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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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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 AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

RIN 0584–AD73

[FNS–2007–0009]

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Implementation of Nondiscretionary WIC Certification and General Administrative Provisions

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends the regulations for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) by implementing most of the nondiscretionary provisions of the Child Nutrition and WIC Reauthorization Act of 2004 that address participant certification and general program administration in the WIC Program. It also implements the exclusions from income eligibility determinations set forth in the National Defense Authorization Act for Fiscal Year (FY) 2006 and in the National Flood Insurance Act of 1968, as amended, and clarifies an inconsistency related to fair hearings and notices of adverse actions that was inadvertently omitted in the publication of the Final WIC Miscellaneous Rule. Finally, this rulemaking includes technical amendments to correct the address and telephone numbers to which complaints alleging discrimination in the WIC Program should be directed, and to correct the address of the Western Regional Office of the Food and Nutrition Service (FNS).

The provisions set forth in this rulemaking are nondiscretionary, i.e., the Department has not exercised any authority to interpret the statutory provisions beyond the language that is specifically provided in the legislation. However, the Department believes that at least one of the provisions in this rulemaking may generate additional questions or comments concerning its implementation. Therefore, the rule is being issued as an interim final rule, to afford the public the opportunity to comment on the possible implications of the provisions contained herein.

DATES: *Effective Date:* This rule will become effective on May 2, 2008.

Implementation Date: State agencies must implement the provisions of this rule no later than April 2, 2008.

Comment Date: To be considered, comments on this interim rule must be postmarked on or before June 2, 2008.

ADDRESSES: The Food and Nutrition Service (FNS) invites interested persons to submit comments on this interim rule. Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Under the ''Comment or Submission'' tab, enter Docket ID # FNS–2007–0009 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Mail:* Send comments to Patricia N. Daniels, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 528, Alexandria, Virginia 22302, (703) 305–2746.

Comments submitted in response to this interim rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identities of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the comments publicly available on the Internet via *http://www.regulations.gov*. Information regarding the interim rule will be available on the FNS Web site at *http://www.fns.usda.gov/wic*.

FOR FURTHER INFORMATION CONTACT: Debra R. Whitford, Chief, Policy and Program Development Branch, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 528, Alexandria, VA 22302, (703) 305–2746, or *Debbie.Whitford@fns.usda.gov*.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Impact Analysis

As required for all rules that have been designated as Significant by the Office of Management and Budget, a Regulatory Impact Analysis was developed for this rule. A complete copy of the Impact Analysis is available by contacting FNS as indicated in the **ADDRESSES** section of this Preamble.

The following summarizes the conclusions of the regulatory impact analysis:

Need for Action

This action is needed to implement the nondiscretionary provisions of the Child Nutrition and WIC Reauthorization Act of 2004, Public Law 108–265, as well as several additional nondiscretionary legislative provisions affecting the WIC Program. The rule contains several nondiscretionary provisions related to certification, operation, and general administration in the WIC Program, including expanded definitions of ''nutrition education'' and ''supplemental foods''; new exclusions from WIC income eligibility determinations; a new assurance of nondiscrimination; new requirements affecting infant formula rebate contracts; additional exceptions to the physical presence requirement for certification; new requirements and stipulations regarding food delivery systems; and expanded allowances in the areas of funding and financial management.

Benefits

FNS has already issued policy and guidance to State agencies on implementation of the legislative requirements addressed in this rulemaking, since all of the provisions of the Child Nutrition and WIC Reauthorization Act of 2004 were effective by law on either June 30, 2004; July 1, 2004; or October 1, 2004. Consequently, FNS believes that the current rule will accomplish the goals of the Act concerning participant certification and general program

administration. Additionally, the rule has provisions that improve participant access and that give State agencies added flexibility.

Costs

Overall, most of the provisions will result in little or no change in program costs.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–602). Although not required by the Act, Nancy Montanez Johner, Under Secretary, Food, Nutrition, and Consumer Services, hereby certifies that this rule will not have a significant impact upon a substantial number of small entities. The provisions implemented through this rulemaking apply to all State agencies administering the WIC Program, regardless of size. Further, several of the provisions contained in this rule represent options now available to WIC State agencies, rather than new requirements for the operation and administration of the Program.

Public Law 104–4, Unfunded Mandate Reform Act of 1995 (UMRA)

Title II of the UMRA establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, FNS must generally prepare a written statement, including a cost-benefit analysis, for proposed and interim final/final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector of $100 million or more in any one year. This rule is therefore not subject to the requirements of Sections 202 and 205 of the UMRA.

Executive Order 12372

The Special Supplemental Nutrition Program for Women, Infants and Children (WIC) is listed in the Catalog of Federal Domestic Assistance under No. 10.557. For the reasons set forth in the final rule in 7 CFR part 3015, Subpart V and related Notice (48 FR 29115), this program is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Prior to enactment of the Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. 108–265), the Department held listening sessions at selected locations throughout the country at which representatives of the WIC community had the opportunity to identify areas of interest and concern that they wanted the Reauthorization Act to address. Staff from FNS' headquarters and regional offices also had both formal and informal discussions with State and local officials on an ongoing basis regarding program operation and administration. All of these discussions allowed State and local WIC agencies, as well as other interested parties, to provide feedback that formed the basis for the nondiscretionary legislative provisions contained in Pub. L. 108–265 and implemented through this rulemaking.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section 6(b)(2)(B) of Executive Order 13132. FNS has considered the impact of this rule on State and local governments and has determined that this rule does not have federalism implications. Therefore, under Section 6(b) of the Executive Order, a federalism summary impact statement is not required.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the Dates or Background paragraphs of the preamble of this rule. Prior to any judicial challenge to the application of the provisions of this rule, all applicable administrative procedures must be exhausted.

In the Special Supplemental Food Program for Women, Infants and Children (WIC), the administrative procedures that must be exhausted are as follows:

- State agency hearing procedures pursuant to 7 CFR 246.9 must be exhausted for participants concerning denial of participation, disqualification, and claims;
- State agency hearing procedures pursuant to 7 CFR 246.18(a)(1) must be exhausted for vendors concerning denial of authorization, termination of agreement, disqualification, civil money penalty or fine;
- The State agency process for providing the vendor an opportunity to justify or correct the food instrument pursuant to 7 CFR 246.12(k)(3) must be exhausted for vendors concerning delaying payment for a food instrument or a claim;
- State agency hearing procedures pursuant to 7 CFR 246.18(a)(3) must be exhausted for local agencies concerning denial of application, disqualification, or any other adverse action affecting participation;
- FNS hearing procedures pursuant to 7 CFR 246.22 must be exhausted for State agencies concerning sanctions imposed by FNS; and
- Administrative appeal to the extent required by 7 CFR 3016.36 must be exhausted for vendors and local agencies concerning procurement decisions of State agencies.

Civil Rights Impact Analysis

FNS has reviewed this rule in accordance with the Department Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify and address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. FNS has determined that the rule's intent and provisions will not adversely affect access to WIC services by eligible persons. All data available to FNS indicate that protected individuals have the same opportunity to participate in the WIC Program as non-protected individuals. FNS specifically prohibits State and local governments that administer the WIC Program from engaging in actions that discriminate based on race, color, national origin, age, sex, or disability. Regulations at 7 CFR 246.8 specifically state that Department of Agriculture regulations on non-discrimination (7 CFR parts 15, 15a, and 15b) and FNS instructions ensure that no person shall on the basis of race, color, national origin, age, sex, or disability be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under the Program.

Discrimination in any aspect of program administration is prohibited by these regulations, Department of Agriculture regulations on non-discrimination (7 CFR parts 15, 15a, and 15b), the Age Discrimination Act of 1975 (Pub. L. 94–135), the Rehabilitation Act of 1973 (Pub. L. 93–112, section 504), and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Enforcement action may be brought under any applicable Federal law. Title VI complaints shall be processed in accordance with 7 CFR part 15. Where State agencies have options, and they choose to implement a particular provision of this rulemaking, they must implement it in such a way that it complies with the regulations at 7 CFR 246.8.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency from the public before such collection(s) may be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This interim rule contains no new information collection requirements that are subject to OMB approval. The existing recordkeeping and reporting requirements, which were approved under OMB control number 0584–0043, will not change as a result of this rule.

E-Government Act Compliance

FNS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and other services, and for other purposes. State Plan amendments regarding the implementation of the provisions contained in this rule, as is the case with the entire State Plan, may be transmitted electronically by the State agency to FNS. Also, State agencies may provide vendor and infant formula rebate data, as well as their financial reports, to FNS electronically.

Public Participation

This action is being finalized without prior notice or public comment under authority of 5 U.S.C. 553(b)(3)(A) and (B). The Child Nutrition and WIC Reauthorization Act of 2004, Public Law 108–265, contained provisions that must be implemented exactly as set forth in the legislation, with no discretion exercised by the Department regarding such implementation. Further, State agencies have already been informed that these nondiscretionary provisions must be implemented prior to the issuance of amendments to the program regulations. Therefore, Under Secretary Nancy Montanez Johner has determined, in accordance with 5 U.S.C. 553(b), that a Notice of Proposed Rulemaking and Opportunity for Public Comments is unnecessary and contrary to the public interest and, in accordance with 5 U.S.C. 553(d), finds that good cause exists for making this rule effective without prior public comment.

Background

The Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. 108–265, also known as the Reauthorization Act), enacted on June 30, 2004, contained a number of nondiscretionary provisions related to certification, operation, and general administration. These provisions include:

- Expanded definitions of ''nutrition education'' and ''supplemental foods'';
- New requirements affecting infant formula rebate contracts;
- Additional exceptions to the physical presence requirement for certification;
- New requirements and stipulations regarding food delivery systems; and
- Expanded allowances in the areas of funding and financial management.

FNS issued policy and guidance to State agencies on implementation of these nondiscretionary legislative requirements. All of the provisions of the Child Nutrition and WIC Reauthorization Act of 2004 implemented by this rulemaking were effective by law as noted below. Effective dates for the provisions of the National Defense Authorization Act for Fiscal Year 2006, and amendments to the National Flood Insurance Act of 1968 which are being incorporated into the regulations are also indicated below. All subsequent references to Program regulatory provisions in this preamble are to title 7, Code of Federal Regulations, unless otherwise indicated.

June 30, 2004 (date of enactment): § 246.12(g)(4); § 246.14(e), § 246.14(e)(1), § 246.14(e)(3)(iii), § 246.14(e)(4), and § 246.14(e)(5); and § 246.16(b)(3)(ii)(A).

July 1, 2004: § 246.16a(c)(2).

October 1, 2004: § 246.2 (Definitions); § 246.4(a)(22); § 246.7(o)(2)(ii) and § 246.7(o)(2)(iv); § 246.12(r)(6); § 246.16a(c)(6)(iii) through (c)(6)(iv); § 246.16a(c)(1)(ii); § 246.16a(k); and § 246.16a(l)(3).

June 23, 2005: § 246.16a(m).

September 20, 2005: § 246.7(d)(2)(iv)(D)(*34*).

December 2, 2005: § 246.8(b).

January 6, 2006 (date of enactment): § 246.7(d)(2)(iv)(D)(*33*).

Additionally, two legislative exclusions from consideration *in determining income eligibility* for the WIC Program are included in this rulemaking. Both of these exclusions were effective immediately upon the date of enactment of their respective laws.

The clarification of an inadvertent inconsistency and omission related to fair hearings and notices of adverse actions as set forth at § 246.9(g) will be effective immediately upon publication of this rule.

Finally, two technical amendments are included in this rule. The first amendment applies specifically to § 246.8, Nondiscrimination, and revises the address and telephone numbers to which complaints of alleged discrimination should be directed. The second amendment provides the new address for the FNS Western Region, as set forth in § 246.27, Program information.

For clarity, the discussions of the regulatory amendments related to each of these major issues are addressed by topic, rather than in strict regulatory sequential order.

1. Expanded Definitions of ''Nutrition Education'' and ''Supplemental Foods''

Nutrition Education (§ 246.2)

Section 203(a)(1) of the Reauthorization Act amends Section 17(b)(7) of the CNA by revising the definition of ''nutrition education'' to include a reference to physical activity. It also removes the term ''socioeconomic'' from the current definition. By law, these changes were effective October 1, 2004. This revision recognizes that physical activity is one of the key recommendations included in the Dietary Guidelines for Americans 2005 (DGA). The DGAs provide the foundation for WIC nutrition education. The promotion of the health benefits of regular physical activity as a component of nutrition education supports the development of lifelong habits for good health. This legislative provision does not change the principles or requirements previously set forth by the Department regarding the allowable costs of physical activity promotion as a component of nutrition education for WIC participants.

Therefore, the definition of ''nutrition education'' in § 246.2 is amended to reflect the exact language set forth in Public Law 108–265. Additionally, regulatory language related to nutrition education at § 246.11(b) is modified to conform to the new definition.

Supplemental Foods (§ 246.2)

Section 203(a)(2) of Public Law 108–265 amends Section 17(b)(14) of the CNA, effective October 1, 2004, by revising the definition of ''supplemental foods'' to include foods that promote health as indicated by relevant nutrition science, public health concerns, and cultural eating patterns. This revision broadens the definition to acknowledge that the identification of supplemental foods provided by WIC should consider relevant nutrition science as well as current public health concerns and cultural eating patterns.

Therefore, the definition of ''supplemental foods'' in § 246.2 is amended to reflect the exact language set forth in Public Law 108–265.

2. New Requirements Affecting Infant Formula Rebate Contracts

a. Primary Contract Infant Formula (§§ 246.2 and 246.16a)

Section 203(a)(3) of the Reauthorization Act amends Section 17(b) of the CNA to add a definition of ''primary contract infant formula''. Although the term ''primary contract infant formula'' is used throughout § 246.16a (Infant formula cost containment), program regulations do not currently include a specific definition of that term. Including a specific definition at § 246.2 is intended to clarify the use of ''primary contract infant formula'' wherever it is used. The definition is the same language set forth in Public Law 108–265.

As of October 1, 2004, ''primary contact infant formula'' is used in the WIC Program to refer to the specific infant formula for which a manufacturer submits a bid to a State agency in response to a rebate solicitation and for which a contract is awarded by the State agency as a result of that bid.

Section 203(e)(4) of the Reauthorization Act also amends Section 17(h)(8)(A) of the CNA by adding language to clarify that the State agency is required to use the primary contract infant formula as the first choice of issuance for all WIC infants receiving infant formula in their prescribed food packages, with all other infant formulas issued as an alternative to the primary contract infant formula. Current regulations at § 246.16a(c)(6) provide the State agency with the discretion to approve for issuance, in addition to the primary contract infant formula(s), none, some, or all of the winning bidder's other infant formulas. These other infant formulas from the winning bidder will be considered contract brand infant formulas. If a State agency issues separate (uncoupled) bid solicitations for milk-based and soy-based infant formula, the State agency will have two primary contract infant formulas, one for each contract. In addition, the State agency may require medical documentation before issuing any contract brand infant formula and must require medical documentation before issuing any non-contract brand infant formula, exempt infant formula, or WIC-eligible medical food.

Effective for all bid solicitations issued on or after October 1, 2004, the State agency must issue the primary contract infant formula, as defined in the Reauthorization Act, as the formula of first choice. The State agency may continue to issue contract brand and non-contract brand alternatives to the primary contract infant formula, if determined to be more appropriate.

b. State Alliance (§§ 246.2, 246.16a)

Section 203(a)(3) of Public Law 108–265 amends Section 17(b) of the CNA to include a definition of ''state alliance.'' While alliances have existed in practice, WIC Program regulations have not contained a specific definition for a State alliance. This rule defines ''State alliance'' in the same manner as set forth in Public Law 108–265.

Section 203(e)(3) of the same law limits the size of State alliances, as defined at § 246.2 of this interim rule, to 100,000 infants served by the participating State agencies as of October 1, 2003, or a subsequent date determined by the Secretary for which data is available.

For many years, WIC State agencies have entered into partnerships to form an alliance for the purpose of promoting competitive bids and administrative simplification. However, an unintended consequence of large alliances is that competition is diminished because not all infant formula manufacturers may be able to compete for larger State alliance contracts due to production capacity. The Department believes that limiting the size of State alliances will help to maintain competition among infant formula manufacturers by ensuring all manufacturers can compete for rebate contracts.

Section 203(e)(3) of Public Law 108–265 allows current State alliances that serve more than 100,000 infant participants to continue to exist, but prohibits them from adding new State agencies to such alliances, except under the following circumstances:

- A State alliance that serves more than 100,000 infants may expand to include additional State agencies if the State agency to be included is an Indian Tribal Organization that is also a WIC State agency or a State agency that serves less than 5,000 infants as of October 1, 2003, or a subsequent date determined by the Secretary for which data is available.
- Public Law 108–265 also allows the Secretary to grant a waiver to the State agency alliance requirements after submitting a written report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes the cost-containment and competitive benefits of the proposed waiver.

Therefore, §§ 246.16a(c)(1)(ii) and 246.16a(c)(2) are amended to include these limitations and their corresponding exceptions. Also, § 246.16a(k) is redesignated as § 246.16a(l), and amended to reflect changes required in Public Law 108–265. This section addresses provisions for a national cost containment bid solicitation and selection.

c. Rebate Invoices (§ 246.16a(k))

Section 203(e)(5) of Public Law 108–265 requires WIC State agencies to have a system that ensures that infant formula rebate invoices, under competitive bidding, provide a reasonable estimate or an actual count of the number of units (i.e., cans) of infant formula purchased by participants with food instruments.

Manufacturers pay rebates to the State agency based on the number of units of contract brand infant formula indicated on monthly rebate invoices. Historically, State agencies have based their rebate invoices on the total number of units of formula authorized on redeemed food instruments. Because WIC participants do not always purchase the total amount of formula authorized, this method inadvertently bills manufacturers for units of formula that were not purchased. Therefore, a system that bases monthly rebate invoices on the number of units of formula authorized on redeemed food instruments may not be a reasonable estimate of the number of units purchased by participants.

To implement this provision, the current § 246.16a(k) is redesignated as § 246.16a(l), and a new paragraph (k) is added that sets forth the requirements for infant formula rebate invoices.

The Department recognizes the challenges some State agencies may face in implementing this requirement. However, over the past few years, many State agencies have worked collaboratively with infant formula manufacturers to develop methodologies that provide a close approximation or reasonable estimate of

the number of units of infant formula purchased with WIC food instruments. State agencies that have not yet developed such methodologies should seek information and advice from the Department, as well as from other WIC State agencies that currently have billing systems based on reasonable estimates or actual counts. In addition, the Department encourages State agencies to work together with manufacturers when developing an acceptable billing system.

Over the past few years, many State agencies have worked collaboratively with infant formula manufacturers to develop methodologies that provide a close approximation or reasonable estimate of the number of units of infant formula purchased with WIC food instruments. State agencies that need further improvements to their methodologies should seek information and advice from the Department, as well as from other WIC State agencies that currently have billing systems based on reasonable estimates or actual counts. In addition, the Department encourages State agencies to work together with manufacturers when developing an acceptable billing system.

d. Uncoupling Milk-Based and Soy-Based Infant Formula Bids (§ 246.16a(c)(1)(ii))

Section 203(e)(6) of Public Law 108–265 requires any WIC State agency or State alliance that served a monthly average of more than 100,000 infants during the preceding 12-month period to solicit separate bids for milk-based and soy-based infant formulas. This provision is implemented by its addition to the WIC Program regulations at § 246.16a(c)(1)(ii).

State agencies have always had the option to solicit separate bids for milk- and soy-based infant formulas. In practice, however, most State agencies do not exercise this option. When State agencies do solicit separate bids, competition is open to manufacturers that otherwise may not be able to bid if the infant formula types were coupled due to factors such as production capacity and/or distribution issues. The intent of this provision is to promote competition among infant formula manufacturers by ensuring all manufacturers are able to compete for rebate contracts. Separate bids for milk- and soy-based infant formulas may result in a State agency having two primary contract infant formulas, one for milk-based and one for soy-based formulas. This provision applies to bid solicitations issued on or after October 1, 2004.

e. Cent-for-Cent Adjustments (§ 246.16a(c)(6)(iv))

Section 203(e)(7) of Public Law 108–265 requires State agencies to adjust for price increases and price decreases subsequent to the bid opening. This provision applies to bid solicitations issued on or after October 1, 2004.

Current regulations state that bid solicitations must require manufacturers to adjust for price changes subsequent to the bid opening; however, it only mandates that manufacturers provide for cost adjustments as a result of any inflation in the wholesale prices of infant formula. It does not include a corresponding adjustment for decreases in wholesale prices. Section 246.16a(c)(6)(iv) reflects this new requirement of adjusting rebates to reflect both increases and decreases in infant formula prices.

f. Infant Formula Rebate Contracts and Civil Monetary Penalties (§ 246.16a(l))

This regulation also codifies, at § 246.16a(m), a requirement mandated by Section 17(h)(8)(H) of the CNA. The CNA requires any legal entity (i.e., person, company, corporation), shall be ineligible to submit bids for up to 2 years if it discloses the bid amount or discloses the rebate or discount practices in advance of the bid opening. In addition, the legal entity shall be subject to a civil penalty of up to $100,000, as determined by the Secretary, to provide restitution to the program for harm done.

The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 28 U.S.C. 2461 note (the Act)) as amended, requires Federal agencies periodically to adjust certain civil monetary penalties (CMPs) for inflation. Under the Act, a CMP is defined as any penalty, fine, or other sanction for which a Federal statute specified a monetary amount, including a range of minimum and maximum amounts. Each Executive agency is responsible for adjusting, pursuant to the Act, all CMPs within the agency's jurisdiction.

The Act requires each Executive agency to make an initial inflation adjustment for all applicable CMPs not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1996 (Pub. L. 104–134)—i.e., April 26, 1996—and subsequent inflation adjustments at least once every 4 years thereafter. USDA published its initial round of inflation adjustments in the **Federal Register** on July 31, 1997, and those adjustments became effective on September 2, 1997 (62 FR 40924, July 31, 1997). USDA's initial CMP adjustments are codified in subpart E of 7 CFR 3.91. Subsequently, 7 CFR 3.91(b) was amended to reflect a second round of inflation adjustments in the **Federal Register** on May 24, 2005, and those adjustments became effective June 23, 2005 (70 FR 29573, May 24, 2005). As a result, when adjusted for inflation, the original $100,000,000 civil penalty increases to $132,000,000. This regulation refers to 7 CFR 3.91 when determining a CMP for any person, company, corporation, or legal entity for violations of § 246.16a(l).

Although the provision for determining CMPs with the necessary adjustments for inflation is not contained in the Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. 108–265), it is nondiscretionary. Therefore, it is being included with this interim rule because this is the first appropriate rulemaking with implications for infant formula rebate contracts to be promulgated since the enactment of the second round of adjustments pursuant to the Debt Collection Improvement Act of 1996.

3. Additional Exceptions to the Physical Presence Requirement for Certification (§ 246.7(p)(2))

Section 246.7(p)(2)(ii) of the current WIC Program regulations allows a State agency to exempt from being physically present at certification an infant or child who was present at his/her initial WIC certification and has documented ongoing health care from a health care provider other than the WIC local agency (as set forth in § 246.7(p)(1)), if being physically present would pose an unreasonable barrier.

Section 203(b)(2) of the Reauthorization Act amends Section 17(d)(3)(C)(ii) of the CNA to allow a State agency the option to waive the physical presence requirement for an infant or child who was present at his/her initial WIC certification and is receiving ongoing health care. In addition, the Reauthorization Act provides an additional exception from the physical presence requirement for an infant under 8 weeks of age who cannot be present at certification for a reason determined appropriate by the local agency, and for whom all necessary certification information is provided. These changes are intended to reduce the burden on WIC applicants and participants while maintaining program integrity.

Thus, § 246.7(p)(2)(ii) is revised in this rule to incorporate the legislative option for exemption from the physical presence requirement and applies to an infant or child receiving ongoing health care from any health care provider,

including the local WIC agency. The revised regulatory language also includes the new exemption from the physical presence requirement for infants under 8 weeks of age who cannot be present at the time of certification (for a reason determined appropriate by the local agency) and for whom all necessary certification information is provided.

