 2007
200–499	(869–060–00181–6)	34.00	Oct. 1, 2006
500–1199	(869–060–00182–4)	56.00	Oct. 1, 2006
1200–End	(869–062–00184–3)	61.00	Oct. 1, 2007
46 Parts:			
1–40	(869–062–00185–1)	46.00	Oct. 1, 2007
41–69	(869–062–00186–0)	39.00	Oct. 1, 2007
70–89	(869–060–00186–7)	14.00	Oct. 1, 2006
90–139	(869–062–00188–6)	44.00	Oct. 1, 2007
140–155	(869–062–00189–4)	25.00	Oct. 1, 2007
*156–165	(869–062–00190–8)	34.00	Oct. 1, 2007
166–199	(869–060–00190–5)	46.00	Oct. 1, 2006
200–499	(869–062–00192–4)	40.00	Oct. 1, 2007
500–End	(869–062–00193–2)	25.00	Oct. 1, 2007
47 Parts:			
0–19	(869–062–00194–1)	61.00	Oct. 1, 2007
20–39	(869–060–00194–8)	46.00	Oct. 1, 2006
*40–69	(869–062–00196–7)	40.00	Oct. 1, 2007
70–79	(869–060–00196–4)	61.00	Oct. 1, 2006
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48 Chapters:			
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1 (Parts 52–99)	(869–062–00200–9)	49.00	Oct. 1, 2007
2 (Parts 201–299)	(869–062–00201–7)	50.00	Oct. 1, 2007
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Title	Stock Number	Price	Revision Date
7–14	(869–062–00203–3)	56.00	Oct. 1, 2007
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29–End	(869–060–00204–9)	47.00	Oct. 1, 2006
49 Parts:			
1–99	(869–060–00205–7)	60.00	Oct. 1, 2006
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186–199	(869–062–00208–4)	23.00	Oct. 1, 2007
200–299	(869–060–00208–1)	32.00	Oct. 1, 2006
300–399	(869–062–00210–6)	32.00	Oct. 1, 2007
400–599	(869–060–00210–3)	64.00	Oct. 1, 2006
600–999	(869–062–00212–2)	19.00	Oct. 1, 2007
1000–1199	(869–062–00213–1)	28.00	Oct. 1, 2007
1200–End	(869–062–00214–9)	34.00	Oct. 1, 2007
50 Parts:			
1–16	(869–060–00214–6)	11.00	[10] Oct. 1, 2006
17.1–17.95(b)	(869–060–00215–4)	32.00	Oct. 1, 2006
17.95(c)–end	(869–060–00216–2)	32.00	Oct. 1, 2006
*17.96–17.99(h)	(869–062–00218–1)	61.00	Oct. 1, 2007
17.99(i)–end and 17.100–end	(869–060–00218–9)	47.00	[10] Oct. 1, 2006
18–199	(869–060–00219–7)	50.00	Oct. 1, 2006
200–599	(869–062–00221–1)	45.00	Oct. 1, 2007
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[10] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.