4. New Requirements and Stipulations Regarding Food Delivery Systems (§ 246.12)

a. Participants Allowed To Receive Supplemental Foods From Any Authorized Vendor (§ 246.12(r))

Section 203(c)(1)(A) of Public Law 108–265 amends Section 17(f)(1)(C)(i) of the CNA to require WIC State agencies, effective October 1, 2004, to allow participants to receive supplemental foods from any authorized vendor in the State under retail food delivery systems.

This is a new requirement for WIC State agencies. Previously, State agencies were permitted to implement retail food delivery systems in which the name of a specific authorized store, as designated by the participant, was printed on the WIC food instrument.

State agencies are no longer allowed to operate such ''vendor-specific'' retail food delivery systems, i.e., systems that specify the vendor on the food instrument or otherwise require transaction of the food instrument at a designated vendor, even if the participant is provided an opportunity to choose the vendor to be so designated. Therefore, § 246.12(r) is revised to add a requirement that WIC State agencies must establish policy and revise their retail food delivery systems to ensure that WIC participants are allowed to transact their food instruments at any retail store authorized by the State agency.

b. Processing Vendor Applications Outside Established Timeframes (§ 246.4)

Section 203(c)(1) of the Reauthorization Act amends Section 17(f)(1)(C) of the CNA by adding a new provision requiring State agencies to include in their State plans procedures for accepting and processing vendor applications outside the established timeframes if the State agency determines that there will otherwise be inadequate participant access to the WIC Program. This includes instances in which a previously authorized vendor sells a store under circumstances that do not permit timely notification to the State agency of the change in ownership. By law, this provision was effective October 1, 2004.

Currently, § 246.12(g)(7) of the WIC regulations requires the State agency to develop procedures for processing vendor applications outside of its established timeframes when it determines there will be inadequate participant access unless additional vendors are authorized, and § 246.4(a)(14) requires a description of the participant access criteria to be included in the State Plan of Operations. Also, § 246.12(h)(3)(xvii) provides the State agency the discretion to determine the length of advance notice required for vendors reporting changes in ownership. Thus, all State Plans must currently describe participant access criteria, and many State Plans also address vendor application processing timeframes.

This provision reinforces the existing regulatory provisions by adding the requirement for a description of these procedures as part of the State Plan to § 246.4(a)(22).

c. Prohibition Against Imposition of EBT Costs on Vendors (§ 246.12(g)(4))

Section 203(e)(11) of Public Law 108–265 amended Section 17(h)(12) of the CNA, by replacing it with a new provision that prohibits the Secretary from imposing or allowing a State agency to impose the cost of electronic benefit transfer (EBT) equipment, systems, or processing on retail vendors as a condition for authorization or participation in the program. By law, this provision was effective June 30, 2004. Such costs include EBT equipment, systems, or processing which are directly attributable to a WIC EBT system and used solely for the WIC Program. Retailers may, however, continue to provide funding for WIC EBT on a voluntary basis, as a number of retailers have already done. WIC EBT is intended to improve program efficiency, and retailers may make a business decision to share in the costs of WIC EBT.

EBT processing is the automated data processing in support of WIC EBT purchase transactions and the associated reimbursement to retailers for their daily WIC EBT business. These activities may be carried out by the State agency or a State agency's contracted EBT processor and/or payment processor.

It is customary practice for commercial processors that support retailer credit, debit, and food stamp EBT transactions to charge processing fees. Banks also charge fees for automated credits to their customers' accounts. These types of processing fees result from specific retailer business decisions; thus, if a retailer decides to participate in a State EBT system, this cost would not be imposed by the State agency, but would result in a cost to the retailer as part of its commercial relationships.

In response to the legislative provisions contained in Public Law 108–265, § 246.12(g) is amended to prohibit a State agency from imposing the costs of EBT equipment, systems, or processing on retail vendors.

5. Expanded Allowances in Funding and Financial Management (§§ 246.14(e) and 246.16(b))

a. Use of Local Agency Claims (§ 246.14(e))

Section 203(c)(3) of Public Law 108–265 amended Section 17(f)(21) of the CNA to allow the WIC State agency to use funds collected through claims assessed against local agencies in the same manner that it uses claims collected from vendors and participants. WIC Program regulations at § 246.14(e) allow the State agency to keep vendor and participant collections and use these funds in the fiscal year in which the initial obligation was made, in which the claim arose, in which the funds are collected, or after the funds are collected, provided certain conditions are met. Before the State agency may credit such recoveries, it must provide vendors and participants with a means to appeal the claim action. For vendor claims, the State agency must provide vendors with an opportunity to justify or correct the claim (§ 246.12(k)(3)); for participant claims, the State agency must provide participants with an administrative hearing (§ 246.9). Because regulations at § 246.18 do not require the State agency to provide the local agency with a full administrative review for local agency claims, unless a claim affects the local agency's participation, the State agency has the discretion to determine the level of review provided for local agency claims. The State agency's review process for local agency claims should be specified or referenced in its local agency agreement. Consequently, a paragraph was added to the regulations to permit the State agency to credit recoveries of local agency claims only after any administrative review requested by the local agency in accordance with the local agency agreement has been completed, making this provision consistent with the requirements for vendor and participant claims.

In addition, the paragraphs in the regulations containing the reporting and

documentation requirements (§ 246.14(e)(4) through (e)(5)) for vendor and participant claims were revised to include local agency claims. Further guidance regarding State agency reporting of local agency collections is provided in the WIC Reporting Guide.

b. Spendforward Authority (§ 246.16(b))

Section 203(f) of Public Law 108–265 amended Section 17(i)(3)(A)(ii)(I) of the CNA to increase the State agency's spendforward authority for nutrition services and administration (NSA) funds from one percent to three percent of its total grant. Regulations at § 246.16(b)(3)(ii) specify the requirements that a State agency must follow to spend forward NSA funds into the next fiscal year. This legislative provision simply increased the spendforward authority without altering any of the other requirements regarding spendforward funds. Consequently, the regulations prohibiting food fund conversions from being spent forward, as well as those allowing an additional one-half of one percent to be spent forward for the development of management information and EBT systems, remain in effect.

6. Income Exclusions in Determining WIC Eligibility (§ 246.7(d))

a. Family Subsistence Supplemental Allowance (FSSA) Payments

Public Law 108–375, the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, excluded FSSA payments, which are provided to certain members of the Armed Forces and their families, as income in determining eligibility for a number of child nutrition programs, including the WIC program. This provision would have expired September 30, 2006. However, Public Law 109–163, the National Defense Authorization Act for Fiscal Year 2006, made the FSSA, and the exclusion of FSSA assistance from income under other programs, permanent. Therefore, the exclusion of FSSA payments as income for child nutrition programs, including the WIC Program, is also permanent. In determining income eligibility for the WIC Program, WIC State agencies must exclude the FSSA payment. FSSA payments have been made to certain members of the Armed Forces by the Department of Defense (DOD) since May 2001.

b. National Flood Insurance Program Payments

Public Law 109–64, enacted September 20, 2005, which amends the National Flood Insurance Act of 1968, states that payments made under the National Flood Insurance Program for flood mitigation activities shall not be counted as income or resources of the owner of the property when determining eligibility for any Federal means-tested program. The Federal Emergency Management Agency awards grants to States and communities, which distribute the funds to individuals and businesses for activities that reduce the risk of repetitive flood damage. Therefore, in determining income eligibility for the WIC Program, State agencies must exclude payments received by property owners under the National Flood Insurance Program.

These income exclusions are added to § 246.7(d)(2)(iv)(D) as paragraphs (d)(2)(iv)(D)(*33*) and (d)(2)(iv)(D)(*34*), respectively.

7. Fair Hearings and Adverse Action Notification Requirements

Prior to the publication of the WIC Miscellaneous Final Rule (71 FR 56708, September 27, 2006), § 246.9(g) of the WIC Program regulations required a participant to request a fair hearing within the 15-day advance adverse action notification period in order to continue receiving WIC benefits pending the outcome of the hearing, or expiration of the certification period, whichever comes first. This requirement was inadvertently removed from the regulations when regulatory language was added to avoid the incorrect impression that a participant must always request a fair hearing within the 15-day advance notice period, instead of within the 60-day period required at § 246.9(e).

However, it was not the intention of the Department to rescind this requirement; as indicated in the preamble to the Miscellaneous Final Rule (71 FR 56718), the requirement continues to be in effect. A participant may request a fair hearing within 60 days of the notification of adverse action, but § 246.9(g) should have stated in the Miscellaneous Final Rule that benefits will be continued only if the fair hearing is requested within the 15-day advance adverse action notice period. This rule clarifies the requirement concerning continuation of benefits during the fair hearing period by restoring the provision in question in this interim rule in § 246.9(g).

8. Technical Amendments

a. Complaints Alleging Discrimination in the WIC Program

Section 246.8(b) of the WIC regulations contains instructions on how discrimination complaints should be filed. The address and telephone numbers to which such complaints should be directed have been changed, and these changes have been included in this rule.

b. New Address for FNS Western Regional Office

The FNS Western Regional Office was relocated in March of 2007. This regulatory amendment updates the contact information provided in § 246.27(g) by providing the new address.

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs—Social programs, Indians, Infants and children, Maternal and child health, Nondiscrimination, Nutrition education, Public assistance programs, WIC, Women.

■ Accordingly, the WIC Program regulations at 7 CFR part 246 are amended as follows:

PART 246—SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN

■ 1. The authority citation for part 246 continues to read as follows:

Authority: 42 U.S.C. 1786.

■ 2. In § 246.2:

■ a. Revise the definitions of ''Nutrition education'' and ''Supplemental foods''; and

■ b. Add in alphabetical order the new definitions ''Primary contract infant formula'', and ''State alliance''.

The additions and revisions read as follows:

§ 246.2 Definitions.

* * * * *

Nutrition education means individual and group sessions and the provision of materials that are designed to improve health status and achieve positive change in dietary and physical activity habits, and that emphasize the relationship between nutrition, physical activity, and health, all in keeping with the personal and cultural preferences of the individual.

* * * * *

Primary contract infant formula means the specific infant formula for which manufacturers submit a bid to a State agency in response to a rebate solicitation and for which a contract is awarded by the State agency as a result of that bid.

* * * * *

State alliance means two or more State agencies that join together for the purpose of procuring infant formula

under the Program by soliciting competitive bids for infant formula.

* * * * *

Supplemental foods means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding and postpartum women, infants, and children, and foods that promote the health of the population served by the WIC Program as indicated by relevant nutrition science, public health concerns, and cultural eating patterns, as prescribed by the Secretary in § 246.10.

* * * * *

■ 3. In § 246.4, redesignate paragraphs (a)(15) through (a)(27) as paragraphs (a)(16) through (a)(28), and add a new paragraph (a)(15), to read as follows:

§ 246.4 State plan.

(a) * * *

(15) The State agency's procedures for accepting and processing vendor applications outside of its established timeframes if the State agency determines there will otherwise be inadequate participant access to the WIC Program.

* * * * *

■ 4. In § 246.7:

■ a. The word ''and'' is removed from the end of paragraph (d)(2)(iv)(D)(*31*);

■ b. Paragraph (d)(2)(iv)(D)(*32*) is amended by removing the period at the end of the paragraph and adding in its place a semicolon.

■ c. New paragraphs (d)(2)(iv)(D)(*33*) and (d)(2)(iv)(D)(*34*) are added;

■ d. Paragraph (o)(2)(ii) is revised; and

■ e. A new paragraph (o)(2)(iv) is added.

The revision and additions read as follows:

§ 246.7 Certification of participants.

* * * * *

(d) * * *

(2) * * *

(iv) * * *

(D) * * *

(*33*) Payments received by members of the Armed Forces and their families under the Family Supplemental Subsistence Allowance from the Department of Defense (Pub. L. 109–163, sec. 608); and

(*34*) Payments received by property owners under the National Flood Insurance Program (Pub. L. 109–64).

* * * * *

(o) * * *

(2) * * *

(ii) *Receiving ongoing health care.* The State agency may exempt from the physical presence requirement, if being physically present would pose an unreasonable barrier, an infant or child who was present at his/her initial WIC certification and is receiving ongoing health care.

* * * * *

(iv) *Infants under 8 weeks of age.* The State agency may exempt from the physical presence requirement an infant under eight (8) weeks of age who cannot be present at certification for a reason determined appropriate by the local agency, and for whom all necessary certification information is provided.

* * * * *

■ 5. In § 246.8, the first sentence of paragraph (b) is revised to read as follows:

§ 246.8 Nondiscrimination.

* * * * *

(b) * * * Persons seeking to file discrimination complaints should write to USDA, Director, Office of Adjudication and Compliance, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call (800) 795–3272 (voice) or (202) 720–6382 (TTY). * * *

* * * * *

■ 6. In 246.9, revise paragraph (g) to read as follows:

§ 246.9 Fair hearing procedures for participants.

* * * * *

(g) *Continuation of benefits.* Participants who appeal the termination of benefits within the 15 days advance adverse action notice period provided by § 246.7(j)(6) must continue to receive Program benefits until the hearing official reaches a decision or the certification period expires, whichever occurs first. This does not apply to applicants denied benefits at initial certification, participants whose certification periods have expired, or participants who become categorically ineligible for benefits. Applicants who are denied benefits at initial certification, participants whose certification periods have expired, or participants who become categorically ineligible during a certification period may appeal the denial or termination within the timeframes set by the State agency in accordance with paragraph (e) of this section, but must not receive benefits while awaiting the hearing or its results.

* * * * *

■ 7. In § 246.10:

■ a. Amend paragraph (d)(2)(ii) by adding the words ''other than the primary contract infant formula'' immediately after the words ''any contract brand infant formula''; and

■ b. Revise the third sentence of paragraph (e)(1)(iii) to read as follows:

§ 246.10 Supplemental foods.

* * * * *

(e) * * *

(1) * * *

(iii) * * * Except as specified in paragraph (d) of this section, local agencies must issue as the first choice of issuance the primary contract infant formula, as defined in § 246.2, with all other infant formulas issued as an alternative to the primary contract infant formula.

* * * * *

§ 246.11 [Amended]

■ 8. In § 246.11:

■ a. Remove the word ''Stress'' in paragraph (b)(1), and add in its place the word ''Emphasize'';

■ b. Further amend paragraph (b)(1) by removing the words ''proper nutrition and good health'' in paragraph (b)(1), and adding in their place the words ''nutrition, physical activity and health''; and

■ c. In the first sentence of paragraph (b)(2), remove the words ''in achieving a positive change in food habits, resulting in improved nutritional status'', and add in their place the words ''in improving health status and achieving a positive change in dietary and physical activity habits,''.

■ 9. In § 246.12:

■ a. Redesignate paragraphs (g)(5) through (g)(9) as paragraphs (g)(6) through (g)(10);

■ b. Add a new paragraph (g)(5); and

■ c. Add a new paragraph (r)(6).

The additions read as follows:

§ 246.12 Food delivery systems.

* * * * *

(g) * * *

(5) *No imposition of EBT costs on retail vendors.* The State agency may not impose the costs of EBT equipment, systems, or processing required for electronic benefit transfers on any retail store authorized to transact food instruments, as a condition for authorization or participation in the program. The State agency may allow retailers to contribute to such costs on a voluntary basis.

* * * * *

(r) * * *

(6) *Any authorized vendor.* Each State agency shall allow participants to receive supplemental foods from any vendor authorized by the State agency under retail delivery systems.

* * * * *

■ 10. In § 246.14:

■ a. Revise the heading to paragraph (e);

■ b. Revise the first sentence of paragraph (e)(1);

■ c. Remove the word ''or'' at the end of paragraph (e)(3)(i);

■ d. Remove the period at the end of paragraph (e)(3)(ii) and add in its place the word ''; or'';
■ e. Add paragraph (e)(3)(iii); and
■ f. Revise paragraphs (e)(4) and (e)(5).

The revisions and addition read as follows:

§ 246.14 Program costs.

* * * * *

(e) *Use of funds recovered from vendors, participants, or local agencies.* (1) The State agency may keep funds collected through the recovery of claims assessed against vendors, participants, or local agencies. * * *

* * * * *

(3) * * *

(iii) In the case of a local agency claim, any administrative review requested in accordance with the local agency agreement has been completed.

(4) The State agency must report vendor, participant, and local agency recoveries to FNS through the normal reporting process;

(5) The State agency must keep documentation supporting the amount and use of these vendor, participant, and local agency recoveries.

■ 11. In § 246.16, revise the first sentence of paragraph (b)(3)(ii)(A) to read as follows:

§ 246.16 Distribution of funds.

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(A) The State agency may spend forward NSA funds up to an amount equal to three (3) percent of its total grant (NSA plus food grants) in any fiscal year. * * *

* * * * *

■ 12. In § 246.16a:
■ a. Remove the words ''primary contract brand infant formula'' wherever they appear and add in their place the words ''primary contract infant formula'';
■ b. Amend paragraph (c)(1)(i) by removing the reference ''(c)(5)'' in the 5th sentence and adding in its place the reference ''(c)(6)'';
■ c. Add a new sentence between the first and second sentences in paragraph (c)(1)(ii);
■ d. Redesignate paragraphs (c)(2) through (c)(6) as paragraphs (c)(3) through (c)(7);
■ e. Add a new paragraph (c)(2);
■ f. Amend newly redesignated paragraph (c)(3) by removing the reference ''(c)(5)'' in the second sentence and adding in its place the reference ''(c)(6)'';
■ g. Remove the last sentence of newly redesignated paragraph (c)(3);
■ h. Amend the introductory text of newly redesignated paragraph (c)(4) by removing the reference ''(c)(3)(ii)'' and adding in its place the reference ''(c)(4)(ii)'';
■ i. Amend newly redesignated paragraph (c)(4)(ii) by removing the reference ''(c)(3)(i)'' wherever it appears, and adding in its place the reference ''(c)(4)(i)'';
■ j. Amend the last sentence of newly redesignated paragraph (c)(4)(iii) by removing the reference ''(c)(4)'' and adding in its place the reference ''(c)(5)'';
■ k. Amend newly redesignated paragraph (c)(5) by removing the reference ''(c)(3)'' in the first sentence and adding in its place the reference ''(c)(4)'';
■ l. Revise newly redesignated paragraphs (c)(6)(iii) and (c)(6)(iv);
■ m. Revise newly redesignated paragraph (c)(7);
■ n. Add a new paragraph (c)(8);
■ o. Amend paragraph (d)(2)(i)(A) and (d)(2)(i)(B) by removing the reference ''(c)(3)'' wherever it appears and adding in its place the reference ''(c)(4)'';
■ p. Redesignate paragraph (k) as paragraph (l);
■ q. Add a new paragraph (k);
■ r. In newly redesignated paragraph (l):
■ (i) Remove the reference ''(k)'' wherever it appears and add in its place the reference ''(l)'';
■ (ii) Amend the last sentence of newly redesignated paragraph (l)(3) by removing the references ''(k)(2)(ii), (k)(2)(iii) and (k)(2)(iv)'' and adding in their places the references ''(l)(2)(ii), (l)(2)(iii) and (l)(2)(iv)'';
■ (iii) Amend the first sentence of newly redesignated paragraph (l)(4) by removing the references ''(k)(2) and (k)(3)'' and adding in their places the references ''(l)(2) and (l)(3)'';
■ (iv) Amend the second sentence of newly redesignated paragraph (l)(5)(iii) by removing the reference ''(k)(5)(iii),'' and adding in its place the reference ''(l)(5)(iii)'';
■ (v) Amend the second sentence of newly redesignated paragraph (l)(8) by removing the reference ''(k)(7)'' and adding in its place the reference ''(l)(7)'';
■ (vi) Amend newly redesignated paragraph (l)(9) by removing the references ''(k)(7) and (k)(8)'' whenever they appear, and adding in their places the references ''(l)(7), and (l)(8)'';
■ (vii) Revise newly redesignated paragraph (l)(3); and
■ s. Add a new paragraph (m).

The revisions and additions read as follows:

§ 246.16a Infant formula cost containment.

* * * * *

(c) * * *

(1) * * *

(ii) * * * Any State agency or alliance that served a monthly average of more than 100,000 infants during the preceding 12-month period shall issue separate bid solicitations for milk-based and soy-based infant formula. * * *

(2) W*hat is the size limitation for a State alliance?* A State alliance may exist among State agencies if the total number of infants served by States participating in the alliance as of October 1, 2003, or such subsequent date determined by the Secretary for which data is available, does not exceed 100,000. However, a State alliance that existed as of July 1, 2004, and serves over 100,000 infants may exceed this limit to include any State agency that served less than 5,000 infants as of October 1, 2003, or such subsequent date determined by the Secretary for which data is available, and/or any Indian State agency. The Secretary may waive these requirements not earlier than 30 days after submitting to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a written report that describes the cost-containment and competitive benefits of the proposed waiver.

* * * * *

(6) * * *

(iii) *Calculation of rebates during contract term.* The rebates resulting from the application of the percentage discount must remain the same throughout the contract period except for the cent-for-cent rebate adjustments required in paragraph (c)(6)(iv) of this section.

(iv) *Cent-for-cent rebate adjustments.* Bid solicitations must require the manufacturer to adjust rebates for price changes subsequent to the bid opening. Price adjustments must reflect any increase and decrease, on a cent-for-cent basis, in the manufacturer's lowest national wholesale prices for a full truckload of infant formula.

(7) *What is the first choice of issuance for infant formula?* The State agency must use the primary contract infant formula(s) as the first choice of issuance (by physical form), with all other infant formulas issued as an alternative (see § 246.10(e)(1)(iii)).

(8) *Under what circumstances may the State agency issue other contract brand formulas?* Except as required in paragraph (c)(7) of this section, the State agency may choose to approve for issuance some, none, or all of the winning bidder's other infant

formula(s). In addition, the State agency may require medical documentation before issuing any contract brand infant formula, except as provided in paragraph (c)(7) of this section (see § 246.10(c)(1)(i)) and must require medical documentation before issuing any WIC formula covered by § 246.10(c)(1)(iii).

* * * * *

(k) *What are the requirements for infant formula rebate invoices?* A State agency must have a system in place that ensures infant formula rebate invoices, under competitive bidding, provide a reasonable estimate or an actual count of the number of units purchased by participants in the program.

(l) * * *

(3) If FNS determines that the number of State agencies making the request provided for in paragraph (l)(2) of this section does not comply with the requirements of paragraph (c)(2) of this section, FNS shall, in consultation with such State agencies, divide such State agencies into more than one group and solicit bids for each group. These groups of State agencies are referred to as ''bid groups.'' In determining the size and composition of the bid groups, FNS will, to the extent practicable, take into account the need to maximize the number of potential bidders so as to increase competition among infant formula manufacturers and the similarities in the State agencies' procurement and contract requirements (as provided by the State agencies in accordance with paragraphs (l)(2)(ii), (l)(2)(iii), and (l)(2)(iv) of this section). FNS reserves the right to exclude a State agency from the national bid solicitation and selection process if FNS determines that the State agency's procurement requirements or contractual requirements are so dissimilar from those of the other State agencies in any bid group that the State agency's inclusion in the bid group could adversely affect the bids.

* * * * *

(m) *What are the penalties for disclosing the amount of the bid or discount practices prior to the time bids are opened?* Any person, company, corporation, or other legal entity that submits a bid in response to a bid solicitation and discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the Secretary or the State agency, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress for up to 2 years from the date the bids are opened. In addition, any person, company, corporation, or other legal entity shall be subject to a civil money penalty as specified in § 3.91(b)(3)(iv) of this title, as determined by the Secretary to provide restitution to the program for harm done to the program.

§ 246.27 [Amended]

■ 13. In § 246.27, amend paragraph (g) by removing the words ''550 Kearny Street, room 400, San Francisco, California 94108'', and adding in their place the words ''90 Seventh Street, Suite #10–100, San Francisco, California 94103''.

Dated: February 20, 2008.

Nancy Montanez Johner,

Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. E8–3880 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AC00

Common Crop Insurance Regulations; Cultivated Wild Rice Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes the Cultivated Wild Rice Crop Insurance Provisions to convert the cultivated wild rice pilot crop insurance program to a permanent insurance program for the 2009 and succeeding crop years.

DATES: *Effective Date:* May 2, 2008.

FOR FURTHER INFORMATION CONTACT: Erin Albright, Risk Management Specialist, Product Management, Product Administration & Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility—Mail Stop 0812, Room 421, PO Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is non-significant for the purpose of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0053 through June 30, 2008.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economical impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this

waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order No. 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

On Wednesday, June 6, 2007, FCIC published a notice of proposed rule making in the **Federal Register** at 72 FR 31196–31199 to add to the Common Crop Insurance Regulations (7 CFR part 457) a new section, 7 CFR 457.170, Cultivated Wild Rice Crop Insurance Provisions. FCIC is converting the cultivated wild rice pilot crop insurance program to a permanent crop insurance program beginning with the 2009 crop year. These provisions will replace and supersede the current unpublished provisions that insure cultivated wild rice under pilot program status.

Following publication of the proposed rule, the public was afforded 60 days to submit written comments, data, and opinions. A total of 24 comments were received from 3 commenters. The commenters were an insurance service organization and two insurance providers. The comments received and FCIC's responses are as follows:

Comment: Two commenters stated the definition of ''cultivated wild rice'' refers to ''* * * man-made irrigated fields known as paddies'' while section 6(a)(3) specifies the insured crop is ''grown in man-made flood irrigated fields.'' The commenters asked if cultivated wild rice is ever grown in a field that is irrigated by some other method, or should both of the references be made to read consistently.

Response: Natural stands of wild rice can be found in various locations. Because wild rice plants shatter, seeds will drop and the natural stands may continue to grow. To be eligible for crop insurance, wild rice must be grown in man-made fields in accordance with good farming practices for wild rice production. The term ''flood'' is used to describe how the cultivated wild rice is irrigated; paddies must be built so that they can not only flood the area, but also to control the water level and to provide drainage when the crop is to be harvested. FCIC has revised the definition of ''cultivated wild rice'' to specify it must be grown ''in man-made flood irrigated fields.'' This will provide consistency with the provision in section 6(a)(3).

Comment: Two commenters stated the definition of ''finished weight'' is defined in three parts as green weight (delivered, stored, or appraised) multiplied by the applicable recovery method (determined or standard). The commenters asked if the definition of ''finished weight'' matches the definition of ''processor,'' which is defined as ''A business that converts green weight to finished weight using appropriate equipment and methods * * *.'' while the ''finished weight'' definition sounds like it is simply the result of a mathematical calculation. The commenters also suggested the word ''The'' be added to the beginning of subpart (c) of the definition of ''finished weight'' to match subparts (a) and (b).

Response: The definition of ''processor'' was added to the Crop Provisions because it is referenced in other definitions. FCIC agrees the definition of ''processor'' is confusing by referencing the term ''finished weight.'' The definition of ''processor'' has been revised to specify it is a business enterprise that converts green weight to a product ready for commercial sale. Also, the beginning of subpart (c) of the definition of ''finished weight'' has been revised accordingly.

Comment: Two commenters suggested the definition of ''planted acreage'' could be easier to read if the phrase ''including shattering for the second and succeeding years'' was put in parentheses instead of setting it off with commas.

Response: FCIC has made the change accordingly.

Comment: Two commenters suggested the definition of ''recovery percentage'' be revised to include the definitions of ''standard recovery percentage'' and ''determined recovery percentage'' as subparagraphs.

Response: FCIC has made the change accordingly.

Comment: Two commenters suggested commas should be added in section 4 before and after the phrase ''* * * the contract change date is November 30 preceding the cancellation date for counties with a February 28 cancellation date * * *'' or consider separating the two contract change dates into 4(a) and (b).

Response: FCIC has revised section 4 to separate the contract change dates into separate subsections as suggested.

Comment: Two commenters stated section 6(b) uses ''shatters'' as a verb, while in section 1, ''shatter'' is defined as a noun. The commenters suggested one or the other should be revised to be consistent. They also indicated the term ''shattering'' is used in the definition of ''planted acreage.''

Response: FCIC has revised the definition of ''shatter'' to be defined as a verb.

Comment: Two commenters thought section 7 should be separated into three subsections for easier identification, and rearranged to list the states first in all three cases: ''* * * the calendar date for the end of the insurance period is:

''(a) For Minnesota, September 30 * * *;

''(b) For California, October 15 * * *; and

''(c) For all other states, the date provided in the Special Provisions.''

Response: FCIC has made the change accordingly.

Comment: Two commenters recommended the insured cause of loss in section 8 should be clarified as ''Fire due to natural causes.''

Response: In addition to the Cultivated Wild Rice Crop Provisions, the Common Crop Insurance Policy, Basic Provisions are applicable for wild rice. Section 12 of the Basic Provisions states all specified causes of loss must be due to a naturally occurring event.

Adding the suggested language could be redundant and could cause confusion by suggesting that the other listed causes of loss do not have to be due to natural causes. Therefore, no change has been made.

Comment: Two commenters indicated FCIC should consider if section 8(a)(8) should include the phrase that is in the Rice Crop Provisions: ''* * * drought, or the intrusion of saline water'' [in which case, section 9(b) of the Rice Crop Provisions also should be adapted for use for Cultivated Wild Rice].

Response: The crop insurance program for cultivated wild rice is available in certain Minnesota and California counties. The chance for intrusion of saline water in Minnesota is almost non-existent. However, there is a minute possibility for the chance of saline water intrusion in three California counties located in the intermountain region. In addition, two California counties where crop insurance is available are located in areas where the crop could be damaged if levees were to fail. For that reason, FCIC agrees with the commenters and has revised section 8(a)(8) to be consistent with the Rice Crop Provisions and specify the application of saline water is not an insured cause of loss.

Comment: Two commenters stated if the intention in section 11(b)(2) is to delete the word ''section'' preceding the phrase ''11(b)(1)'' in this subsection, the same should be done in subsections (b)(3)–(7) as well to be consistent.

Response: FCIC did not intend to omit the word ''section'' as questioned by the commenters. FCIC has added the term ''section'' preceding 11(b)(1) in section 11(b)(2) accordingly.

Comment: Two commenters suggested the example contained in section 11 be revised to delete the ''/'' and replace it with ''per'' so it is not mistaken for a division symbol.

Response: FCIC has made the change accordingly.

Comment: Two commenters asked FCIC to consider rearranging section 11(c) from ''The total production (finished weight) to count * * *'' to read as ''The total production to count (finished weight) * * *''

Response: FCIC has made the change accordingly.

In addition to the changes described above, FCIC has revised the definition of ''recovery percentage'' in section 1 by deleting the sentence ''This is also known as percent recovery.''

List of Subjects in 7 CFR Part 457

Crop insurance, Cultivated wild rice, Reporting and recordkeeping requirements.

Final Rule

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation finalizes 7 CFR part 457, Common Crop Insurance Regulations, for the 2009 and succeeding crop years as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

■ 2. Section 457.170 is added to read as follows:

§ 457.170 Cultivated Wild Rice crop insurance provisions.

The Cultivated Wild Rice Crop Insurance Provisions for the 2009 and succeeding crop years are as follows:

FCIC policies: United States Department of Agriculture, Federal Crop Insurance Corporation.

Reinsured policies: (Appropriate title for insurance provider).

Both FCIC and reinsured policies: Cultivated Wild Rice Crop Provisions.

1. Definitions

Approved laboratory. A testing facility approved by us to determine the recovery percentage from samples of cultivated wild rice.

Cultivated Wild Rice. A member of the grass family Zizania Palustris L., adapted for growing in man-made flood irrigated fields known as paddies.

Finished weight.

(a) The green weight delivered to a processor multiplied by the determined recovery percentage;

(b) The green weight stored for seed multiplied by either the determined recovery percentage or the standard recovery percentage in accordance with section 11(d); or

(c) The appraised green weight multiplied by either the determined recovery percentage or the standard recovery percentage in accordance with section 11(d).

Flood irrigation. Intentionally covering the planted acreage with water and maintaining it at a proper depth throughout the growing season.

Green weight. The total weight in pounds of the green cultivated wild rice production that was appraised, delivered to a processor, or stored for seed.

Harvest. Combining or threshing the cultivated wild rice for grain or seed.

Initially planted. The first occurrence of planting the insured crop on insurable acreage for the crop year.

Planted acreage. In addition to the definition contained in the Basic Provisions, land on which an adequate amount of seed is initially spread onto the soil surface by any appropriate method (including shattering for the second and succeeding years) and subsequently is mechanically incorporated into the soil at the proper depth, will be considered planted, unless otherwise provided by the Special Provisions or actuarial documents.

Processor. A business that converts green weight to a product ready for commercial sale using appropriate equipment and methods such as separating immature kernels, fermenting or curing, parching, de-hulling, and scarifying.

Recovery percentage. The ratio of finished weight to green weight of the cultivated wild rice. As specified in section 11(d), the recovery percentage is either:

(a) The determined recovery percentage for a sample as determined by an approved laboratory; or

(b) The standard recovery percentage provided in the Special Provisions.

Shatter. The act of mature seeds naturally falling to the ground from a cultivated wild rice plant.

2. Unit Division

Provisions in the Basic Provisions that allow optional units by irrigated and non-irrigated practices are not applicable.

3. Insurance Guarantee, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 of the Basic Provisions:

(a) You may select only one percentage of the maximum price election for all the cultivated wild rice insured under this policy in the county.

(b) The insurance guarantee per acre is expressed as pounds of finished weight.

4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change date is:

(a) November 30 preceding the cancellation date for counties with a February 28 cancellation date; and

(b) June 30 preceding the cancellation date for counties with a September 30 cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are:

State	Cancellation date	Termination date
Mendocino, Glenn, Butte, and Sierra Counties, California; and all California Counties south thereof	February 28	February 28.
Minnesota; All Other California Counties; and All Other States	September 30	November 30.

6. Insured Crop

(a) In accordance with section 8 of the Basic Provisions, the crop insured will be all the cultivated wild rice in the county grown on insurable acreage for which premium rates are provided by the actuarial documents:

(1) In which you have a share;

(2) That is planted for harvest as grain; and

(3) That is grown in man-made flood irrigated fields.

(b) Section 8(b)(3) of the Basic Provisions is not applicable to the cultivated wild rice seed that naturally shatters and is subsequently mechanically incorporated into the soil.

7. Insurance Period

In accordance with section 11 of the Basic Provisions, the calendar date for the end of the insurance period is:

(a) For Minnesota, September 30 of the calendar year the crop is normally harvested;

(b) For California, October 15 of the calendar year the crop is normally harvested; and

(c) For all other states, the date provided in the Special Provisions.

8. Causes of Loss

(a) In accordance with section 12 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply, if caused by a cause of loss specified in sections 8(a)(1) through (7) that occurs during the insurance period, drought, or the intrusion of saline water.

(b) In addition to the causes not insured against in section 12 of the Basic Provisions, we will not insure against any loss of production due to:

(1) The crop not being timely harvested unless such delay in harvesting is solely and directly due to adverse weather conditions which preclude harvesting equipment from entering and moving about the field; or

(2) The application of saline water, except as specified in section 8(a) of these crop provisions.

9. Replanting Payments

The provisions of section 13 of the Basic Provisions are not applicable.

10. Duties in the Event of Damage or Loss

Representative samples are required in accordance with section 14 of the Basic Provisions.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production that are acceptable to us for any:

(1) Optional unit, we will combine all optional units for which such production records were not provided; or

(2) Basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee;

(2) Multiplying the result in section 11(b)(1) by the respective price election;

(3) Totaling the results of section 11(b)(2);

(4) Multiplying the total production to be counted, (see section 11(c) through (d)) by the respective price election;

(5) Totaling the results of section 11(b)(4);

(6) Subtracting the result of section 11(b)(5) from the result of section 11(b)(3); and

(7) Multiplying the result of section 11(b)(6) by your share.

For example:

You have a 100 percent share in 100 acres of cultivated wild rice in the unit, with a guarantee of 400 pounds per acre and a price election of $1.00 per pound. You are only able to harvest 20,000 pounds. Your indemnity would be calculated as follows:

(1) 100 acres × 400 pounds = 40,000 pound guarantee;

(2) 40,000 pounds × $1.00 per pound price election = $40,000 value of guarantee;

(3) 20,000 pounds × $1.00 per pound price election = $20,000 value of production to count;

(4) $40,000 − $20,000 = $20,000 loss; and

(5) $20,000 × 100 percent share = $20,000 indemnity payment.

(c) The total production to count (finished weight) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee for acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) Damaged solely by uninsured causes; or

(D) For which you fail to provide records of production that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested green weight production must be adjusted in accordance with section 11(d)); and

(iv) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(d) Mature green weight will be multiplied by the recovery percentage subject to the following:

(1) We may obtain samples of the production to determine the recovery percentage.

(2) The determined recovery percentage will be used to calculate your loss only if:

(i) All determined recovery percentages are established using samples of green weight production obtained by us or by the processor for sold or processed production; and

(ii) The samples are analyzed by an approved laboratory.

(3) If the conditions of section 11(d)(2) are not met, the standard recovery percentage will be used.

12. Late Planting

The provisions of section 16 of the Basic Provisions are not applicable.

13. Prevented Planting

The provisions of section 17 of the Basic Provisions are not applicable.

Signed in Washington, DC on February 21, 2008.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E8–3964 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AC04

Common Crop Insurance Regulations; Mustard Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes the Common Crop Insurance Regulations; Mustard Crop Insurance Provisions to convert the mustard pilot crop insurance program to a permanent insurance program for the 2009 and succeeding crop years.

DATES: *Effective Date:* April 2, 2008.

FOR FURTHER INFORMATION CONTACT: Gary Johnson, Risk Management Specialist, USDA Risk Management Agency-PASD, Beacon Facility-Mail Stop 0812, P.O. Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is non-significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0053 through June 30, 2008.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background:

On Thursday, November 16, 2006, FCIC published a notice of proposed rulemaking in the **Federal Register** at 71 FR 6016–6021 to add 7 CFR 457.168 Mustard crop insurance provisions.

The public was afforded 60 days to submit written comments and opinions. The e-mail address listed on the proposed rule and the Federal eRulemaking Portal address were not operational during that time period, therefore, FCIC published a notice in the **Federal Register** at 71 FR 14828 on March 24, 2006, extending the comment period for an additional 30 days, until April 24, 2006.

A total of 21 comments were received from 3 commenters. The commenters were an insurance services organization, one insurance provider, and one producer. The comments received and FCIC's responses are as follows:

Comment: Two commenters have concerns whether a processor contract can be accepted by the insurance provider if the processor is located in Canada. The commenters asked whether it is the insurance provider's responsibility to perform the monetary conversion of the contract price from Canadian dollars to U.S. dollars.

Response: A contract can be accepted if the processor is located in Canada. It would be preferable if the contract expressed the base contract price in U.S. dollars. However, if the base contract price is expressed in Canadian dollars the insurance provider must convert it to United States dollars based upon the monetary exchange rate on the date the contract was signed by the mustard producer.

Comment: One commenter suggested adding the definition for ''windrow'' since windrow is used in the definition for swathed.

Response: FCIC has added a definition for ''windrow.''

Comment: Two commenters expressed concerns with section 3(c) where it states ''that for processor contracts that stipulate the amount of production to be delivered, the number of acres is determined by dividing the amount of production to be delivered by the approved yield.'' The commenters questioned what happens if the producer's approved yield is so low that when you divide the amount of production to be delivered by the approved yield more acres are needed to be planted than were actually planted to produce the amount of production stated in the contract.

Response: FCIC has removed language in section 3(c) and added a new section 3(d) and revised section 8(c) to explain how to determine the total production guarantee and insurable acreage. As added in section 3(d), the total production guarantee will be based on the lesser of the contracted acreage multiplied by the production guarantee per acre, the planted acreage multiplied by the production guarantee per acre, the total production stated in the processor contract, or, for acreage and production processor contracts, the contracted acres multiplied by the contracted production per acre. As revised in section 8(c), insured acreage for acreage and production based processor contracts is based on the lesser of the planted acres or the maximum acres stated in the processor contact. Insured acreage for production based processor contracts will be based on the lesser of the number of acres determined by dividing the production stated in the processor contract by the approved yield or the planted acres. These revisions will ensure that the policy does not provide over-insurance.

Comment: One commenter suggested in section 3(c) that in the parenthetical phrase the term ''stipulates'' be changed to ''stipulate.''

Response: FCIC has revised the language in section 3(c) in response to other comments and the term ''stipulates'' is no longer used in section 3(c).

Comment: One commenter expressed concern regarding the removal of the provision ''to be processed into products for human consumption'' in section 7(a)(2).

Response: FCIC removed the language to allow maximum flexibility in providing coverage for mustard used for other uses. In addition, only mustard that is produced under a processor contract is insurable. Therefore, it is unlikely that the processor will contract for the mustard unless the processor has a use for it.

Comment: Two commenters expressed concerns with the provisions in section 8(c) that indicate the maximum insurable acreage will be determined by the acreage amount stated in the processor contract(s), if applicable, The commenters asked what the maximum insurable acreage would be if the processor contract(s) do not state acreage amounts.

Response: As stated above, FCIC has added language in section 8(c) explaining how to determine insurable acreage. For processor contracts that specify acreage only and processor contracts that are acreage and production based the insurable acreage will be the lesser of the planted acres or the acreage specified in the contract. For processor contracts that are production only based the insurable acreage will be the lesser of the number of acres determined by dividing the production stated in the processor contract by the approved yield or the planted acreage.

Comment: One commenter recommended that section 10(b) be clarified as ''Fire, due to natural causes'' or ''Fire, if caused by lighting'' as is in the proposed revision to the Tobacco Crop Provisions.

Response: Section 12 of the Basic Provisions states all specified causes of loss must be due to a naturally occurring event. Further, if the requirement for natural causes was only included with regard to fire, it may create the mistaken impression that fire is the only cause of action that must be from natural causes. Therefore, no change has been made.

Comment: One commenter stated the provision in section 13(a)(1)(ii) that states ''For any processor contract that stipulates the amount of production to be delivered, and notwithstanding the provisions of this section or any unit division provisions contained in the Basic Provisions or these Crop Provisions'' should have been included in section 13(a)(2).

Response: FCIC moved the provision to section 13(a)(2) accordingly.

Comment: One commenter suggested FCIC add a hyphen between 650-pound production guarantee in Example #1 in section 13(b).

Response: FCIC has made the correction accordingly.

Comment: One commenter suggested FCIC change 13,000 pounds production guarantee to 13,000 pound production guarantee in the Example #1 in section 13(b).

Response: FCIC has made the correction accordingly.

Comment: One commenter suggested FCIC change the wording in the first sentence from ''with 650 pound production guarantee'' to ''with a 650-pound production guarantee'' in Example #2 in section 13(b).

Response: FCIC has made the correction accordingly.

Comment: One commenter suggested FCIC add a hyphen between 6,500 pound production guarantee in Example #2 in section 13(b).

Response: FCIC has made the correction accordingly.

Comment: One commenter suggested FCIC delete the space after the ''$'' sign in ''$0.15'' in Example #2 in section 13(b).

Response: FCIC has made the correction accordingly.

Comment: One commenter stated in section 13(b)(1) that ''mustard type'' does not need to be specified since type is defined in section 1.

Response: FCIC has revised section 13(b)(1) accordingly.

Comment: One commenter expressed concern regarding section 13(b)(1) stating that when the contract states the total production to be delivered with no reference to acres.

Response: FCIC has added language in section 8(c) explaining how insurable acreage is determined. In addition, FCIC has added the cross reference to section 8(c) in section 13(b)(1) and changed the reference to ''insurable acreage'' to be consistent with section 8(c).

Comment: One commenter suggests that the ''and'' at the end of section 13(c)(1)(iv)(B) should be moved to the end of section 13(c)(2).

Response: FCIC has revised the provision accordingly.

Comment: Two commenters expressed concern regarding section 13(c)(3). The commenters concern was with contracts that state the total production to be delivered with no reference to acres. The commenters asked if the insurance provider determines the insured has planted more acres than what is necessary to fulfill the contract does that production on that over planted acreage count at the time of loss, or are all the acres considered insured.

Response: FCIC has added language in section 8(c) explaining how insurable acreage is determined. The insurance provider should make this determination before issuing the Schedule of Insurance to ensure that the premium and liability are correctly stated.

Comment: One commenter expressed concern with the provisions in section 13(d)(2) that state ''mustard production will be eligible for quality adjustment if.'' The commenter asked if contracts are going to be honored from a processor in Canada and whether there is any concern on getting samples to determine the quality adjustment.

Response: The quality adjustment can be done by a Canadian grader as long as U.S. grading standards are used, or the sample can be pulled and brought to a U.S. grading facility. No change has been made.

Comment: One commenter suggested in section 13(d)(4) moving the phrase ''if the quality adjustment factors are not contained in the Special Provisions'' to the beginning of the parenthetical phrase.

Response: FCIC has changed section 13(d)(4) accordingly.

Comment: One commenter recommended eliminating the option to increase prevented planting coverage levels in section 15 Prevented Planting.

Response: Since the recommended change was not proposed, no changes were required as a result of comforming amendments, and the public was not provided an opportunity to comment on the recommended change, the recommendation cannot be incorporated in the final rule. No change has been made.

Comment: One commenter asked why mustard must be grown under contract.

Response: There is a very limited market for mustard. Therefore, this requirement ensures there is a market for the mustard crop and that the market is not distorted by an over-production of mustard.

List of Subjects in 7 CFR Part 457

Crop insurance, Mustard, Reporting and recordkeeping requirements.

Final Rule

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457 for the 2009 and succeeding crop years as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

■ 2. Section 457.168 is added to read as follows:

§ 457.168 Mustard crop insurance provisions.

The Mustard Crop Insurance Provisions for the 2009 and succeeding crop years are as follows:

FCIC policies:
United States Department of Agriculture
Federal Crop Insurance Corporation
Reinsured policies:
(Appropriate title for insurance provider)
Both FCIC and reinsured policies:
Mustard Crop Insurance Provisions.

1. Definitions

Base contract price. The price per pound (U.S. dollars) stipulated in the processor contract (without regard to discounts or incentives) that will be used to determine your price election.

Harvest. Combining or threshing for seed. A crop that is swathed prior to combining is not considered harvested.

Mustard. A crop of the family *Cruciferae*, genus.

Planted acreage. In addition to the definition contained in the Basic Provisions, mustard seed must be planted in rows. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions, actuarial documents, or by written agreement.

Processor. Any business enterprise regularly engaged in buying and processing mustard, that possesses all licenses and permits for processing mustard required by the State in which it operates, and that possesses facilities, or has contractual access to such facilities, with enough equipment to accept and process contracted mustard within a reasonable amount of time after harvest.

Processor contract. A written agreement between the producer and a processor, containing at a minimum:

(a) The producer's commitment to plant and grow mustard of the types specified in the Special Provisions and to deliver the production to the processor;

(b) The processor's commitment to purchase all the production stated in the processor contract; and

(c) A base contract price (U.S. dollars).

Salvage price. The cash price per pound (U.S. dollars) for mustard qualifying for quality adjustment in accordance with section 13 of these Crop Provisions.

Swathed. Severance of the stem and seed pods from the ground and placing into windrows without removal of the seed from the pod.

Type. A category of mustard identified as a type in the Special Provisions.

Windrow. Mustard that is swathed and placed in a row.

2. Unit Division

In addition to the requirements of section 34 of the Basic Provisions, optional units may also be established by type, if types are designated on the Special Provisions.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

(a) In addition to the requirements of section 3 of the Basic Provisions, you may select only one base contract price percentage for all the mustard in the county insured under this policy unless the Special Provisions allow different base contract prices by type.

(b) If base contract prices are allowed by type, you can select one base contract price for each type designated in the Special Provisions. The base contract prices you choose must have the same percentage relationship to the base contract price (maximum price) offered for each type. For example, if you choose 100 percent of the maximum price for a specific type, you must also choose 100 percent of the maximum price for all other types.

(c) If there are multiple base contract prices within the same unit, each will be considered a separate price election that will be multiplied by the number of insurable acres under applicable

processor contract. These amounts will be totaled to determine the premium, liability, and indemnity for the unit.

(d) To determine the total production guarantee, apply the lesser of the:

(1) Contracted acres multiplied by the production guarantee (per acre);

(2) Planted acres multiplied by the production guarantee (per acre);

(3) Total production stated in the contract; or

(4) For acreage and production contracts only, the contracted acres multiplied by the contracted production (per acre).

4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are March 15.

6. Report of Acreage

In addition to the provisions in section 6 of the Basic Provisions, you must provide a copy of all processor contracts to us on or before the acreage reporting date.

7. Insured Crop

(a) In accordance with section 8 of the Basic Provisions, the crop insured will be all mustard in the county for which a premium rate is provided by the actuarial table:

(1) In which you have a share;

(2) That is planted for harvest as seed;

(3) That is grown under, and in accordance with, the requirements of a processor contract executed on or before the acreage reporting date and is not excluded from the processor contract at any time during the crop year; and

(4) That is not, unless allowed by the Special Provisions or by written agreement:

(i) Interplanted with another crop; or

(ii) Planted into an established grass or legume; or

(iii) Planted following the harvest of any other crop in the same crop year.

(b) You will be considered to have a share in the insured crop if, under the processor contract, you retain control of the acres on which the mustard is grown, your income from the insured crop is dependent on the amount of production delivered, and the processor contract provides for delivery of the mustard under specified conditions and at a stipulated base contract price.

(c) A commercial mustard producer who is also a processor may establish an insurable interest if the following requirements are met:

(1) The producer must comply with these Crop Provisions;

(2) Prior to the sales closing date, the Board of Directors or officers of the processor must execute and adopt a resolution that contains the same terms as an acceptable processor contract. Such resolution will be considered a processor contract under this policy; and

(3) Our inspection reveals that the processing facilities comply with the definition of a processor contained in these Crop Provisions.

8. Insurable Acreage

In addition to the provisions of section 9 of the Basic Provisions:

(a) Any acreage of the insured crop that is damaged before the final planting date, to the extent that a majority of producers in the area would not normally further care for the crop, must be replanted unless we agree that it is not practical to replant.

(b) We will not insure any acreage that does not meet the rotation requirements, if applicable, contained in the Special Provisions.

(c) Insurable acreage will be:

(1) For acreage only based processor contracts and acreage and production based processor contracts which specify a maximum number of acres, the lesser of:

(i) The planted acres; or

(ii) The maximum number of acres specified in the contract;

(2) For production only based processor contracts, the lesser of:

(i) The number of acres determined by dividing the production stated in the processor contract by the approved yield; or

(ii) The planted acres.

9. Insurance Period

In accordance with the provisions of section 11 of the Basic Provisions, the end of the insurance period is October 31 of the calendar year in which the crop is normally harvested unless otherwise stated in the Special Provisions.

10. Causes of Loss

In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss which occur during the insurance period:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage due to insufficient or improper application of pest control measures;

(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption; and

(h) Failure of the irrigation water supply, if applicable, caused by a cause of loss specified in section 10(a) through (g) that occurs during the insurance period.

11. Replanting Payment

(a) In accordance with section 13 of the Basic Provisions, a replanting payment is allowed if the insured crop is damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage, and it is practical to replant or we require you to replant in accordance with section 8(a).

(b) The maximum amount of the replanting payment per acre will be the lesser of 20 percent of the production guarantee (per acre) or 175 pounds, multiplied by the base contract price applicable to the acreage to be replanted, multiplied by your insured share.

(c) When the mustard is replanted using a practice that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment that is attributable to your share. The premium amount will not be reduced.

12. Duties In The Event of Damage or Loss

In accordance with the requirements of section 14 of the Basic Provisions, the representative samples of the unharvested crop that we may require must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

13. Settlement of Claim

(a) We will determine your loss on a unit basis.

(1) In the event you are unable to provide separate acceptable production records:

(i) For any optional units, we will combine all optional units for which acceptable production records were not provided; or

(ii) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(2) For any processor contract that stipulates only the amount of production to be delivered, and not withstanding the provisions of this section or any unit division provisions contained in the Basic Provisions, no

indemnity will be paid for any loss of production on any unit if the insured produced a crop sufficient to fulfill the processor contract(s) forming the basis of the insurance guarantee

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insurable acreage of each type, if applicable, determined in accordance with section 8(c), by its respective production guarantee (per acre);

(2) Multiplying each result in section 13(b)(1) by the respective base contract price for each type, if applicable;

(3) Totaling the results in section 13(b)(2);

(4) Multiplying the production to be counted for each type, if applicable (see section 13(c), by its respective base contract price (If you have multiple processor contracts with varying base contract prices within the same unit, we will value your production to count by using your highest base contract price first and will continue in decreasing order to your lowest base contract price based on the amount of production insured at each base contract price);

(5) Totaling the results in section 13(b)(4);

(6) Subtracting the total in section 13(b)(5) from the total in section 13(b)(3); and

(7) Multiplying the result in section 13(b)(6) by your share.

Example # 1 (with one base contract price for the unit):

You have 100 percent share in 20 acres of mustard in a unit with a 650-pound production guarantee (per acre) and a base contract price of $0.15 per pound. Due to insurable causes, you are only able to harvest 10,000 pounds and there is no appraised production. Your indemnity would be calculated as follows:

(1) 20 acres × 650 pounds = 13,000 pound production guarantee;

(2) 13,000 pounds × $0.15 base contract price = $1,950 value of guarantee;

(3) $1,950 total value of guarantee;

(4) 10,000 pounds × $0.15 base contract price = $1,500 value of production to count;

(5) $1,500 total value of production to count;

(6) $1,950 − $1,500 = $450 loss; and

(7) $450 × 100 percent = $450 indemnity payment.

Example # 2 (with two base contract prices for the same unit):

You have 100 percent share in 20 acres of mustard in a unit with a 650-pound production guarantee (per acre), 10 acres with a base contract price of $0.15 per pound, and 10 acres with a base contract price of $0.10 per pound. Due to insurable causes, you are only able to harvest 8,500 pounds and there is no appraised production. Your indemnity would be calculated as follows:

(1) 10 acres × 650 pounds = 6,500-pound production guarantee × $0.15 base contract price = $975 value guarantee;

(2) 10 acres × 650 pounds = 6,500-pound production guarantee × $0.10 base contract price = $650 value guarantee;

(3) $975 + $650 = $1,625 total value guarantee;

(4) 6,500 pounds of production to count × $0.15 base contract price (higher base contract price) = $975 value of production to count;

(5) 2,000 pounds of production to count × $0.10 base contract price (lower base contract price) = $200 value of production to count;

(6) $975 + $200 = $1,175 total value of production to count;

(7) $1,625 total value guarantee—$1,175 total value of production to count = $450 loss; and

(8) $450 × 100 percent = $450 indemnity payment.

(c) The total production to count (in pounds) from all insurable acreage in the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee (per acre) for acreage:

(A) That is abandoned;

(B) That is put to another use without our consent;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide acceptable production records;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 13(d)); and

(iv) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count.); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested;

(2) All harvested production from the insurable acreage; and

(3) Any other uninsurable mustard production that is delivered to fulfill the processor contract.

(d) Mature mustard may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable, it will be made prior to any adjustment for quality.

(1) Mustard production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of 10.0 percent. We may obtain samples of the production to determine the moisture content.

(2) Mustard production will be eligible for quality adjustment only if:

(i) Deficiencies in quality result in the mustard not meeting the requirements for acceptance under the processor contract because of damaged seeds (excluding heat damage), or a musty, sour, or commercially objectionable foreign odor; or

(ii) Substances or conditions are present that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss in mustard production only if:

(i) The deficiencies, substances, or conditions specified in section 13(d)(2) resulted from a cause of loss specified in section 10 that occurs within the insurance period; and

(ii) The deficiencies, substances, or conditions specified in section 13(d)(2) result in a salvage price less than the base contract price; and

(iii) All determinations of these deficiencies, substances, or conditions specified in section 13(d)(2) are made using samples of the production obtained by us, by the processor identified in the processor contract for the insured acreage, or by a disinterested third party approved by us; and

(iv) The samples are analyzed by a grader in accordance with the Directive for Inspection of Mustard Seed, provided by the Federal Grain Inspection Service or such other directive or standards that may be issued by FCIC.

(4) Mustard production that is eligible for quality adjustment, as specified in sections 13(d)(2) and (3), will be reduced by multiplying the quality adjustment factors contained in the Special Provisions (if quality adjustment factors are not contained in the Special Provisions, the quality adjustment factor is determined by dividing the salvage price by the base contract price (not to exceed 1.000)) by the number of pounds remaining after any reduction due to excessive moisture (the moisture-adjusted gross pounds) of the damaged or conditioned production.

(i) The salvage price will be determined at the earlier of the date such quality adjusted production is sold or the date of final inspection for the unit subject to the following conditions:

(A) Discounts used to establish the salvage price will be limited to those that are usual, customary, and reasonable.

(B) The salvage price will not include any reductions for:

(1) Moisture content;

(2) Damage due to uninsured causes;

(3) Drying, handling, processing, or any other costs associated with normal harvesting, handling, and marketing of the mustard; except, if the salvage price can be increased by conditioning, we may reduce the salvage price, after the production has been conditioned, by the cost of conditioning but not lower than the salvage price before conditioning; and

(i) We may obtain salvage prices from any buyer of our choice. If we obtain salvage prices from one or more buyers located outside your local market area, we will reduce such price by the additional costs required to deliver the mustard to those buyers.

(ii) Factors not associated with grading under the Directive for Inspection of Mustard Seed, provided by the Federal Grain Inspection Service or such other directive or standards that may be issued by FCIC including, but not limited to, protein and oil will not be considered.

(e) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on an unadjusted weight basis.

14. Late Planting

In lieu of section 16(a) of the Basic Provisions, the production guarantee (per acre) for each acre planted to the insured crop during the late planting period will be reduced by 1 percent per day for each day planted after the final planting date, unless otherwise specified in the Special Provisions.

15. Prevented Planting

In addition to the provisions contained in section 17 of the Basic Provisions, your prevented planting coverage will be 60 percent of your production guarantee (per acre) for timely planted acreage. When a portion of the insurable acreage within the unit is prevented from being planted, and there is more than one base contract price applicable to acreage in the unit, the lowest base contract price will be used in calculating any prevented planting payment. If you have limited or additional levels of coverage, as specified in 7 CFR part 400, subpart T, and pay an additional premium, you may increase your prevented planting coverage to the levels specified in the actuarial documents.

Signed in Washington, DC, on February 20, 2008.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E8–3963 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. AMS–FV–07–0119; FV07–930–3 FR]

Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 2007–2008 Crop Year for Tart Cherries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes final free and restricted percentages for 2007–2008 crop year tart cherries covered under the Federal marketing order regulating tart cherries grown in seven states (order). The percentages are 57 percent free and 43 percent restricted and will establish the proportion of cherries from the 2007 crop which may be handled in commercial outlets. The percentages are intended to stabilize supplies and prices, and strengthen market conditions. The percentages were recommended by the Cherry Industry Administrative Board (Board), the body that locally administers the order. The order regulates the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.

DATES: *Effective Date:* March 4, 2008. This final rule applies to all 2007–2008 crop year restricted cherries until they are properly disposed of in accordance with marketing order requirements.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, DC Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Unit 155, 4700 River Road, Riverdale, MD 20737; telephone: (301) 734–5243, Fax: (301) 734–5275; e-mail *Patricia.Petrella@usda.gov* or *Kenneth.Johnson@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 930 (7 CFR part 930), regulating the handling of tart cherries produced in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order provisions now in effect, final free and restricted percentages may be established for tart cherries handled by handlers during the crop year. This final rule establishes final free and restricted percentages for tart cherries for the 2007–2008 crop year, beginning July 1, 2007, through June 30, 2008. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection

with the order is not in accordance with law and request a modification of the order or to be exempt therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The order prescribes procedures for computing an optimum supply and preliminary and final percentages that establish the amount of tart cherries that can be marketed throughout the season. The regulations apply to all handlers of tart cherries that are in the regulated districts within the production area. Tart cherries in the free percentage category may be shipped immediately to any market, while restricted percentage tart cherries must be held by handlers in a primary or secondary reserve, or be diverted in accordance with § 930.59 of the order and § 930.159 of the regulations, or used for exempt purposes (to obtain diversion credit) under § 930.62 of the order and § 930.162 of the regulations. The regulated districts for the 2007–2008 season are: District one—Northern Michigan; District two—Central Michigan; District four—New York; District seven—Utah; and District eight—Washington. Districts three, five, and six (Southwest Michigan, Oregon, and Pennsylvania, respectively) will not be regulated for the 2007–2008 season.

The order prescribes under § 930.52 that those districts to be regulated shall be those districts in which the average annual production of cherries over the prior three years has exceeded six million pounds. A district not meeting the six million-pound requirement shall not be regulated in such crop year. Because this requirement was not met in the districts of Southwest Michigan, Oregon, and Pennsylvania, handlers in those districts would not be subject to volume regulation during the 2007–2008 crop year.

Demand for tart cherries at the farm level is derived from the demand for tart cherry products at retail. Demand for tart cherries and tart cherry products tend to be relatively stable from year to year. The supply of tart cherries, by contrast, varies greatly from crop year to crop year. The magnitude of annual fluctuations in tart cherry supplies is one of the most pronounced for any agricultural commodity in the United States. In addition, since tart cherries are processed either into cans or frozen, they can be stored and carried over from crop year to crop year. This creates substantial coordination and marketing problems. The supply and demand for tart cherries is rarely balanced. The primary purpose of setting free and restricted percentages is to balance supply with demand and reduce large surpluses that may occur.

Section 930.50(a) of the order prescribes procedures for computing an optimum supply for each crop year. The Board must meet on or about July 1 of each crop year, to review sales data, inventory data, current crop forecasts and market conditions. The optimum supply volume is calculated as 100 percent of the average sales of the prior three years to which is added a desirable carryout inventory not to exceed 20 million pounds or such other amount as may be established with the approval of the Secretary. The optimum supply represents the desirable volume of tart cherries that should be available for sale in the coming crop year.

The order also provides that on or about July 1 of each crop year, the Board is required to establish preliminary free and restricted percentages. These percentages are computed by deducting the actual carryin inventory from the optimum supply figure (adjusted to raw product equivalent—the actual weight of cherries handled to process into cherry products) and subtracting that figure from the current year's USDA crop forecast or by an average of such other crop estimates the Board votes to use. If the resulting number is positive, this represents the estimated over-production, which would be the restricted tonnage. The restricted tonnage is then divided by the sum of the crop forecast(s) for the regulated districts to obtain percentages for the regulated districts. The Board is required to establish a preliminary restricted percentage equal to the quotient, rounded to the nearest whole number, with the complement being the preliminary free tonnage percentage. If the tonnage requirements for the year are more than the USDA crop forecast, the Board is required to establish a preliminary free tonnage percentage of 100 percent and a preliminary restricted percentage of zero. The Board is required to announce the preliminary percentages in accordance with paragraph (h) of § 930.50.

The Board met on June 21, 2007, and computed, for the 2007–2008 crop year, an optimum supply of 175 million pounds. The Board recommended that the desirable carryout figure be zero pounds. Desirable carryout is the amount of fruit required to be carried into the succeeding crop year and is set by the Board after considering market circumstances and needs. This figure can range from zero to a maximum of 20 million pounds.

The Board calculated preliminary free and restricted percentages as follows: The USDA estimate of the crop for the entire production area was 294 million pounds; a 42 million pound carryin (based on Board estimates) was subtracted from the optimum supply of 175 million pounds which resulted in the 2007–2008 poundage requirements (adjusted optimum supply) of 133 million pounds. The carryin figure reflects the amount of cherries that handlers actually had in inventory at the beginning of the 2007–2008 crop year. Subtracting the adjusted optimum supply of 133 million pounds from the USDA crop estimate (294 million pounds) leaves a surplus of 161 million pounds of tart cherries. Subtracting an additional 12 million pounds for USDA purchases of tart cherry products from the 2006–07 crop but not delivered until 2007 results in a final surplus of 149 million pounds of tart cherries. The surplus (149 million pounds) was divided by the production in the regulated districts (289 million pounds) and resulted in a restricted percentage of 52 percent for the 2007–2008 crop year. The free percentage was 48 percent (100 percent minus 52 percent). The Board established these percentages and announced them to the industry as required by the order.

The preliminary percentages were based on the USDA production estimate and the following supply and demand information available at the June meeting for the 2007–2008 year:

	Millions of pounds
Optimum Supply Formula:	
(1) Average sales of the prior three years	175
(2) Plus desirable carryout	0
(3) Optimum supply calculated by the Board at the June meeting	175

		Millions of pounds
Preliminary Percentages:		
(4) USDA crop estimate		294
(5) Carryin held by handlers as of July 1, 2007		42
(6) Adjusted optimum supply for current crop year (Item 3 minus Item 5)		133
(7) Surplus (Item 4 minus Item 6)		161
(8) Subtract pounds for USDA purchases		12
(9) Surplus (Item 7 minus Item 8)		149
(10) USDA crop estimate for regulated districts		289
Percentages	Free	Restricted
(11) Preliminary percentages (Item 9 divided by Item 10 × 100 equals restricted percentage; 100 minus restricted percentage equals free percentage	48	52

Between July 1 and September 15 of each crop year, the Board may modify the preliminary free and restricted percentages by announcing interim free and restricted percentages to adjust to the actual pack occurring in the industry.

The Secretary establishes final free and restricted percentages through the informal rulemaking process. These percentages will make available the tart cherries necessary to achieve the optimum supply figure calculated by the Board. The difference between any final free percentage designated by the Secretary and 100 percent is the final restricted percentage. The Board met on September 6, 2007, to recommend final free and restricted percentages.

The actual production reported by the Board was 248 million pounds, which is a 46 million pound decrease from the USDA crop estimate of 294 million pounds.

A 39 million pound carryin (based on handler reports) was subtracted from the optimum supply of 174 million pounds, yielding an adjusted optimum supply for the 2007–2008 crop year of 135 million pounds. Subtracting the adjusted optimum supply of 135 million pounds from the USDA crop estimate (248 million pounds) and subtracting 12 million pounds for USDA purchases of tart cherry products from the 2006–07 crop but not delivered until 2007 results in a surplus of 101 million pounds of tart cherries. The surplus was divided by the production in the regulated districts (236 million pounds) and resulted in a restricted percentage of 43 percent for the 2007–2008 crop year. The free percentage was 57 percent (100 percent minus 43 percent).

The final percentages are based on the Board's reported production figures and the following supply and demand information available in September for the 2007–2008 crop year:

		Millions of pounds
Optimum Supply Formula:		
(1) Average sales of the prior three years		174
(2) Plus desirable carryout		0
(3) Optimum supply calculated by the Board		174
Final Percentages:		
(4) Board reported production		248
(5) Plus carryin held by handlers as of July 1, 2007		39
(6) Subtract USDA committed sales		12
(7) Tonnage available for current crop year		275
(8) Surplus (item 7 minus item 3)		101
(9) Production in regulated districts		236
Percentages	Free	Restricted
(10) Final Percentages (item 8 divided by item 9 × 100 equals restricted percentage; 100 minus restricted percentage equals free percentage)	57	43

USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. This goal will be met by the establishment of a final percentage which releases 100 percent of the optimum supply and the additional release of tart cherries provided under § 930.50(g). This release of tonnage, equal to 10 percent of the average sales of the prior three years sales, is made available to handlers each season. The Board recommended that such release should be made available to handlers the first week of December and the first week of May. Handlers can decide how much of the 10 percent release they would like to receive on the December and May release dates. Once released, such cherries are released for free use by such handler. Approximately 17 million pounds will be made available to handlers this season in accordance with Department Guidelines. This release will be made available to every handler and released to such handler in proportion to the handler's percentage of the total regulated crop handled. If a handler does not take his/her proportionate amount, such amount remains in the inventory reserve.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 40 handlers of tart cherries who are subject to regulation under the tart cherry marketing order and approximately 900 producers of tart cherries in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $6,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. A majority of the producers and handlers are considered small entities under SBA's standards.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced, and pureed. During the period 2002/03 through 2006/07, approximately 97.9 percent of the U.S. tart cherry crop, or 202.9 million pounds, was processed annually. Of the 202.9 million pounds of tart cherries processed, 63.5 percent was frozen, 23.8 percent was canned, and 12.7 percent was utilized for juice and other products.

Based on National Agricultural Statistics Service data, acreage in the United States devoted to tart cherry production has been trending downward. Bearing acreage has declined from a high of 50,050 acres in 1987/88 to 35,800 acres in 2006/07. This represents a 29 percent decrease in total bearing acres. Michigan leads the nation in tart cherry acreage with 70 percent of the total and produces about 75 percent of the U.S. tart cherry crop each year.

The 2007/08 crop is moderate in size at 248 million pounds. The largest crop occurred in 1995 with production in the regulated districts reaching a record 395.6 million pounds. The price per pound received by tart cherry growers ranged from a low of 5.6 cents in 1995 to a high of 46.4 cents in 1991. These problems of wide supply and price fluctuations in the tart cherry industry are national in scope and impact. Growers testified during the order promulgation process that the prices they received often did not come close to covering the costs of production.

The industry demonstrated a need for an order during the promulgation process of the marketing order because large variations in annual tart cherry supplies tend to lead to fluctuations in prices and disorderly marketing. As a result of these fluctuations in supply and price, growers realize less income. The industry chose a volume control marketing order to even out these wide variations in supply and improve returns to growers. During the promulgation process, proponents testified that small growers and processors would have the most to gain from implementation of a marketing order because many such growers and handlers had been going out of business due to low tart cherry prices. They also testified that, since an order would help increase grower returns, this should increase the buffer between business success and failure because small growers and handlers tend to be less capitalized than larger growers and handlers.

Aggregate demand for tart cherries and tart cherry products tends to be relatively stable from year-to-year. Similarly, prices at the retail level show minimal variation. Consumer prices in grocery stores, and particularly in food service markets, largely do not reflect fluctuations in cherry supplies. Retail demand is assumed to be highly inelastic which indicates that price reductions do not result in large increases in the quantity demanded. Most tart cherries are sold to food service outlets and to consumers as pie filling; frozen cherries are sold as an ingredient to manufacturers of pies and cherry desserts. Juice and dried cherries are expanding market outlets for tart cherries.

Demand for tart cherries at the farm level is derived from the demand for tart cherry products at retail. In general, the farm-level demand for a commodity consists of the demand at retail or food service outlets minus per-unit processing and distribution costs incurred in transforming the raw farm commodity into a product available to consumers. These costs comprise what is known as the ''marketing margin.''

The supply of tart cherries, by contrast, varies greatly. The magnitude of annual fluctuations in tart cherry supplies is one of the most pronounced for any agricultural commodity in the United States. In addition, since tart cherries are processed either into cans or frozen, they can be stored and carried over from year-to-year. This creates substantial coordination and marketing problems. The supply and demand for tart cherries is rarely in equilibrium. As a result, grower prices fluctuate widely, reflecting the large swings in annual supplies.

In an effort to stabilize prices and supplies, the tart cherry industry uses the volume control mechanisms under the authority of the Federal marketing order. This authority allows the industry to set free and restricted percentages. These restricted percentages are only applied to states or districts with a 3-year average of production greater than six million pounds, and to states or districts in which the production is 50 percent or more of the previous 5-year processed production average.

The primary purpose of setting restricted percentages is an attempt to bring supply and demand into balance. If the primary market is over-supplied with cherries, grower prices decline substantially.

The tart cherry sector uses an industry-wide storage program as a supplemental coordinating mechanism under the Federal marketing order. The primary purpose of the storage program is to warehouse supplies in large crop years in order to supplement supplies in short crop years. The storage approach is feasible because the increase in price—when moving from a large crop to a short crop year—more than offsets the costs for storage, interest, and handling of the stored cherries.

The price that growers receive for their crop is largely determined by the total production volume and carry-in inventories. The Federal marketing order permits the industry to exercise supply control provisions, which allow for the establishment of free and restricted percentages for the primary market, and a storage program. The establishment of restricted percentages impacts the production to be marketed in the primary market, while the storage program has an impact on the volume of unsold inventories.

The volume control mechanism used by the cherry industry results in decreased shipments to primary markets. Without volume control the primary markets (domestic) would likely be over-supplied, resulting in lower grower prices.

To assess the impact that volume control has on the prices growers receive for their product, an econometric model has been developed. The econometric model provides a way to see what impacts volume control may have on grower prices. The two districts in Michigan, along with the districts in Utah, New York, Washington, and Wisconsin are the restricted areas for this crop year and their combined total production is 236 million pounds. A 43 percent restriction means 186 million

pounds is available to be shipped to primary markets.

In addition, USDA requires a 10 percent release from reserves as a market growth factor. This results in an additional 17 million pounds being available for the primary market. The 135 million pounds from the two regulated districts in Michigan, Utah, Washington, New York, and Wisconsin, the 12.3 million pounds from the other producing states, the 17 million pound release, and the 39 million pound carry-in inventory gives a total of 203 million pounds being available for the primary markets.

The econometric model is used to estimate grower prices with and without regulation. With the volume controls, grower prices are estimated to be approximately $0.12 higher than without volume controls.

The use of volume controls is estimated to have a positive impact on growers' total revenues. With regulation, growers' total revenues from processed cherries are estimated to be $10.1 million higher than without restrictions. The without restrictions scenario assumes that all tart cherries produced would be delivered to processors for payments.

It is concluded that the 43 percent volume control would not unduly burden producers, particularly smaller growers. The 43 percent restriction would be applied to the growers in the two districts in Michigan, New York, Utah, Washington, and Wisconsin. The growers in the other two states and the one district in Michigan covered under the marketing order will benefit from this restriction.

The use of volume controls is believed to have little or no effect on consumer prices and will not result in fewer retail sales or sales to food service outlets.

Without the use of volume controls, the industry could be expected to start to build large amounts of unwanted inventories. These inventories have a depressing effect on grower prices. The econometric model shows for every 1 million-pound increase in carryin inventories, a decrease in grower prices of $0.0033 per pound occurs. The use of volume controls allows the industry to supply the primary markets while avoiding the disastrous results of over-supplying these markets. In addition, through volume control, the industry has an additional supply of cherries that can be used to develop secondary markets such as exports and the development of new products. The use of reserve cherries in the production shortened 2002–2003 crop year proved to be very useful and beneficial to growers and packers.

In discussing the possibility of marketing percentages for the 2007–2008 crop year, the Board considered the following factors contained in the marketing policy: (1) The estimated total production of tart cherries; (2) the estimated size of the crop to be handled; (3) the expected general quality of such cherry production; (4) the expected carryover as of July 1 of canned and frozen cherries and other cherry products; (5) the expected demand conditions for cherries in different market segments; (6) supplies of competing commodities; (7) an analysis of economic factors having a bearing on the marketing of cherries; (8) the estimated tonnage held by handlers in primary or secondary inventory reserves; and (9) any estimated release of primary or secondary inventory reserve cherries during the crop year.

The Board's review of the factors resulted in the computation and announcement in September 2007 of the free and restricted percentages established by this rule (57 percent free and 43 percent restricted).

One alternative to this action would be not to have volume regulation this season. Board members stated that no volume regulation would be detrimental to the tart cherry industry due to the size of the 2007–2008 crop. Returns to growers would not cover their costs of production for this season which might cause some to go out of business.

As mentioned earlier, the Department's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. The quantity available under this rule is 110 percent of the quantity shipped in the prior three years. The free and restricted percentages established by this rule release the optimum supply and apply uniformly to all regulated handlers in the industry, regardless of size. There are no known additional costs incurred by small handlers that are not incurred by large handlers. The stabilizing effects of the percentages impact all handlers positively by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all producers by allowing them to better anticipate the revenues their tart cherries will generate.

While the benefits resulting from this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain markets even though tart cherry supplies fluctuate widely from season to season.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this regulation.

In addition, the Board's meeting was widely publicized throughout the tart cherry industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the September 6, 2007, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the information collection and recordkeeping requirements under the tart cherry marketing order have been previously approved by OMB and assigned OMB Number 0581–0177, Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin.

Reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other, similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This rule does not change those requirements.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services and for other purposes.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A proposed rule concerning this action was published in the **Federal Register** on December 11, 2007 (72 FR

70240). Copies of the rule were mailed or sent via facsimile to all Board members and tart cherry handlers. Finally, the rule was made available through the Internet by USDA and the Office of the Federal Register. A 30-day comment period ending on January 10, 2008, was provided to allow interested persons to respond to the proposal. No comments were received.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are already shipping tart cherries from the 2007–2008 crop and handlers need to be aware of this action as soon as possible. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule and no comments were received.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

■ For the reasons set forth in the preamble, 7 CFR part 930 is amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

■ 1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 930.256 is added to read as follows:

Note: This section will not appear in the Annual Code of Federal Regulations.

§ 930.256 Final free and restricted percentages for the 2007–2008 crop year.

The final percentages for tart cherries handled by handlers during the crop year beginning on July 1, 2007, which shall be free and restricted, respectively, are designated as follows: Free percentage, 57 percent and restricted percentage, 43 percent.

Dated: February 27, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–4008 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. AO–192–A7; AMS–FV–07–0004; FV06–984–1]

Walnuts Grown in California; Order Amending Marketing Order and Agreement No. 984

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the marketing order for walnuts grown in California. The amendments were proposed by the Walnut Marketing Board (Board), which is responsible for local administration of the order. The amendments will: Change the marketing year; include ''pack'' as a handler function; restructure the Board and revise nomination procedures; rename the Board and add authority to change Board composition; modify Board meeting and voting procedures; add authority for marketing promotion and paid advertising; add authority to accept voluntary financial contributions and to carry over excess assessment funds; broaden the scope of the quality control provisions and add the authority to recommend different regulations for different market destinations; add authority for the Board to appoint more than one inspection service; replace outdated order language with current industry terminology; and other related amendments.

The Department of Agriculture (USDA) proposed three additional amendments: To establish tenure limitations for Board members, to require that continuance referenda be conducted on a periodic basis to ascertain producer support for the order, and to make any necessary conforming changes.

With the exception of the amendment to establish tenure limitations, all of the amendments were favored by walnut growers in a mail referendum, held August 1 through 17, 2007. The proposed amendments are intended to improve the operation and functioning of the marketing order program.

DATES: This rule is effective April 2, 2008, except for amendments to §§ 984.7, 984.13, 984.14, 984.15, 984.21, 984.22, 984.42, 984.46, 984.48, 984.50, 984.51, 984.52, 984.59, 984.67, 984.69, 984.70, 984.71, 984.73 and 984.89, which are effective September 1, 2008.

FOR FURTHER INFORMATION CONTACT: Melissa Schmaedick, Marketing Order Administration Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, Northwest Marketing Field Office, 1220 S.W. Third Avenue, Room 385, Portland, Oregon 97204; telephone: (503) 326–2724, Fax: (503) 326–7440, or e-mail: *Melissa.Schmaedick@usda.gov.*

Small businesses may request information on this proceeding by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, fax: (202) 720–8938.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on April 18, 2006, and published in the April 24, 2006, issue of the **Federal Register** (71 FR 20902); a Recommended Decision issued on March 19, 2007, and published in the March 27, 2007, issue of the **Federal Register** (72 FR 14368); and Secretary's Decision and Referendum Order issued on July 9, 2007, and published in the July 13, 2007 issue of the **Federal Register** (72 FR 38498).

This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866.

Preliminary Statement

This final rule was formulated on the record of a public hearing held on May 17 and 18, 2006, in Modesto, California. Notice of this hearing was issued April 18, 2006 and published in the **Federal Register** on April 24, 2006 (71 FR 420902). The hearing was held to consider the proposed amendment of Marketing Order 984, hereinafter referred to as the ''order.''

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), hereinafter referred to as the ''Act,'' and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The notice of hearing contained order changes proposed by the Walnut Marketing Board (Board), which is responsible for local administration of the order, and by the Agricultural Marketing Service (AMS).

Upon the basis of evidence introduced at the hearing and the record

thereof, the Administrator of AMS on March 19, 2007, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision and Opportunity to File Written Exceptions thereto by April 16, 2007. Fifteen exceptions were filed during the exception period.

A Secretary's Decision and Referendum Order was issued on July 9, 2007, directing that a referendum be conducted during the period August 1 through 17, 2007, among walnut growers to determine whether they favored the proposed amendments to the order. To become effective, the amendments had to be approved by at least two-thirds of those producers voting or by voters representing at least two-thirds of the volume of walnuts represented by voters voting in the referendum. Voters voting in the referendum favored all but one of the proposed amendments.

The amendments favored by voters and included in this order will:

1. Change the marketing year from August 1 through July 31 to September 1 through August 31. This will amend § 984.7, Marketing year, and will result in conforming changes being made to § 984.36, Term of office, and § 984.48, Marketing estimates and recommendations.

2. Specify that the act of packing walnuts is considered a handling function. This will amend § 984.13, To handle, as well as clarify the definition of ''pack'' in § 984.15 by including the term ''shell'' as a function of ''pack.''

3. (a) Amend all parts of the order that refer to cooperative seats on the Board, redistribute member seats among districts, and provide designated seats for a handler handling 35 percent or more of production, if such handler exists. This will amend § 984.35, Walnut Marketing Board, and § 984.14, Handler.

3. (b) Amend the Board member nomination process to reflect proposed changes in the Board structure, as outlined in 3(a). This will amend § 984.37, Nominations, and § 984.40, Alternate.

4. Require Board nominees to submit a written qualification and acceptance statement prior to selection by USDA. This will amend § 984.39, Qualify by acceptance.

5. Change the name of the Walnut Marketing Board to the California Walnut Board. This will amend § 984.6, Board, and § 984.35, Walnut Marketing Board.

6. Add authority to reestablish districts, reapportion members among districts, and revise groups eligible for representation on the Board. This will add a new paragraph (d) to § 984.35, Walnut Marketing Board.

7. Add percentage requirements to Board quorum and voting requirements, add authority for the Board to vote by ''any other means of communication'' (including facsimile) and add authority for Board meetings to be held by telephone or by ''any other means of communication'', providing that all votes cast at such meetings shall be confirmed in writing. This will amend § 984.45, Procedure, and will result in a conforming change in § 984.48 (a), Marketing estimates and recommendations.

8. Add authority to carry over excess assessment funds. This will amend § 984.69, Assessments.

9. Add authority to accept voluntary financial contributions. This will add a new § 984.70, Contributions.

10. Clarify that members and alternate members may be reimbursed for expenses incurred while performing their duties and that reimbursement includes per diem. This will amend § 984.42, Expenses.

11. Add authority for the Board to appoint more than one inspection service as long as the functions performed by each service are separate and do not duplicate each other. This will amend § 984.51, Inspection and certification of inshell and shelled walnuts.

12. (a) Broaden the scope of the quality control provisions and by adding authority to recommend different regulations for different market destinations. This will amend § 984.50, Grade and size regulations.

12. (b) Add authority that would allow for shelled walnuts to be inspected after having been sliced, chopped, ground, or in any other manner changed from shelled walnuts, if regulations for such walnuts are in effect. This will amend § 984.52, Processing of shelled walnuts.

13. Add authority for marketing promotion and paid advertising. This will amend § 984.46, Research and development.

14. Replace the terms ''carryover'' with ''inventory,'' and ''mammoth'' with ''jumbo,'' to reflect current day industry practices. This will amend § 984.21, Handler inventory, and § 984.67, Exemption, and will also result in conforming changes being made to § 984.48, Marketing estimates and recommendations, and § 984.71, Reports of handler carryover.

15. (a) Clarify and simplify the interhandler transfer provision, and add authority for the Board to recommend to USDA regulations, including necessary reports, for administrative oversight of such transfers. This will amend § 984.59, Interhandler transfers.

15. (b) Clarify that the Board may require reports from handlers or packers that place California walnuts into the stream of commerce. This will amend § 984.73, Reports of walnut receipts.

16. Update and simplify the language in § 984.22, Trade demand, to state ''United States and its territories,'' rather than name ''Puerto Rico'' and ''The Canal Zone''.

17. Add language to the order that would acknowledge that the Board may deliberate, consult, cooperate, and exchange information with the California Walnut Commission. Any information sharing would be kept confidential. This will add a new § 984.91, Relationship with the California Walnut Commission.

18. Require that continuance referenda be conducted on a periodic basis to ascertain industry support for the order and add more flexibility in the termination provisions. This will amend § 984.89, Effective time and termination.

The USDA proposal to authorize limitations on tenure failed to obtain the requisite number of votes needed, in number or in volume, to pass.

Conforming changes were made to the extent necessary. The amended marketing agreement was subsequently mailed to all walnut handlers in the production area for their approval. The marketing agreement was not approved by handlers representing at least 50 percent of the volume of walnuts handled by all handlers during the representative period of August 1, 2006, through July 31, 2007.

Small Business Consideration

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions so that small businesses will not be unduly or disproportionately burdened. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit.

Small agricultural growers are defined by the Small Business Administration (SBA)(13 CFR 121.201) as those having annual receipts of less than $750,000. Small agricultural service firms, which include handlers regulated under the order, were defined at the time of the hearing as those with annual receipts of

less than $5,000,000. The definition of small agricultural service firm has subsequently changed to one with annual receipts of $6,500,000.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact on growers and handlers of the proposed amendments, and in particular the impact on small businesses. The record evidence shows that the proposed amendments are designed to enhance industry efficiencies and streamline administrative operations of the marketing order. The record evidence is that while some minimal costs may occur, those costs will be outweighed by the benefits expected to accrue to the California walnut industry.

Walnut Industry Background and Overview

According to the record, the California walnut industry currently has 44 handlers and approximately 5,000 producers. The crop is produced in a region that spans approximately 400 miles in California's Central Valley.

Fifteen grower witnesses and 7 handler witnesses testified at the hearing. Using the SBA definition ($750,000 in gross annual walnut sales), 7 of the grower witnesses identified themselves as large business entities and 6 as small business entities. All 7 handler witnesses identified themselves as being large business entities according to the SBA definition. Some of the handler witnesses were also growers. According to witnesses, 37 out of an industry total of 44 handlers would qualify as small business entities under the SBA definition. Also, under the order amendments contained herein, it is estimated that five packers would be considered handlers, the majority of whom would be considered small entities.

Based on information presented at the hearing, calculations describing an average California walnut producer provide the following: Dividing 219,000 bearing acres in 2005 by 5,000 producers indicates an average of 44 bearing acres per producer. Dividing the two-year average crop value for 2003 and 2004 ($414,950,000) by 5,000 producers yields an average walnut revenue per producer estimate of about $83,000. According to the hearing record, more than 70 percent of California walnut producers would be classified as small producers according to the SBA definition.

According to a study presented at the hearing, entitled ''Cost to Produce Walnuts in California'' (prepared by Dr. Karen Klonsky, Department of Agriculture and Resource Economics, University of California Davis, 2006), typical average costs for a walnut orchard in the Sacramento Valley are $2,460 per acre in full production. The costs are broken down as follows: (a) Land and trees, $678 (28 percent), (b) cultural costs, $667 (27 percent), (c) harvest, $538 (22 percent), (d) equipment and buildings, $302 (12%), and (e) cash overhead, $275 (11 percent).

At an average grower price in recent years of $0.62 per pound, a grower would need a yield of 2 tons per acre to break even, according to the study. The breakeven price at the State average yield of 1.5 tons per acre is about $0.70 per pound, which is above the actual price received in most recent years, but equal to the 2004 average price received by growers.

Individual grower costs can vary considerably due to such variables as horticultural practices and varieties grown, and also due to orchard location and year of acquisition, and water availability and cost.

Although a majority of producers are considered small business entities, record evidence also indicates that producer revenue has increased over time. The National Agricultural Statistical Service (NASS) crop value estimate for 2004, $451.75 million, was 38 percent higher than in 1995, and was the sixth successive yearly increase. Average revenue per acre in 2004 reached a record $2,082.

Record evidence also indicates that acreage and production are trending upward. Production did not exceed 300,000 tons until 2001, but has exceeded that level for 4 out of the last 5 years. Witnesses stated that the five-year average production for 1996–2000 was 244,000 tons, compared to the five-year average production (2001–2005), which was 318,600 inshell tons.

According to the hearing record, a number of factors have contributed to increased production in recent years. New acres have been planted at a rate of three to five thousand acres per year, some of which are new varieties with higher yields. Witnesses explained that older varieties may yield 1,500 to 3,000 pounds per acre, due to both planting patterns and the typical yield of the variety. New varieties, such as the Chandler, will yield up to 6,000 pounds per acre. Newer plantings have led to a reduction in the cyclical peaks and valleys associated with the alternate-bearing characteristic of tree nuts. This, in turn, has facilitated better inventory management and has made the walnut industry a more reliable ingredient supplier to the food-processing industry.

According to the hearing record, the growing season commences in March of each year with harvest occurring between September and November, depending upon the variety. Inshell California walnuts are a seasonal item with 95 percent of the volume shipped between the months of September and December. This represents roughly 25 percent of the industry's production. Inshell walnuts are marketed primarily as a winter holiday food. According to the hearing record, the purchase of significant quantities of inshell walnuts occurs due to the tradition in many markets of displaying them with other inshell nuts as part of winter holiday dècor.

Shelled walnuts are marketed on a year-round basis, and represent about 75 percent of utilization. Large handler infrastructure investments have contributed substantially to the growth of the year-round shelled business, as well as the inshell business.

Over the past ten years sophisticated laser-sorting equipment and new varieties such as the Chandler have contributed to improved quality. Higher customer expectations have accompanied the improvements in technology and quality, with more demand for high-quality, high-specification California walnuts. Marketing success in Japan is cited as a prime example of this trend.

According to the hearing record, shelled walnuts are utilized in a variety of ways, with commercial baking believed to be the single largest utilization category. Retail consumption of walnuts packaged for use in the home has increased dramatically over the past several years. Shelled walnuts may be sold in packages ranging from 2.75 ounce retail packages to large bulk containers of 25 pounds or more for industrial users, wholesalers, and distributors. The last 12 years have seen substantial increases in snack food uses of walnuts, in addition to expansion of ingredient use beyond baking and confectionery items to include usage with salads, rice, and pasta.

A high degree of mechanization in the harvest has reduced the deleterious impact on nut quality from rain and other weather conditions. Once harvested, walnuts are taken to holding stations where a fibrous husk is removed, and the walnuts are then dried to approximately eight percent moisture. They are delivered to handlers for further processing, which includes cleaning, sorting, and shelling.

According to the hearing record, California walnuts rank eighth in

exports over all the commodities grown in the state. The top three inshell export markets are Spain, Italy, and Germany. Five-year average export value (2000/01–2004/05) is approximately $52 million, representing 63 percent of total export value for that five-year period. The key export markets for shelled-walnut utilization are: Japan, Germany, Spain, Israel, Korea, and Canada. Five-year average export value for those six countries is $91.8 million, which is about 76 percent of the total value of shelled walnut exports.

California walnuts compete with walnuts grown in China, Turkey, France, Italy, Chile, North Korea, India, Vietnam, Argentina, Brazil, and many areas within the former Soviet Union including Kazakhstan, Ukraine, Hungary, and Moldova. Within the European Union the major competition comes from France and Eastern Europe. In the Pacific Rim, major competitors include China and India.

Material Issues

The amendments included in this final rule will: Change the marketing year; include ''pack'' as a handler function; restructure the Board and revise nomination procedures; rename the Board and add authority to change Board composition; modify Board meeting and voting procedures; add authority for marketing promotion and paid advertising; add authority to accept contributions, and to carry over excess assessment funds; broaden the scope of the quality control provisions and add the authority to recommend different regulations for different market destinations; add authority for the Board to designate more than one inspection service; replace outdated order language with current industry terminology; and other related amendments.

In addition, the order will be amended to require that continuance referenda be conducted on a periodic basis to ascertain industry support for the order and add more flexibility in the termination provisions.

All of the amendments are intended to streamline and improve the administration, operation, and functioning of the program. Many of the amendments will up-date the language of the order, thus better representing and conforming to current practices in the industry. The amendments are not expected to result in any significant cost increases for growers or handlers. More efficient administration of program activities may result in cost savings for the Board. A description of the amendments and their anticipated economic impact on large and small entities is outlined below.

Designation of More Than One Inspection Service

This amendment adds authority to the order for the Board to designate more than one inspection service, as long as the functions performed by each service are separate and do not conflict with each other.

To ensure that walnuts are properly graded and meet marketing order minimum standards, the Board currently arranges for inspection of walnuts prior to shipping for all walnut handlers. The marketing order currently authorizes contracting with one agency, the California based Dried Fruit and Nut Association (DFA).

DFA inspects all walnuts that leave California to certify that they meet marketing order minimum standards. Operating as an out-going inspection service, samples of packed walnuts are examined and certified by licensed DFA inspectors at the end of the handling and packing process.

The following data representing current inspection costs, summarizing actual inspection cost data for 2004–05 for the entire industry (44 handlers), was presented at the hearing by Board representatives. According to the record, the 2004–05 cost to serve the 44 handlers was $1.857 million, which is an average cost of just over $42,000 per handler.

Since inspection costs depend largely on volume handled, the four largest handlers account for $1.282 million, or 69% of total inspection expenditure in the 2004–05 crop year. The 37 smaller handlers account for $412,172 in expenditure, about 22 percent of the total, averaging about $11,000 per handler.

ANNUAL WALNUT INSPECTION COSTS USING DFA, 2004–05 CROP YEAR

	DFA cost	Number of handlers	Average per handler
Largest Handlers	$1,282,362	4	$320,591
Additional Large Handlers	162,487	3	54,162
Other Handlers	412,172	37	11,140
All Handlers	1,857,021	44	42,205

Source: Walnut Marketing Board.

The Federal-State Inspection Service (FSIS) has developed effective, less costly alternative inspection programs.

The Partners in Quality Program, or PIQ, is a documented quality assurance system. Under this program, individual handlers must demonstrate and document their ability to handle and pack product that meets all relevant quality requirements. Effectiveness of the program is verified through periodic, unannounced audits of each handler's system by USDA approved auditors.

Under the Customer Assisted Inspection Program, or CAIP, USDA inspectors oversee the in-line sampling and inspection process performed by trained company staff. USDA oversight ranges from periodic visits throughout the day to a continuous on-site presence.

DFA does not offer inspection services that operate similarly to the PIQ and CAIP programs.

Cost savings will occur by reducing the prevalence of double inspections under the current system. Currently, one inspection is undertaken to meet minimum USDA quality requirements specified in the marketing order. A second inspection is often necessary to meet the considerably higher standards of specific customers. Moving to a PIQ or CAIP program would greatly reduce inspection costs, because meeting higher standards under PIQ or CAIP would also ensure that an inspected lot met minimum marketing order standards.

Witnesses at the hearing testified that the California walnut industry should allow handlers to take advantage of USDA's alternative inspection programs such as the CAIP and the PIQ. Handlers who do not wish to use the alternative inspection services offered by USDA would continue to use the services of the DFA for traditional inspection services, such as end-line and lot inspections.

The amendment also specifies that ''each service shall be separate so as to not conflict with each other'', meaning

that each inspection service will offer distinct and different services (*i.e.* PIQ vs. lot inspections) so that the integrity of both programs will be maintained.

Witnesses speaking in favor of this amendment explained the importance of a handler's ability to take advantage of inspection services that would most economically fit the size and functions of his or her operation. Currently, all walnut product is inspected by DFA. While this inspection service has worked well for the industry for many years, the DFA inspection service does not accommodate inspection procedures that support larger handler economies of scale. Witnesses stated that USDA programs, such as PIQ and CAIP, are designed to fit larger scale handling operations, and therefore offer cost saving advantages that the DFA service does not. This amendment, when implemented, will allow handlers to use the alternative inspection programs offered by USDA.

Several witnesses indicated that lowering costs to handlers will benefit growers because they expect that the cost reduction will be reflected in increased payments to growers.

Financial impact calculations provided by the Board (shown in the table below) indicate that introducing the option of using PIQ or CAIP programs could result in savings of $1.09 million, an average per handler savings of $156,067 for the industry's seven largest handlers. Due to the high volumes handled, most of the savings accrue to the four largest handlers, estimated at $1.05 million, or an average per handler of $263,169.

WALNUT INSPECTION COST COMPARISON: DFA VS. USDA FOR TOP 7 HANDLERS

	DFA	USDA PIQ/CAIP	Cost savings	
			Total	Per handler
Largest 4 Handlers	$1,282,362	$229,688	$1,052,674	$263,169
Additional 3 large handlers	162,487	122,692	39,795	13,265
Largest 7 Handlers	1,444,849	352,380	1,092,469	156,067

Source: Walnut Marketing Board.

Data from NASS indicate that the two-year average value of the 2003 and 2004 crops was about $415 million. The current DFA inspection cost ($1.857 million) represents a very small proportion of crop value, about 0.4 percent. If the largest 7 handlers used USDA for inspection at a cost of $352,380 and the remaining 37 handlers continue to work with DFA at an estimated cost of $412,172, then the combined cost of $764,552 would represent 0.2 percent of the recent-year crop value.

Witnesses emphasized the cost effectiveness of having an additional inspection agency. When implemented, this amendment will facilitate the streamlining of handler operations to utilize the inspection service best suited to their operations.

Since potential savings are correlated with economies of scale, record evidence indicates that PIQ and CAIP programs would be most beneficial for large handlers. It is unlikely that the smaller handlers would initially opt for these programs. Smaller handlers that expand their operations in the future may realize benefits from switching to PIQ or CAIP. Witnesses stated that no change in inspection costs is expected for handlers remaining with traditional DFA inspection services. Therefore, no financial disadvantages are expected to result from this proposed amendment. When implemented, this amendment will likely result in an overall decrease in costs of inspection to the industry.

Inspection of Sliced, Chopped or Ground Shelled Walnuts

This amendment adds authority for shelled walnuts to be inspected after having been sliced, chopped, or ground or in any manner changed from being shelled walnuts, if regulations for such walnuts are in effect.

New walnut products are regularly requested by both domestic and foreign customers. In the last 20 years, the industry has become much more capable of producing at a considerably higher level quality and of developing more specific types of products that meet the differing needs of individual customers. To capitalize on this growing capability, a number of witnesses expressed the view that an important tool for increasing sales is the ability to establish standards for these walnut products.

The order currently requires shelled product to be certified as merchantable, that is, meeting the minimum USDA requirements prior to further processing. When handlers are processing for end users that require further processing, this certification represents a costly extra step. After the initial shelled walnut certification, the handlers employ their own quality control procedures to meet the higher customer specifications. This amendment will allow a single inspection at the end of the process to serve both purposes. When implemented, this amendment will allow the Board to recommend modifications to allow certification of product after it has been modified or chopped, leading to cost savings in the handling process.

Witnesses contended that current standards focus on visually observed characteristics that are significant for consumer acceptance, but often do not adequately address specific quality concerns important to various export markets, including Europe. Such concerns include, for example, moisture content or aflatoxin tolerances. When implemented, this amendment will allow the Board to review scientific data and develop inspection procedures for recommendation and approval by USDA to assure customers that walnuts meet their specified criteria.

Any new quality standards recommended by the Board will be subject to thorough review prior to seeking approval from USDA. Witnesses supported this amendment as it will give the Board authority to pursue quality regulations in addition to existing grade standards, both of which are important to industry customers.

Witnesses emphasized that this amendment will grant authority to the Board to recommend quality standards that could exceed current standards or to develop new standards for product characteristics not currently covered. Witnesses also stated that no specific modifications are currently requested, just flexibility to create them in the future.

While this amendment may result in some cost increases associated with administration and oversight of new quality regulations, it is also expected that some handlers may benefit from lower inspection costs if the inspection requirements for specific markets were modified. Any costs associated with the

implementation of this amendment are expected to be outweighed by the overall benefits accrued to the industry.

Marketing Promotion and Paid Advertising

This amendment adds authority for marketing promotion and paid advertising to the order.

Current promotional activities for California walnuts are undertaken by the California Walnut Commission (CWC). Witnesses stated that the CWC's activities have led to considerable success in increasing demand for the industry's product.

Witnesses explained that with price inelastic demand for walnuts, recent increases in production could have driven down prices and total grower revenue. The CWC's successful promotional activities have helped mitigate that potential impact, keeping average grower prices and grower revenue steady or increasing for several years.

According to the hearing record, adding authority for paid advertising and promotion under the order will benefit the industry by allowing the Board to engage in activities that are currently supported by the Commission. Small businesses will be the greatest beneficiaries of an expanded generic advertising program, because they have the least financial resources to devote to selling their products, according to a witness.

While an increase in advertising and promotional activities may result in increased Board expenditures, witnesses were confident that the positive results of the Board's promotional activities on consumer demand for California walnuts will more than outweigh any increases in costs to the industry.

Impact of Remaining Amendments

Remaining amendments are largely administrative in nature and will impose no new significant regulatory burdens on California walnut growers or handlers. They will benefit the industry by improving the operation of the program and making it more responsive to industry needs.

Marketing Year

This amendment changes the marketing year of the order from August 1 through July 31 to September 1 through August 31. Under the current definition of the order, the California walnut marketing year begins August 1 and continues through July 31. Witnesses explained that, over time, new varieties of walnuts have been introduced, and the areas in which walnuts are cultivated have shifted. The newer varieties mature later than the varieties grown at the time of the program's inception. At the same time, cultivation has slowly moved into areas that previously were not suited for walnut production. With differences in climate, soil, and water, witnesses explained that these new production areas have slightly later growing cycles. The proposed change in the marketing year will better reflect current crop cycles.

Conforming changes were made to § 984.36, Term of office and § 984.48, Marketing estimates and recommendations, so that Board member terms of office and marketing estimates are calculated according to the modified marketing year. This amendment is not expected to result in any increases in costs to growers or handlers.

Definition of Pack

This amendment specifies that the act of packing walnuts is considered a handling function under the order. In addition, the term ''pack'' is amended to include shelling, and is modified so that packing is applicable to both inshell and shelled walnuts.

According to the hearing record, the order currently defines ''to handle'' as to ''sell, consign, transport, or ship, or in any other way, to put walnuts into the current of commerce''. The definition does not include the specific act of packing. ''To pack'', as currently defined in the order means, ''to bleach, clean, grade or otherwise prepare inshell walnuts for market''. Pack is not currently applicable to shelled walnuts. Witnesses stated that the amended definitions of ''handle'' and ''pack'' will more accurately reflect current industry operations.

This amendment is not expected to result in any increases in costs to growers. When implemented, this amendment may result in some packing entities previously not considered to be handlers under the order to be redefined as handlers. According to witnesses, there are roughly five packer entities that will qualify as handlers under the new definition. While some increases in administration costs on the part of handlers could arise as a result of reporting requirements, record evidence indicates that the benefit of more accurate industry information will merit that expense.

Restructuring of the Board

This amendment modifies all parts of the order that refer to cooperative seats on the Board, redistributes member seats among districts, and provides designated seats for a major handler, if such handler exists. A major handler will have to handle 35 percent or more of the crop.

According to the hearing record, the recent transition of the industry's largest cooperative from a cooperative entity to a publicly held company was the impetus for this amendment. Witnesses expressed the need to modify the Board structure to provide for representation that accurately reflects the current industry. Witnesses advocated that the Board structure should maintain the current number of Board members and alternates, and that the allocation of member seats between grower and handler positions should remain the same (meaning 4 handler member seats, five grower member seats and one public member).

Witnesses also recommended modifying the allocation of Board representation according to two possible scenarios. The two scenarios include: (1) Membership allocation that acknowledges the existence of a handler handling 35 percent or more of production and, (2) membership allocation in the absence of such handler. According to record evidence, these amendments will not result in any increases in costs.

Nominations

This amendment modifies the Board member nomination process to reflect changes in the Board structure. Current nomination procedures allow for all cooperative seat nominees to be selected by the cooperative and forwarded to the Secretary for approval and appointment. The cooperative nominee selection process is independent of the Board. All non-cooperative seat nominees are selected through a ballot nomination process overseen by the Board staff, and forwarded to the Secretary for approval and appointment.

According to the hearing record, the revised nomination procedures will allow a handler who handles 35 percent or more of the crop to nominate persons to fill its designated seats and to forward them to the Secretary for approval and appointment. Nomination of persons to fill all other seats would be conducted by the Board staff.

In the event a handler handling 35 percent or more of the crop does not exist, all Board nominees will be selected through a ballot nomination process conducted by the Board staff.

While some increases in administration costs could arise as a result of an increased number of ballots to be mailed by the Board if a major handler does not exist, record evidence indicates that the expense would be

minor and would not directly burden growers or handlers.

Qualify by Acceptance

This amendment requires Board nominees to submit a written qualification and acceptance statement prior to selection by USDA. Currently, the acceptance procedure for persons nominated and selected to serve on the Board involves a two-step process. When implemented, the two steps will be combined into one, thus resulting in less paperwork, a shorter acceptance procedure and improved efficiency in the acceptance process. This amendment is not expected to result in any increases in costs to growers or handlers.

California Walnut Board

This amendment changes the name of the Walnut Marketing Board to the California Walnut Board. Witnesses stated that the name ''California Walnut Board'' will more accurately represent the Board's responsibilities. This amendment is not expected to result in any significant increases in costs to growers or handlers.

Authority To Reestablish Districts and Board Structure

This amendment adds authority to reestablish districts, to reapportion members among districts, and to revise groups eligible for representation on the Board. The intent of this amendment is to provide the Board with a tool to more efficiently respond to the changing character of the California walnut industry. In recommending any such changes, the following will be considered: (1) Shifts in acreage within districts and within the production area during recent years; (2) the importance of new production in its relation to existing districts; (3) the equitable relationship between Board apportionment and districts; (4) changes in industry structure and/or the percentage of crop represented by various industry entities resulting in the existence of two or more handlers handling 35 percent or more of the crop; and (5) other relevant factors. This amendment is not expected to result in any increases in costs to growers or handlers.

Voting Procedures

This amendment modifies Board quorum and voting requirements to add percentage requirements, adds authority for the Board to vote by ''any other means of communication'' (including facsimile) and adds authority for Board meetings to be held by telephone or by ''any other means of communication''.

Witnesses stated that references to the meeting quorum requirements should be amended to include a percentage equivalent of the current six-out-of-10-member minimum, or sixty percent. In addition, witnesses supported modifying the order language regarding voting requirements to state that a sixty-percent super-majority vote of the members present at a meeting should be required of all Board decisions, except where otherwise specifically provided. The order currently states that a majority vote is needed, with no percentage equivalent specified.

According to the record, the order currently requires that all Board meetings be held at a physical location. Witnesses stated that the order should be amended to allow for some meetings to be held using ''other means of communication'', such as telephone or videoconferencing. Witnesses stated that use of new communication technology would result in time-savings while still allowing the Board to conduct its business. Witnesses stated that it is the intent of the Board that voting procedures for all types of non-traditional meetings can be recommended and adopted as appropriate for each type of technology used.

The above amendments are not expected to result in any significant changes in costs to growers or handlers.

Carryover of Excess Assessment Funds

This amendment adds authority to the order to carry over excess assessment funds from one marketing year to the next. According to the hearing record, the order currently states that any assessment funds held in excess of the marketing year's expenses must be refunded to handlers. Refunds are returned to handlers in accordance with the amount of that handler's pro rata share of the actual expenses of the Board.

This amendment will allow the Board, with the approval of the Secretary, to establish an operating monetary reserve. This will allow the Board to carry over to subsequent production years any excess funds in a reserve, provided that funds already in the reserve do not exceed approximately two years' expenses. If reserve funds do exceed that amount, the assessment rate could be reduced so as to cause reserves to diminish to a level below the two-year threshold.

According to the record, reserve funds could be used to defray expenses during any production year before assessment income is sufficient to cover such expenses, or to cover deficits incurred during any fiscal period when assessment income is less than expenses. Additionally, reserve funds could be used to defray expenses incurred during any period when any or all of the provisions of the order are suspended, or to meet any other such costs recommended by the Board and approved by the Secretary. This amendment is not expected to result in any significant increases in costs to growers or handlers.

Contributions

This amendment adds authority to order for the Board to accept voluntary contributions. Contributions can only be used to pay for research and development activities, and will be free from any encumbrances by the donor. According to the hearing record, the Board will retain oversight of the application of such contributions.

Witnesses supported this amendment by stating that it would provide the Board and the industry with valuable resources to enhance research and development activities. It is not expected that this amendment will result in any additional costs to growers or handlers.

Reimbursement of Expenses

This amendment clarifies that members and alternate members may be reimbursed for expenses incurred while performing their duties and that reimbursement includes per diem. According to the hearing record, this amendment will not have any impact on the current expense reimbursement activities of the Board. Rather, it will clarify and update order language to more clearly state that while Board members and alternates serve without compensation, expenses incurred while performing the duties of a Board member that have been authorized by the Board will be reimbursed. It is not expected that this amendment will result in any additional costs to growers or handlers.

Quality Regulations

This amendment broadens the scope of the quality control provisions of the order by adding authority to recommend different regulations for different market destinations. Witnesses emphasized the usefulness in terms of market development of being able to establish different regulations for individual markets and/or regions. Witnesses stated that allowing the Board to make such recommendations will help the walnut industry adapt to changing international market conditions.

Updating Order Terminology

This amendment replaces the terms ''carryover'' with ''inventory,'' and ''mammoth'' with ''jumbo,'' to reflect current day industry procedures. Conforming changes were made to the § 984.48, Marketing estimates and recommendations, and § 984.71, Reports of handler carryover, sections of the order so that order terminology is consistent throughout.

Handler carryover defines the amount of California walnuts (both merchantable as well as the estimated quantity of merchantable walnuts to be produced from shelling stock and unsorted material), wherever located, held by California walnut handlers at any given time.

Witnesses explained that the current term ''carryover'' is misleading in that the term implies the amount of inventory held by handlers from one marketing year to the next. Witnesses stated that the term ''inventory'' will more accurately convey the intent of this definition, and will also reflect current day calculations of walnut availability.

Section 984.67, Exemptions, of the order provides for situations under which California walnuts may be exempted from complying with order regulations. One exemption is applicable to lots of merchantable inshell walnuts that are mammoth size or larger, as defined by the United States Standards for Walnuts in the Shell.

Witnesses stated that given the new varieties currently being produced in the industry, the term ''mammoth'' no longer applies. According to record evidence, the current production's equivalent to ''mammoth'' size is ''jumbo'' size, as defined by the United States Standards for Walnuts in the Shell. Thus, witnesses stated that the order language should be updated to reflect the industry's current terminology and size of walnuts being produced. This amendment is not expected to result in any increases in costs to growers or handlers.

Interhandler Transfers

This amendment clarifies the term ''transfer'' as used in the order and adds authority for the Board to recommend methods and procedures, including necessary reports, for administrative oversight of such transfers.

Witnesses stated that it would be beneficial to simplify current order language so that all interhandler transfers are considered a ''sale of inshell and shelled walnuts within the area of production by one handler to another.'' Witnesses explained that the new language restated the current application of this provision in walnut transactions in simpler terms. This amendment is not expected to result in any increases in costs to growers or handlers.

Reporting Requirements

This amendment clarifies that the Board may require reports from handlers and packers to include interhandler transfers or any other activity that involves placing California walnuts into the stream of commerce.

According to the hearing record, current authority provided in this section only applies to the reporting of handler walnut receipts from growers. Witnesses stated that this authority should be broadened to include interhandler transfers, or receipts from any other entity as recommended by the Board and approved by the Secretary. This amendment is not expected to result in any increases in costs to growers or handlers.

Trade Demand

This amendment updates and simplifies the language in § 984.22, Trade demand, to state ''United States and its territories,'' rather than name ''Puerto Rico'' and ''The Canal Zone''. Witnesses explained that the reference to ''Puerto Rico'' and ''The Canal Zone'' in the order is outdated and should be updated to reference ''United States and its territories''.

According to record evidence, this amendment will not impact trade demand calculations under the order since the purpose of the reference is to accurately identify the amount of shelled or inshell walnuts demanded by the United States, including its territories. Thus, while the terminology identifying the geographic regions included in the calculation will change, the intent of the original language will remain unchanged. This amendment is not expected to result in any increases in costs to growers or handlers.

Relationship With California Walnut Commission

This amendment adds language to the order stating that the Board may deliberate, consult, cooperate and exchange information with the California Walnut Commission (CWC). Any information sharing will be kept confidential.

Record evidence indicates the CWC and the Federal marketing order program are currently administered out of the same office location and employ the same staff. Thus, this amendment will formalize the relationship that currently exists between the two entities. Witnesses stated that collaboration between the two programs leads to reduced administrative costs, as much of the information collected by each entity can be shared. This amendment is not expected to result in any increases in costs to growers or handlers.

Continuance Referenda

In addition, the order is amended to require that continuance referenda be conducted on a periodic basis to ascertain industry support for the order and add more flexibility in the termination provisions.

Currently, there is no requirement in the order that continuance referenda be conducted on a periodic basis. The USDA believes that growers should have an opportunity to periodically vote on whether a marketing order should continue. Continuance referenda provide an industry with a means to measure grower support for the program. Experience has shown that programs need significant industry support to operate effectively. This amendment is not expected to result in any increases in costs to growers or handlers.

In discussing the impacts of the proposed amendments on growers and handlers, record evidence indicates that the changes are expected to be positive because the administration of the program will be more efficient. There will be no significant cost impact on either small or large growers or handlers.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact of the proposed amendments to the order on small entities. The record evidence is that the amendments are designed to increase efficiency in the functioning of the order.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. These amendments are designed to enhance the administration and functioning of marketing order 984 to benefit the California walnut industry.

Paperwork Reduction Act

Current information collection requirements for Part 984 are approved by OMB under OMB No. 0581–0178, Vegetable and Specialty Crops. Any changes in those requirements as a result of this proceeding would be submitted to OMB for approval. Witnesses stated that existing forms could be adequately modified to serve the needs of the Board. While conforming changes to the forms would need to be made (such as changing the

name of the Board), the functionality of the forms would remain the same.

As with other similar marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

The AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Civil Justice Reform

The amendments to Marketing Order 984 stated herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. The amendments will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with an amendment.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Order Amending the Order Regulating Walnuts Grown in California

Findings and Determinations

The findings and determinations set forth hereinafter are supplementary and in addition to the findings and determination previously made in connection with the issuance of the order; and all of said previous findings and determinations are hereby ratified and affirmed, except as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings and Determinations Upon the Basis of the Hearing Record.*

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon the proposed amendments to Marketing Order No. 984 (7 CFR part 984), regulating the handling of walnuts grown in California.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The marketing order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The marketing order, as amended, and as hereby further amended, regulates the handling of walnuts grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing order upon which hearings have been held;

(3) The marketing order, as amended, and as hereby further amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivision of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing order, as amended, and as hereby further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of walnuts grown in the production area; and

(5) All handling of walnuts grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* The effective date for the amendments shall be 30 days after publication in the **Federal Register**, except for §§ 984.7, 984.13, 984.14, 984.15, 984.21, 984.22, 984.42, 984.46, 984.48, 984.50, 984.51, 984.52, 984.59, 984.67, 984.69, 984.70, 984.71, 984.73 and 984.89, which are effective September 1, 2008.

The amendments to these sections should be implemented to coincide with the beginning of a new crop year.

(b) *Determinations.* It is hereby determined that:

(1) Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping walnuts covered by the order as hereby amended) who, during the period August 1, 2006, through July 31, 2007, handled 50 percent or more of the volume of such walnuts covered by said order, as hereby amended, have not signed an amended marketing agreement; and, (2) The issuance of this amendatory order, further amending the aforesaid order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of approval and who, during the period of August 1, 2006, through July 31, 2007 (which has been deemed to be a representative period), have been engaged within the production area in the production of such walnuts, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

(3) In the absence of a signed marketing agreement, the issuance of this amendatory order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers of walnuts in the production area.

Order Relative to Handling of Walnuts Grown in California

It is therefore ordered, That on and after the effective dates hereof, all handling of walnuts grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby amended as follows:

The provisions of the proposed order amending the order contained in the Recommended Decision issued by the Administrator on March 19, 2007, and published in the **Federal Register** on March 27, 2007, (72 FR 14368), shall be and are the terms and provisions of this order amending the order and set forth in full herein.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, and Walnuts.

PART 984—WALNUTS GROWN IN CALIFORNIA

■ For the reasons set forth in the preamble, title 7 of chapter XI of the Code of Federal Regulations is amended as follows:

■ 1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 984.6 to read as follows:

§ 984.6 Board.

Board means the California Walnut Board established pursuant to § 934.35.

■ 3. Revise § 984.7 to read as follows:

§ 984.7 Marketing year.

Marketing year means the twelve months from September 1 to the following August 31, both inclusive, or any other such period deemed appropriate and recommended by the Board for approval by the Secretary.

■ 4. Revise § 984.13 to read as follows:

§ 984.13 To handle.

To handle means to pack, sell, consign, transport, or ship (except as a common or contract carrier of walnuts owned by another person), or in any other way to put walnuts, inshell or shelled, into the current of commerce either within the area of production or from such area to any point outside thereof, or for a manufacturer or retailer within the area of production to purchase directly from a grower: The term ''to handle'' shall not include sales and deliveries within the area of production by growers to handlers, or between handlers.

■ 5. Revise § 984.14 to read as follows:

§ 984.14 Handler.

Handler means any person who handles inshell or shelled walnuts.

■ 6. Revise § 984.15 to read as follows:

§ 984.15 Pack.

Pack means to bleach, clean, grade, shell or otherwise prepare walnuts for market as inshell or shelled walnuts.

■ 7. Revise § 984.21 to read as follows:

§ 984.21 Handler inventory.

Handler inventory as of any date means all walnuts, inshell or shelled (except those held in satisfaction of a reserve obligation), wherever located, then held by a handler or for his or her account.

■ 8. Revise § 984.22 to read as follows:

§ 984.22 Trade demand.

(a) *Inshell.* The quantity of merchantable inshell walnuts that the trade will acquire from all handlers during a marketing year for distribution in the United States and its territories.

(b) *Shelled.* The quantity of merchantable shelled walnuts that the trade will acquire from all handlers during a marketing year for distribution in the United States and its territories.

■ 9. Revise § 984.35 to read as follows:

§ 984.35 California Walnut Board.

(a) A California Walnut Board is hereby established consisting of 10 members selected by the Secretary, each of whom shall have an alternate nominated and selected in the same way and with the same qualifications as the member. The members and their alternates shall be selected by the Secretary from nominees submitted by each of the following groups or from other eligible persons belonging to such groups:

(1) Two handler members from District 1;

(2) Two handler members from District 2;

(3) Two grower members from District 1;

(4) Two grower members from District 2;

(5) One grower member nominated at-large from the production area; and,

(6) One member and alternate who shall be selected after the selection of the nine handler and grower members and after the opportunity for such members to nominate the tenth member and alternate. The tenth member and his or her alternate shall be neither a walnut grower nor a handler.

(b) In the event that one handler handles 35% or more of the crop the membership of the Board shall be as follows:

(1) Two handler members to represent the handler that handles 35% or more of the crop;

(2) Two members to represent growers who market their walnuts through the handler that handles 35% or more of the crop;

(3) Two handler members to represent handlers that do not handle 35% or more of the crop;

(4) One member to represent growers from District 1 who market their walnuts through handlers that do not handle 35% or more of the crop;

(5) One member to represent growers from District 2 who market their walnuts through handlers that do not handle 35% or more of the crop;

(6) One member to represent growers who market their walnuts through handlers that do not handle 35% or more of the crop shall be nominated at large from the production area; and,

(7) One member and alternate who shall be selected after the selection of the nine handler and grower members and after the opportunity for such members to nominate the tenth member and alternate. The tenth member and his or her alternate shall be neither a walnut grower nor a handler.

(c) Grower Districts:

(1) *District 1.* District 1 encompasses the counties in the State of California that lie north of a line drawn on the south boundaries of San Mateo, Alameda, San Joaquin, Calaveras, and Alpine Counties.

(2) *District 2.* District 2 shall consist of all other walnut producing counties in the State of California south of the boundary line set forth in paragraph (c)(1) of this section.

(d) The Secretary, upon recommendation of the Board, may reestablish districts, may reapportion members among districts, and may revise the groups eligible for representation on the Board as specified in paragraphs (a) and (b) of this section: Provided, That any such recommendation shall require at least six concurring votes of the voting members of the Board. In recommending any such changes, the following shall be considered:

(1) Shifts in acreage within districts and within the production area during recent years;

(2) The importance of new production in its relation to existing districts;

(3) The equitable relationship between Board apportionment and districts;

(4) Changes in industry structure and/or the percentage of crop represented by various industry entities resulting in the existence of two or more major handlers;

(5) Other relevant factors.

■ 10. Revise § 984.37 to read as follows:

§ 984.37 Nominations.

(a) Nominations for all grower members shall be submitted by ballot pursuant to an announcement by press releases of the Board to the news media in the walnut producing areas. Such releases shall provide pertinent voting information, including the names of candidates and the location where ballots may be obtained. Ballots shall be accompanied by full instructions as to their markings and mailing and shall include the names of incumbents who are willing to continue serving on the Board and such other candidates as may be proposed pursuant to methods established by the Board with the approval of the Secretary. Each grower, regardless of the number and location of his or her walnut orchard(s), shall be entitled to cast only one ballot in the nomination and each vote shall be given equal weight. If the grower has orchards in both grower districts, he or she shall advise the Board of the district in which he/she desires to vote. The person receiving the highest number of votes for each grower position shall be the nominee.

(b) Nominations for handler members shall be submitted on ballots mailed by the Board to all handlers in their respective Districts. All handlers' votes shall be weighted by the kernelweight of walnuts certified as merchantable by

each handler during the preceding marketing year. Each handler in the production area may vote for handler member nominees and their alternates. However, no handler with less than 35% of the crop shall have more than one member and one alternate member. The person receiving the highest number of votes for each handler member position shall be the nominee for that position.

(c) A calculation to determine whether or not a handler who handles 35 percent or more of the crop shall be made prior to nominations. For the first nominations held upon implementation of this language, the 35 percent threshold shall be calculated using an average of crop handled for the year in which nominations are made and one year's handling prior. For all future nominations, the 35 percent handling calculation shall be based in the average of the two years prior to the year in which nominations are made. In the event that one handler handles 35% or more of the crop the membership of the Board, nominations shall be as follows:

(1) Nominations of growers who market their walnuts to the handler that handles 35% or more of the crop shall be conducted by that handler and the names of the nominees shall be forwarded to the Board for approval and appointment by the Secretary.

(2) Nominations for the two handler members representing the major handler shall be conducted by the major handler and the names of the nominees shall be forwarded to the Board for approval and appointment by the Secretary.

(3) Nominations on behalf of all other grower members (Groups (b)(4), (5) and (6) of § 984.35) shall be submitted after ballot by such growers pursuant to an announcement by press releases of the Board to the news media in the walnut producing areas. Such releases shall provide pertinent voting information, including the names of candidates and the location where ballots may be obtained. Ballots shall be accompanied by full instructions as to their markings and mailing and shall include the names of incumbents who are willing to continue serving on the Board and such other candidates as may be proposed pursuant to methods established by the Board with the approval of the Secretary. Each grower in Groups (Groups (b)(4), (5) and (6) of § 984.35), regardless of the number and location of his or her walnut orchard(s), shall be entitled to cast only one ballot in the nomination and each vote shall be given equal weight. If the grower has orchard(s) in both grower districts he or she shall advise the Board of the district in which he or she desires to vote. The person receiving the highest number of votes for grower position shall be the nominee.

(4) Nominations for handler members representing handlers that do not handle 35% or more of the crop shall be submitted on ballots mailed by the Board to those handlers. The votes of these handlers shall be weighted by the kernelweight of walnuts certified as merchantable by each handler during the preceding marketing year. Each handler in the production area may vote for handler member nominees and their alternates of this subsection. However, no handler shall have more than one person on the Board either as member or alternate member. The person receiving the highest number of votes for a handler member position of this subsection shall be the nominee for that position.

(d) Each grower is entitled to participate in only one nomination process, regardless of the number of handler entities to whom he or she delivers walnuts. If a grower delivers walnuts to more than one handler entity, the grower must choose which nomination process he or she participates in.

(e) The nine members shall nominate one person as member and one person as alternate for the tenth member position. The tenth member and alternate shall be nominated by not less than 6 votes cast by the nine members of the Board.

(f) Nominations in the foregoing manner received by the Board shall be reported to the Secretary on or before June 15 of each odd-numbered year, together with a certified summary of the results of the nominations. If the Board fails to report nominations to the Secretary in the manner herein specified by June 15 of each odd-numbered year, the Secretary may select the members without nomination. If nominations for the tenth member are not submitted by September 1 of any such year, the Secretary may select such member without nomination.

(g) The Board may recommend, subject to the approval of the Secretary, a change to these nomination procedures should the Board determine that a revision is necessary.

■ 11. In § 984.38, the suspension of August 20, 2005 (70 FR 50153), is lifted effective April 2, 2008.

■ 12. Revise § 984.38 to read as follows:

§ 984.38 Eligibility.

No person shall be selected or continue to serve as a member or alternate to represent one of the groups specified in § 984.35(a)(1) through (6) or § 984.38(b)(1) through (6), unless he or she is engaged in the business he or she is to represent, or represents, either in his or her own behalf or as an officer or employee if the business unit engaged in such business. Also, each member or alternate member representing growers in District 1 or District 2 shall be a grower, or officer or employee of the group he or she is to represent.

■ 13. Revise § 984.39 to read as follows:

§ 984.39 Qualify by acceptance.

Any person nominated to serve as a member or alternate member of the Board shall, prior to selection by USDA, qualify by filing a written qualification and acceptance statement indicating such person's willingness to serve in the position for which nominated.

■ 14. Revise § 984.40 to read as follows:

§ 984.40 Alternate.

(a) An alternate for a member of the Board shall act in the place and stead of such member in his or her absence or in the event of his or her death, removal, resignation, or disqualification, until a successor for his or her unexpired term has been selected and has qualified.

(b) In the event any member of the Board and his or her alternate are both unable to attend a meeting of the Board, any alternate for any other member representing the same group as the absent member may serve in the place of the absent member, or in the event such other alternate cannot attend, or there is no such other alternate, such member, or in the event of his disability or a vacancy, his or her alternate may designate, subject to the disapproval of the Secretary, a temporary substitute to attend such meeting. At such meeting such temporary substitute may act in the place of such member.

■ 15. Revise § 984.42 to read as follows:

§ 984.42 Expenses.

The members and their alternates of the Board shall serve without compensation, but shall be allowed their necessary expenses incurred by them in the performance of their duties under this part.

■ 16. Amend § 984.45 by revising paragraphs (b) and (c) and adding paragraph (d) to read as follows:

§ 984.45 Procedure.

* * * * *

(b) All decisions of the Board, except where otherwise specifically provided (see § 984.35(d)), shall be by a sixty-percent (60%) super-majority vote of the members present. A quorum of six members, or the equivalent of sixty percent (60%) of the Board, shall be required for the conduct of Board business.

(c) The Board may vote by mail or telegram, or by any other means of communication, upon due notice to all members. The Board, with the approval of the Secretary, shall prescribe the minimum number of votes that must be cast when voting is by any of these methods, and any other procedures necessary to carry out the objectives of this paragraph.

(d) The Board may provide for meetings by telephone, or other means of communication and any vote cast at such a meeting shall be confirmed promptly in writing: Provided, That if any assembled meeting is held, all votes shall be cast in person.

■ 17. Revise § 984.46 to read as follows:

§ 984.46 Research and development.

The Board, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects, and marketing promotion, including paid advertising, designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of walnuts. The expenses of such projects shall be paid from funds collected pursuant to § 984.69 and § 984.70.

■ 18. Amend § 984.48 by revising paragraphs (a) introductory text, (a)(2), (4), and (5) to read as follows:

§ 984.48 Marketing estimates and recommendations.

(a) Each marketing year the Board shall hold a meeting, prior to October 20, for the purpose of recommending to the Secretary a marketing policy for such year. Each year such recommendation shall be adopted by the affirmative vote of at least 60% of the Board and shall include the following, and where applicable, on a kernelweight basis:

* * * * *

(2) The Board's estimate of the handler inventory on September 1 of inshell and shelled walnuts;

* * * * *

(4) The Board's estimate of the trade demand for such marketing year for shelled and inshell walnuts, taking into consideration trade inventory, imports, prices, competing nut supplies, and other factors;

(5) The Board's recommendation for desirable handler inventory of inshell and shelled walnuts on August 31 of each marketing year;

* * * * *

■ 19. Amend § 984.50 by revising the heading and paragraph (d) to read as follows:

§ 984.50 Grade, quality and size regulations.

* * * * *

(d) *Additional grade, size or other quality regulation.* The Board may recommend to the Secretary additional grade, size or other quality regulations, and may also recommend different regulations for different market destinations. If the Secretary finds on the basis of such recommendation or other information that such additional regulations would tend to effectuate the declared policy of the Act, he or she shall establish such regulations.

* * * * *

■ 20. Amend § 984.51 by revising paragraph (a) to read as follows:

§ 984.51 Inspection and certification of inshell and shelled walnuts.

(a) Before or upon handling of any walnuts for use as free or reserve walnuts, each handler at his or her own expense shall cause such walnuts to be inspected to determine whether they meet the then applicable grade and size regulations. Such inspection shall be performed by the inspection service or services designated by the Board with the approval of the Secretary; Provided, That if more than one inspection service is designated, the functions performed by each service shall be separate, and shall not duplicate each other. Handlers shall obtain a certificate for each inspection and cause a copy of each certificate issued by the inspection service to be furnished to the Board. Each certificate shall show the identity of the handler, quantity of walnuts, the date of inspection, and for inshell walnuts the grade and size of such walnuts as set forth in the United States Standards for Walnuts (Juglans regia) in the Shell. Certificates covering reserve shelled walnuts for export shall also show the grade, size, and color of such walnuts as set forth in the United States Standards for Shelled Walnuts (Juglans regia). The Board, with the approval of the Secretary, may prescribe procedures for the administration of this provision.

* * * * *

■ 21. Amend § 984.52 by revising paragraph (a) and adding a new paragraph (c) to read as follows:

§ 984.52 Processing of shelled walnuts.

(a) No handler shall slice, chop, grind, or in any manner change the form of shelled walnuts unless such walnuts have been certified as merchantable or unless such walnuts meet quality regulations established under § 984.50(d) if such regulations are in effect.

* * * * *

(c) The Board shall establish such procedures as are necessary to insure that all such walnuts are inspected prior to being placed into the current of commerce.

■ 22. Revise § 984.59 to read as follows:

§ 984.59 Interhandler transfers.

For the purposes of this part, transfer means the sale of inshell and shelled walnuts within the area of production by one handler to another. The Board, with the approval of the Secretary, may establish methods and procedures, including necessary reports, for such transfers.

■ 23. Amend § 984.67 by revising paragraph (a) to read as follows:

§ 984.67 Exemptions.

(a) Exemption from volume regulation. Reserve percentages shall not apply to lots of merchantable inshell walnuts which are of jumbo size or larger as defined in the then effective United States Standards for Walnuts in the Shell, or to such quantities as the Board may, with the approval of the Secretary, prescribe.

* * * * *

■ 24. Amend § 984.69 by revising paragraph (c) to read as follows:

§ 984.69 Assessments.

* * * * *

(c) *Accounting.* If at the end of a marketing year the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (c)(2) or (c)(3) of this section, it shall be refunded to handlers from whom collected and each handler's share of such excess funds shall be the amount of assessments he or she has paid in excess of his or her pro rata share of the actual expenses of the Board.

(2) Excess funds may be used temporarily by the Board to defray expenses of the subsequent marketing year: Provided, That each handler's share of such excess shall be made available to him or her by the Board within five months after the end of the year.

(3) The Board may carry over such excess into subsequent marketing years as a reserve: Provided, That funds already in reserve do not exceed approximately two years' budgeted expenses. In the event that funds exceed two marketing years' budgeted expenses, future assessments will be reduced to bring the reserves to an amount that is less than or equal to two

marketing years' budgeted expenses. Such reserve funds may be used:

(i) To defray expenses, during any marketing year, prior to the time assessment income is sufficient to cover such expenses;

(ii) To cover deficits incurred during any year when assessment income is less than expenses;

(iii) To defray expenses incurred during any period when any or all provisions of this part are suspended;

(iv) To meet any other such costs recommended by the Board and approved by the Secretary.

* * * * *

■ 25. Add a new § 984.70 to read as follows:

§ 984.70 Contributions.

The Board may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 984.46, Research and development. Furthermore, such contributions shall be free from any encumbrances by the donor and the Board shall retain complete control of their use.

■ 26. Revise § 984.71 to read as follows:

§ 984.71 Reports of handler inventory.

Each handler shall submit to the Board in such form and on such dates as the Board may prescribe, reports showing his or her inventory of inshell and shelled walnuts.

■ 27. Revise § 984.73 to read as follows:

§ 984.73 Reports of walnut receipts.

Each handler shall file such reports of his or her walnut receipts from growers, handlers, or others in such form and at such times as may be requested by the Board with the approval of the Secretary.

■ 28. Amend § 984.89 by redesignating paragraph (b)(4) as (b)(5) and adding a new paragraph (b)(4) to read as follows:

§ 984.89 Effective time and termination.

* * * * *

(b) * * *

(4) Within six years of the effective date of this amendment the Secretary shall conduct a referendum to ascertain whether continuance of this part is favored by producers. Subsequent referenda to ascertain continuance shall be conducted every six years thereafter. The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance of this part is not favored by a two-thirds (⅔) majority of voting producers, or a two-thirds (⅔) majority of volume represented thereby, who, during a representative period determined by the Secretary, have been engaged in the production for market of walnuts in the production area. Such termination shall be announced on or before the end of the production year.

* * * * *

■ 29. Add a new § 984.91 to read as follows:

§ 984.91 Relationship with the California Walnut Commission.

In conducting Board activities and other objectives under this part, the Board may deliberate, consult, cooperate and exchange information with the California Walnut Commission, whose activities compliment those of the Board. Any sharing of information gathered under this subpart shall be kept confidential in accordance with provisions under section 10(i) of the Act.

Dated: February 27, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–4016 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 797

Procedures for Debt Collection

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: Pursuant to the Debt Collection Improvement Act of 1996 NCUA is issuing a regulation governing procedures for collecting debts owed to the federal government by present and former NCUA employees. The regulation sets forth the procedures NCUA will follow in collecting debts owed to the United States arising from activities under NCUA jurisdiction. These procedures include collection of debts through administrative offset and salary offset.

DATES: This rule is effective April 2, 2008.

FOR FURTHER INFORMATION CONTACT: Dianne Salva, Trial Attorney, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule implements the Debt Collection Improvement Act of 1996 (DCIA). The DCIA requires federal agencies to collect debts owed to the United States under regulations prescribed by the head of the agency, and standards prescribed by the Department of Justice and the Department of the Treasury. *31 U.S.C. 3711(d)(2)*. These standards, known as the Federal Claims Collection Standards (FCCS), became effective on December 22, 2000. 31 CFR chapter IX and parts 900 through 904.

The DCIA also requires agencies, prior to collecting debts owed to the United States, to:

(1) Adopt without change regulations on collecting debts by offset promulgated by the Department of Justice or Department of the Treasury (FCCS); or (2) prescribe agency regulations for collecting such debts by offset, which are consistent with the FCCS. *31 U.S.C. 3716*. Agency regulations protect the minimum due process rights that must be afforded to the debtor when an agency seeks to collect a debt by administrative offset, including the ability to verify, challenge, and compromise claims, and access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

NCUA has decided to issue its own rule for debt collection and offset, given NCUA's status as an independent regulatory agency. The final rule is consistent with the FCCS, as required by the DCIA. The salary offset portion of the rule has been submitted to and approved by the Office of Personnel Management (OPM), as required by *5 U.S.C. 5514(b)(1)*. In addition to these legal authorities, NCUA is issuing these regulations pursuant to *12 U.S.C. 1752a(d)*, which authorizes NCUA to adopt regulations it deems necessary for transaction of its business.

II. The Final Rule

A. Subpart A—Scope, Purpose, Definitions and Delegations of Authority

The final rule applies only to debts owed to the United States which arise out of NCUA transactions and functions in its agency capacity, including, but not limited to, erroneous salary overpayments to employees and claims arising out of employee benefit withholdings and contributions. The rule does not apply to debts owed to or payments made by NCUA in connection with NCUA's conservatorship, liquidation, supervision, enforcement, or insurance responsibilities, nor does it limit or affect NCUA's authority pursuant to *12 U.S.C. 1752(a) and 1766*.

The Executive Director shall follow the procedural standards for collecting debts set forth in the FCCS when he determines that it is appropriate to initiate debt collection or seek offset to

collect a debt. 31 CFR parts 900 through 904. The FCCS establish procedures governing the following areas of the debt collection process: (1) Prompt demand for payment of the claim from the debtor; (2) review of the existence or amount of a debt claimed upon the debtor's demand for a final agency determination; (3) standards for collecting debts in installment payments; (4) the assessment of interest, penalties and administrative costs on debts claimed; (5) standards for compromise of claims due; and (6) standards to be followed in determining whether to suspend or terminate collection action.

B. Subpart B—Administrative Offset

Pursuant to *31 U.S.C. 3716*, NCUA may collect debts owed to the United States through administrative offset. Subpart B of the final rule authorizes NCUA to collect debts owed to the United States by: (1) Withholding money payable by NCUA to the debtor, or held by NCUA for the debtor; or (2) by requesting that another federal agency withhold money payable to the debtor, or held by the other federal agency for the debtor. Subpart B meets the requirements under *31 U.S.C. 3716(b)* to provide due process rights to the debtor, including the ability to verify, challenge, and compromise claims, and to provide to administrative appeals procedures which are both reasonable and protect the interests of NCUA. Subpart B also meets the requirement of *31 U.S.C. 3711(d)* that NCUA promulgate administrative offset regulations consistent with the standards established by the Attorney General and the Secretary of the Treasury.

C. Subpart C—Salary Offset

Subpart C of the final rule provides that when NCUA determines it is appropriate to collect a debt by means of deductions from the current pay account of an NCUA employee, or any individual employed by the federal government (including a former NCUA employee), NCUA shall initiate a salary offset under *5 U.S.C. 5514(a)(1)*. Salary offset is a form of administrative offset governed by statute (*5 U.S.C. 5514*) and by regulations issued by the OPM (5 CFR part 550, subpart K). Salary offset may only be used to collect debts owed by persons currently employed by the federal government. Agencies are required to promulgate their own salary offset regulations that conform to OPM's salary offset regulations. As noted above, salary offset rules must receive OPM approval before the regulations become effective. *5 U.S.C. 5514(b)(1);* 5 CFR 550.1104. Subpart C implements those statutory requirements.

III. Administrative Procedure Act

NCUA has determined that this rule pertains to agency practice and procedure and is interpretative in nature. The procedures contained in the rule for salary offset and administrative offset are mandated by law and by regulations promulgated by OPM, jointly by the Department of the Treasury and the Department of Justice and by the IRS. Notice of proposed rulemaking is not required under the Administrative Procedure Act (APA) because the rule pertains solely to agency procedure and practice. *5 U.S.C. 553(b)(3)(A)*. Notice and an opportunity for public comment are not necessary prior to issuance of this final rule because it implements a definitive statutory scheme mandated by the DCIA.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires that NCUA prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small credit unions, or those with under $10 million dollars in assets. The final rule applies to federal agencies and federal employees. Accordingly, the Board determines and certifies that this final rule does not have significant economic impact on a substantial number of small credit unions and that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The final rule is not subject to the Paperwork Reduction Act (*44 U.S.C. 3501*), since it does not contain any new information collection requirements.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in *44 U.S.C. 3502(5)*, voluntarily complies with the executive order. The final rule would not have substantial direct effects on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2682 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the APA. *5 U.S.C. 551*. NCUA has obtained the determination of the Office of Management and Budget that this rule is not a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 797

Administrative practice and procedure, Claims, Debt collection, Government employees, Hearing procedures, Wages.

By the National Credit Union Administration Board on February 21, 2008.

Mary F. Rupp,

Secretary of the Board.

■ For the reasons set forth in the preamble, NCUA adds 12 CFR part 797 to read as follows:

PART 797—PROCEDURES FOR DEBT COLLECTION

Subpart A—Scope, Purpose, Definitions and Delegation of Authority

Sec.

797.1 Scope.
797.2 Purpose.
797.3 Definitions.
797.4 Delegation of authority.

Subpart B—Administrative Offset

797.5 Authority and scope.
797.6 Administrative offset prior to completion of procedures.
797.7 Procedures.
797.8 Right to agency review.
797.9 Review procedures.
797.10 Special review.
797.11 Interest, administrative costs, and penalties.
797.12 Refunds.
797.13 Requests for administrative offset where NCUA is the creditor agency.
797.14 Requests for administrative offset where NCUA is the paying agency.
797.15 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.
797.16 Stay of offset.

Subpart C—Salary Offset

797.17 Authority and scope.
797.18 Notice requirements where NCUA is the creditor agency.
797.19 Review of agency records related to the debt.
797.20 Procedures to request a hearing.
797.21 Hearing procedures.
797.22 Voluntary repayment agreement.
797.23 Certification where NCUA is the creditor agency.
797.24 Certification where NCUA is the paying agency.
797.25 Recovery from final check or other payments due a separated employee.

Authority: 12 U.S.C. 1752a; 5 U.S.C. 5514; 31 U.S.C. 3711, 3716, 3720A, 3720D.

Subpart A—Scope, Purpose, Definitions and Delegation of Authority

§ 797.1 Scope.

This part establishes NCUA procedures for the collection of certain debts owed to the United States.

(a) This part applies to collections by NCUA from:

(1) Federal employees who are indebted to NCUA;

(2) Employees of NCUA who are indebted to other agencies or NCUA; and

(3) Former federal employees who are indebted to NCUA.

(b) This part does not apply:

(1) To debts or claims arising under the Internal Revenue Code of 1986 (Title 26, U.S. Code), the Social Security Act (*42 U.S.C. 301 et seq.*), or the tariff laws of the United States;

(2) To a situation to which the Contract Disputes Act (*41 U.S.C. 601 et seq.*) applies;

(3) In any case where collection of a debt is explicitly provided for or prohibited by another statute;

(4) To debts owed to or payments made by NCUA in connection with NCUA's conservatorship, liquidation, supervision, enforcement, or insurance responsibilities pursuant to *12 U.S.C. 1786 and 1787*, nor does it limit or affect NCUA's authority with respect to debts and/or claims pursuant to *12 U.S.C. 1752(a) and 1766*.

(c) Nothing in this part precludes the compromise, suspension, or termination of collection actions, where appropriate, under standards implementing the Debt Collection Improvement Act (DCIA) (*31 U.S.C. 3711 et seq.*), the Federal Claims Collection Standards (FCCS) (31 CFR parts 900 through 904); or any other applicable law.

§ 797.2 Purpose.

(a) The purpose of this part is to implement federal statutes and regulatory standards authorizing NCUA to collect debts owed to the United States. This part is consistent with the following federal statutes and regulations:

(1) DCIA at *31 U.S.C. 3711* (collection and compromise of claims); section 3716 (administrative offset), and section 3717 (interest and penalty on claims).

(2) *5 U.S.C. 5514* (salary offset);

(3) *5 U.S.C. 5584* (waiver of claims for overpayment);

(4) 31 CFR parts 900 through 904 (FCCS);

(5) 5 CFR part 550, subpart K (salary offset);

(6) *31 U.S.C. 3720D*, 31 CFR 285.11 (administrative wage garnishment); and

(7) 5 CFR 831.1801 through 1808 (U.S. Office of Personnel Management (OPM) offset).

(b) Collectively, these statutes and regulations prescribe the manner in which federal agencies should proceed to establish the existence and validity of debts owed to the federal government and describe the remedies available to agencies to offset valid debts.

§ 797.3 Definitions.

Except where the context clearly indicates otherwise or where the term is defined elsewhere in this subpart, the following definitions shall apply to this subpart.

(a) Administrative offset, as defined in *31 U.S.C. 3701(a)(1)*, means withholding money payable by the United States government to, or held by the government for, a person to satisfy a debt the person owes the government.

(b) Agency means a department, agency, or instrumentality in the Executive, Judicial, or Legislative branch of the government.

(c) Claim or debt means money or property owed by a person or entity to an agency of the federal government. A ''claim'' or ''debt'' includes amounts due the government, fees, services, overpayments, penalties, damages, interest, fines and forfeitures. For purposes of this part, a debt owed to NCUA constitutes a debt owed to the federal government.

(d) Claim certification means a creditor agency's written request to a paying agency to effect an administrative or salary offset.

(e) Creditor agency means an agency to which a claim or debt is owed.

(f) Debtor means the person or entity owing money to the federal government.

(g) Disposable pay means that part of current basic pay or other authorized pay remaining after the deduction of any amount required by law to be withheld. NCUA shall allow the deductions described in 5 CFR 581.105(b) through (f).

(h) Employee means a current employee of NCUA or another agency.

(i) FCCS means the Federal Claims Collection Standards published in 31 CFR part 900.

(j) Hearing official means an individual who is authorized to conduct a hearing with respect to the existence or amount of a debt claimed and issue a final decision on the basis of such hearing. A hearing official may not be under the supervision or control of NCUA when NCUA is the creditor agency.

(k) NCUA means the National Credit Union Administration.

(l) Paying agency means an agency of the federal government owing money to a debtor against which an administrative or salary offset can be effected.

(m) Salary offset means an administrative offset to collect a debt under *5 U.S.C. 5514* by deductions at one or more officially established pay intervals from the current pay account of a debtor.

(n) Waiver means the cancellation, remission, forgiveness, or nonrecovery of a debt allegedly owed by an employee to NCUA or another agency as permitted or required by *5 U.S.C. 5584* or any other law.

§ 797.4 Delegation of authority.

Authority to conduct the following activities is delegated to the Executive Director to:

(a) Initiate and carry out the debt collection process on behalf of NCUA, in accordance with the FCCS;

(b) Accept or reject compromise offers, suspend, terminate or waive collection actions to the full extent of NCUA's legal authority under *12 U.S.C. 1752(a)* and *1789; 31 U.S.C. 3711*, and any other applicable statute or regulation.

(c) Report to consumer reporting agencies certain data pertaining to delinquent debts, where appropriate;

(d) Use offset procedures, including administrative and salary offset, to collect debts; and

(e) Take any other action necessary to promptly and effectively collect debts owed to the government in accordance with the policies contained herein and as otherwise provided by law.

Subpart B—Administrative Offset

§ 797.5 Authority and scope.

NCUA may collect a debt owed to the federal government from a person, organization, or other entity by administrative offset, pursuant to 31 U.S.C. 3716, where:

(a) The debt is certain in amount;

(b) Administrative offset is feasible, desirable, and not otherwise prohibited;

(c) The applicable statute of limitations has not expired; and

(d) Administrative offset is in the best interest of the federal government.

§ 797.6 Administrative offset prior to completion of procedures.

Prior to the completion of the procedures described in § 797.7, NCUA may effect administrative offset if failure to offset would substantially prejudice its ability to collect the debt, and if the time before the payment is to be made does not reasonably permit completion of the procedures described in § 797.7. Such prior administrative offset shall be followed promptly by the completion of the procedures described in § 797.7.

§ 797.7 Procedures.

Prior to collecting any debt by administrative offset or referring such claim to another agency for collection through administrative offset, NCUA shall provide the debtor with a written Notice of Intent to Collect by Administrative Offset (the Notice) at least 30 calendar days before administrative offset is to commence.

The Notice shall provide the following information:

(a) The nature and amount of the debt, the intention of NCUA to collect the debt through administrative offset, and a statement of the rights of the debtor under this section, including the right to request a waiver under *5 U.S.C. 5584*;

(b) An opportunity to inspect and copy the records of NCUA related to the debt or receive copies if personal inspection is impractical;

(c) The payment due date, which shall be 30 calendar days from the date after receipt of the initial demand for payment;

(d) An opportunity for the debtor to obtain a review of the determination of indebtedness. Any request for review by the debtor shall be in writing and shall be submitted to NCUA within 15 calendar days after receipt of the Notice. NCUA may waive the time limits for requesting review for good cause shown by the debtor. NCUA shall provide the debtor with a reasonable opportunity for an oral hearing when:

(1) An applicable statute authorizes or requires NCUA to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or

(2) The debtor requests reconsideration of the debt and NCUA determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, as for example, when the validity of the debt turns on an issue of credibility or veracity. Unless otherwise required by law, an oral hearing under this subpart is not required to be a formal evidentiary hearing, although NCUA shall document all significant matters discussed at the hearing. In those cases where an oral hearing is not required by this subpart, NCUA shall make its determination on the request for waiver or reconsideration based upon a review of the written record.

(e) An opportunity to enter into a written agreement for the repayment of the amount of the claim at the discretion of NCUA;

(f) That charges for interest, penalties, and administrative costs will be assessed against the debtor, in accordance with *31 U.S.C. 3717*, if payment is not received by the payment due date, unless excused by the FCCS;

(g) That if the debtor has not entered into an agreement with NCUA to pay the debt, has not requested NCUA to review the debt, or has not paid the debt by the payment due date, NCUA intends to collect the debt by all legally available means;

(h) The name and address of the Executive Director whom the debtor shall send all correspondence relating to the debt; and

(i) Other information, as may be appropriate.

§ 797.8 Right to agency review.

(a) If the debtor disputes the claim, the debtor may request a review of NCUA's determination of the existence of the debt or of the amount of the debt. If only part of the claim is disputed, the undisputed portion should be paid by the payment due date.

(b) To obtain a review, the debtor shall submit a written request for review to the Executive Director within 15 calendar days after receipt of the Notice. The debtor's request for review shall state the basis on which the claim is disputed.

(c) The NCUA shall promptly notify the debtor, in writing, that the NCUA has received the request for review. The NCUA shall conduct its review of the claim in accordance with § 797.9.

§ 797.9 Review procedures.

(a) Unless an oral hearing is required by § 797.7(d), NCUA's review shall be a review of the written record of the claim.

(b) If an oral hearing is required, NCUA shall provide the debtor with a reasonable opportunity for such a hearing. The oral hearing, however, shall not be an adversarial adjudication and need not take the form of a formal evidentiary hearing. All significant matters discussed at the hearing, however, will be carefully documented.

(c) Any review required by this part, whether a review of the written record or an oral hearing, shall be conducted by a hearing official. When NCUA is the creditor agency and the debtor is an NCUA employee, NCUA shall contact any agency designated in appendix A to 5 CFR part 581 to arrange for a hearing official. When NCUA is the creditor agency and the debtor is not an NCUA employee (i.e., the debtor is employed by another federal agency, also known as the paying agency), and NCUA cannot provide a prompt and appropriate hearing, NCUA may contact an agent of the paying agency designated in appendix A to 5 CFR part 581 to arrange for a hearing official. The paying agency must cooperate with NCUA to provide a hearing official, as required by the FCCS.

(d) The hearing official shall issue a final written decision based on documentary evidence and, if applicable, information developed at an oral hearing. The written decision shall be issued as soon as practicable after the review but not later than 60 days after the date on which the request for review was received by NCUA, unless the debtor requests a delay in the proceedings. A delay in the proceedings shall be granted if the hearing official determines that there is good cause to grant the delay. If a delay is granted, the 60-day decision period shall be extended by the number of days by which the review was postponed.

(e) Upon issuance of the written opinion, NCUA shall promptly notify the debtor of the hearing official's decision. The notification shall include a copy of the written decision issued by the hearing official.

§ 797.10 Special review.

(a) An employee subject to offset, or a voluntary repayment agreement, may, at any time, request a special review by the Executive Director of the amount of the offset or voluntary repayment, based on materially changed circumstances, including, but not limited to, catastrophic illness, divorce, death, or disability.

(b) To determine whether an offset would prevent the employee from meeting essential subsistence expenses, the employee shall submit a detailed statement and supporting documents for the employee, the employee's spouse, and dependents indicating the employee's assets and liabilities.

(c) If the employee requests a special review under this section, the employee shall file an alternative proposed offset or payment schedule and a statement.

(d) The Executive Director shall evaluate the statement and supporting documents, and determine whether the original offset or repayment schedule imposes an undue financial hardship on the employee. The Executive Director shall notify the employee in writing within 30 calendar days of such determination, including, if appropriate, a revised offset or payment schedule. If the special review results in a revised offset or repayment schedule, NCUA shall provide a new certification to the paying agency.

§ 797.11 Interest, administrative costs, and penalties.

Where NCUA is the creditor agency, it shall assess interest, penalties and administrative costs pursuant to *31 U.S.C. 3717* and 31 CFR parts 900 through 904, unless excused in accordance with the FCCS.

§ 797.12 Refunds.

NCUA shall refund promptly those amounts recovered by offset but later found not to be owed to the federal government.

§ 797.13 Requests for administrative offset where NCUA is the creditor agency.

(a) NCUA may request that a debt owed to NCUA be collected by administrative offset against funds due and payable to a debtor by another agency.

(b) In requesting administrative offset, NCUA, as creditor, shall certify in writing to the agency holding funds of the debtor:

(1) That the debtor owes the debt;

(2) The amount and basis of the debt; and

(3) That NCUA has complied with the requirements of its own administrative offset regulations and the applicable provisions of the FCCS with respect to providing the debtor with due process.

§ 797.14 Requests for administrative offset from other federal agencies where NCUA is the paying agency.

(a) Any agency may request that funds due and payable to a debtor by NCUA be administratively offset in order to collect a debt owed to such agency by the debtor.

(b) NCUA shall initiate the requested administrative offset only upon receipt of a written certification from the creditor agency that:

(1) The debtor owes the debt, including the amount and basis of the debt;

(2) The agency has prescribed regulations for the exercise of administrative offset; and

(3) The agency has complied with its own administrative offset regulations and with the applicable provisions of the FCCS, with respect to providing the debtor with due process.

§ 797.15 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.

NCUA may request that monies payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset to collect debts owed to NCUA by the debtor. NCUA shall provide OPM with a written certification that states the debtor owes the debt, the amount of the debt, and that NCUA has complied with the agency's offset regulations, as well as, the requirements set forth in 31 CFR parts 900 through 904 and OPM's regulations.

§ 797.16 Stay of offset.

(a) When a creditor agency receives a debtor's request for inspection of agency records, the offset is stayed for 15 calendar days beyond the date set for the record inspection.

(b) When a creditor agency receives a debtor's offer to enter into a repayment agreement, the offset is stayed until the debtor is notified as to whether the proposed agreement is acceptable.

(c) When a review is conducted, the offset is stayed until the creditor agency issues a final written decision. The written decision must be issued within 60 days after receipt of the debtor's request for review.

Subpart C—Salary Offset

§ 797.17 Authority and scope.

(a) NCUA may collect debts owed by employees to the federal government by means of salary offset under the authority of 5 U.S.C. 5514, 5 CFR part 550, subpart K, and this subpart. The procedures set forth in this subpart apply to situations where NCUA is attempting to collect a debt by salary offset that is owed to it by an individual employed by NCUA or by another agency; or where NCUA employs an individual who owes a debt to another agency. Since salary offset is a type of administrative offset, this subpart supplements subpart B.

(b) The procedures set forth in this subpart do not apply to:

(1) Any routine intra-agency adjustment of pay that is attributable to clerical or administrative error or delay in processing pay documents that have occurred within the four pay periods preceding the adjustment, or any adjustment to collect a debt amounting to $50 or less. However, at the time of any such adjustment, or as soon thereafter as possible, NCUA or its designated payroll agent shall provide the employee with a written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.

(2) Any negative adjustment to pay that arises from an employee's election of coverage or a change in coverage under a federal benefits program that requires periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less. However, at the time that such adjustment is made, NCUA shall provide the employee a statement that informs the employee of the previous overpayment.

§ 797.18 Notice requirements where NCUA is the creditor agency.

Where NCUA seeks salary offset under *5 U.S.C. 5514* as the creditor agency, NCUA shall first provide the employee with a written Notice of Intent to Collect by Salary Offset (the Notice) at least 30 calendar days before salary offset is to commence. The Notice shall provide the following information:

(a) That the Executive Director has determined that a debt is owed to NCUA and intends to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest is paid in full or otherwise resolved;

(b) The amount of the debt and the factual basis for the debt;

(c) A salary offset schedule stating the frequency and amount of each deduction, stated as a fixed dollar amount or percentage of disposable pay not to exceed 15 percent;

(d) That in lieu of salary offset, the employee may propose a voluntary repayment plan to satisfy the debt on terms acceptable to NCUA, which must be documented in writing, signed by the employee and the Executive Director, and documented in NCUA's files;

(e) NCUA's policy concerning interest, penalties, and administrative costs, and a statement that such assessments must be made, unless excused in accordance with the FCCS;

(f) That the employee has the right to inspect and copy NCUA records related to the debt, or to receive copies of such records if personal inspection is impractical;

(g) That the employee has a right to request a hearing regarding the existence and amount of the debt claimed or the salary offset schedule proposed by NCUA, provided that the employee files a request for such a hearing with NCUA in accordance with § 797.20, and that such a hearing will be conducted by a hearing official not under the supervision or control of NCUA;

(h) The procedure and deadline for requesting a hearing, including the name, address, and telephone number of the Executive Director or other designated individual to whom a request for a hearing must be sent;

(i) That a request for hearing must be received by NCUA on or before the 30th calendar day following receipt of the Notice, and that filing of a request for hearing will stay the collection proceedings;

(j) That NCUA will initiate salary offset procedures not less than 30 days from the date of the employee's receipt of the Notice, unless the employee files a timely request for a hearing;

(k) That if a hearing is held, the hearing official will issue a decision at the earliest practical date, but not later than 60 days after the filing of the request for the hearing, unless the employee requests a delay in the proceedings which is granted by the hearing official;

(l) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to disciplinary procedures appropriate under *5 U.S.C. chapter 75,* 5 CFR part 752; penalties under the False Claims Act, *31 U.S.C. 3729* through *3731;* criminal penalties under *18 U.S.C. 286, 287, 1001, 1002;* or any other applicable statutory authority; and

(m) That the employee also has the right to request waiver of overpayment pursuant to *5 U.S.C. 5584,* and may exercise any other rights and remedies available under statutes or regulations governing the program for which the collection is being made.

§ 797.19 Review of NCUA records related to the debt.

(a) An employee who desires to inspect or copy NCUA records related to the employee's debt must send a written request to the Executive Director or the individual designated in the Notice. The letter must be received in the office of that individual within 15 calendar days after the employee's receipt of the Notice.

(b) In response to a timely request submitted by the employee, the employee shall be notified of the location and time when the employee may inspect and copy records related to the debt. If the employee is unable personally to inspect such records, NCUA shall arrange to send copies of such records to the employee.

§ 797.20 Procedures to request a hearing.

(a) To request a hearing, an employee must send a written request to the Executive Director within 15 calendar days after the employee's receipt of the Notice. If the employee files a request for a hearing after the expiration of the 15th calendar day, NCUA may accept the request if the employee can show that the delay was the result of circumstances beyond the employee's control or the employee failed to receive actual notice of the filing deadline.

(b) The request for a hearing must be signed by the employee and must fully identify and explain with reasonable specificity all the facts, evidence, and witnesses, if any, that support the employee's position. The request must also state whether the employee is requesting an oral or documentary hearing. If an oral hearing is requested, the request shall state why the matter cannot be resolved by a review of documentary evidence alone.

(c) The failure of an employee to request a hearing will be considered an admission by the employee that the debt exists in the amount specified in the Notice.

§ 797.21 Hearing procedures.

(a) *Obtaining the services of a hearing official.* When the debtor is not an NCUA employee and NCUA cannot provide a prompt and appropriate hearing before a hearing official, NCUA may request a hearing official from an agent of the paying agency, as designated in 5 CFR part 581, appendix A, or as otherwise designated by the paying agency. When the debtor is an NCUA employee, NCUA may contact any agent of another agency, as designated in 5 CFR part 581, appendix A.

(b) *Notice of hearing.* After the employee requests a hearing, the hearing official shall notify the employee of the form of the hearing to be provided. If the hearing will be oral, the notice shall set forth the date, time, and location of the hearing, which must occur no more than 30 calendar days after the request is received, unless the employee requests that the hearing be delayed. If the hearing will be conducted by an examination of documents, the employee, within 30 calendar days, shall submit any evidence or written arguments that should be considered by the hearing official.

(c) *Oral hearing.* (1) An employee who requests an oral hearing shall be provided an oral hearing if the hearing official determines that the matter cannot be resolved by an examination of the documents alone, as for example, when an issue of credibility or veracity is involved. The oral hearing need not be an adversarial adjudication and rules of evidence need not apply.

(2) Oral hearings may take the form of, but are not limited to:

(i) Informal conferences with the hearing official in which the employee and agency representative are given full opportunity to present evidence, witnesses, and argument;

(ii) Informal meetings in which the hearing examiner interviews the employee; or

(iii) Formal written submissions followed by an opportunity for oral presentation.

(d) *Hearing by examination of documents.* If the hearing official determines that an oral hearing is not necessary, the hearing official shall make the determination based upon an examination of the documents.

(e) *Record.* The hearing official shall maintain a summary record of any hearing conducted under this section.

(f) *Decision.* (1) The hearing official shall issue a written decision based upon evidence and information developed at the hearing or in the case of a documentary hearing the decision shall be based on the documents and written submissions. The decision shall be issued, as soon as practicable after the hearing, but not later than 60 calendar days after the hearing request was received by NCUA. If the hearing was delayed at the request of the employee, the 60-day decision period shall be extended by the number of days by which the hearing was postponed.

(2) The decision of the hearing official shall be final and is considered to be an official certification regarding the existence and the amount of the debt for purposes of executing salary offset under *5 U.S.C. 5514.* If the hearing official determines that a debt may not be collected by salary offset, but NCUA finds that the debt is still valid, NCUA may seek collection of the debt through other means in accordance with applicable law and regulations.

(g) *Content of decision.* The written decision shall include:

(1) A summary of the facts concerning the origin, nature, and amount of the debt;

(2) The hearing official's findings, analysis, and conclusions; and

(3) The terms of any repayment schedules, if applicable.

(h) *Failure to appear.* If the employee or the NCUA representative fails to appear, the hearing official shall proceed with the hearing as scheduled, and issue the decision based upon the oral testimony presented and the documentation submitted by both parties. At the request of both parties, the hearing official may re-schedule the hearing date.

§ 797.22 Voluntary repayment agreement.

(a) In response to the Notice, an employee may propose to repay the debt voluntarily in lieu of salary offset by submitting a written proposed repayment schedule to NCUA. Any proposal under this section must be received by NCUA within 15 calendar days after receipt of the Notice.

(b) In response to a timely proposal by the employee, NCUA shall notify the employee whether the employee's proposed repayment schedule is acceptable. NCUA has the discretion to accept, reject, or propose to the employee a modification of the proposed repayment schedule.

(1) If NCUA decides that the proposed repayment schedule is unacceptable, the employee shall have 15 calendar days from the date of the decision in which to file a request for a hearing.

(2) If NCUA decides that the proposed repayment schedule is acceptable or the employee agrees to a modification proposed by NCUA, an agreement shall be put in writing and signed by both the employee and NCUA.

§ 797.23 Certification where NCUA is the creditor agency.

(a) NCUA shall issue a certification in all cases where the hearing official determines that a debt exists or the employee admits the existence and amount of the debt, as for example, by failing to request a hearing.

(b) The certification must be in writing and state:

(1) That the employee owes the debt;

(2) The amount and basis of the debt;

(3) The date the federal government's right to collect the debt first accrued;

(4) The date the employee was notified of the debt, the action(s) taken pursuant to NCUA's regulations, and the dates such actions were taken;

(5) If the collection is to be made by lump-sum payment, the amount and date such payment will be collected;

(6) If the collection is to be made in installments, the amount or percentage of disposable pay to be collected in each installment and, if NCUA wishes, the desired commencing date of the first installment, if a date other than the next officially established pay period; and

(7) A statement that NCUA's regulation on salary offset has been approved by OPM pursuant to 5 CFR part 550, subpart K.

§ 797.24 Certification where NCUA is the paying agency.

(a) Upon issuance of a proper certification by NCUA or upon receipt of a proper certification from another creditor agency, NCUA shall send the employee a written notice of salary offset.

(b) Such written notice of salary offset shall advise the employee of the:

(1) Certification that has been issued by NCUA or received from another creditor agency;

(2) Amount of the debt and of the deductions to be made; and

(3) Date and pay period when the salary offset will begin.

(c) If NCUA is not the creditor agency, NCUA shall provide a copy of the notice to the creditor agency and advise the creditor agency of the dollar amount to be offset and the pay period when the offset will begin.

§ 797.25 Recovery from final check or other payments due a separated employee.

(a) *Lump-sum deduction from final check.* In order liquidate a debt, a lump-sum deduction exceeding 15 percent of disposable pay may be made pursuant to *31 U.S.C. 3716* from any final salary payment due a former employee, whether the former employee was separated voluntarily or involuntarily.

(b) *Lump-sum deductions from other sources.* Whenever an employee subject to salary offset is separated from NCUA, and the balance of the debt cannot be liquidated by offset of the final salary payment, NCUA may offset any later payments of any kind to the former employee to collect the balance of the debt pursuant to *31 U.S.C. 3716.*

[FR Doc. E8–3799 Filed 2–29–08; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29249; Directorate Identifier 2007–NM–112–AD; Amendment 39–15294; AD 2007–25–12]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Series Airplanes

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

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting a typographical error in an existing airworthiness directive (AD) that was published in the **Federal Register** on December 10, 2007 (72 FR 69593). The error resulted in a potential for confusion regarding the applicability of the AD. This AD applies to certain Airbus Model A318, A319, A320, and A321 series airplanes. This AD requires inspections of the landing gear (LG) selector valve 40GA and the LG door selector valve 41GA, to identify a possible hydraulic leak. The corrective action includes replacing the LG selector valve 40GA and/or the LG door selector valve 41GA if necessary.

DATES: Effective January 14, 2008.

ADDRESSES: 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: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: On November 21, 2007, the FAA issued AD 2007–25–12, amendment 39–15294 (72 FR 69593, December 10, 2007), for certain Airbus Model A318, A319, A320, and A321 series airplanes. The AD requires inspections of the landing gear (LG) selector valve 40GA and the LG door selector valve 41GA, to identify a possible hydraulic leak. The corrective action includes replacing the LG selector valve 40GA and/or the LG door selector valve 41GA if necessary.

As published, the AD applies to airplanes identified in paragraphs (c)(1) ''and'' (c)(2) of this AD instead of those identified in paragraph (c)(1) ''or'' (c)(2) of this AD.

This change is relieving in nature, and no other part of the regulatory information has been changed; therefore, the final rule is not republished in the **Federal Register**.

The effective date of this AD remains January 14, 2008.

§ 39.13 [Corrected]

■ In the **Federal Register** of December 10, 2007, on page 69594, in the second column, paragraph (c) of AD 2007–25–12 is corrected to read as follows:

* * * * *

(c) This AD applies to Airbus Model A318, A319, A320, and A321 series airplanes, certificated in any category,

except those identified in paragraph (c)(1) or (c)(2) of this AD.

* * * * *

Issued in Renton, Washington, on February 25, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–3930 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0226; Directorate Identifier 2008–NM–016–AD; Amendment 39–15404; AD 2008–05–10]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200, –200PF, and –200CB Series Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) that applies to certain Boeing Model 757–200, –200PF, and –200CB series airplanes powered by Rolls-Royce engines. The existing AD currently requires repetitive inspections of the shim installation between the vertical flange and bulkhead, and repair if necessary. The existing AD also requires, for certain airplanes, an inspection for cracking of the four critical fastener holes in the horizontal flange, and repair if necessary. This new AD retains the requirements of the existing AD, and requires that the existing action be performed on airplanes without conclusive records of previous inspections. This AD results from our determination that an operator did not maintain records of previous inspections that are necessary to determine the appropriate corrective actions. We are issuing this AD to detect and correct cracks, loose and broken bolts, and shim migration in the joint between the aft torque bulkhead and the strut-to-diagonal brace fitting, which could result in damage to the strut and consequent separation of the strut and engine from the airplane.

DATES: This AD becomes effective March 18, 2008.

On August 24, 2007 (72 FR 44753, August 9, 2007), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 757–54A0047, Revision 3, dated June 27, 2007.

We must receive any comments on this AD by May 2, 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.

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

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: Jason Deutschman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6449; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

On July 31, 2007, we issued AD 2007–16–13, amendment 39–15152 (72 FR 44753, August 9, 2007). That AD applies to certain Boeing Model 757–200, –200PF, and –200CB series airplanes powered by Rolls-Royce engines. That AD requires repetitive inspections of the shim installation between the vertical flange and bulkhead, and repair if necessary. That AD also requires, for certain airplanes, an inspection for cracking of the four critical fastener holes in the horizontal flange, and repair if necessary. That AD resulted from reports of cracking in the pylon under bolts that appear to be undamaged during the existing AD inspections. The actions specified in that AD are intended to detect and correct cracks, loose and broken bolts, and shim migration in the joint between the aft torque bulkhead and the strut-to-diagonal brace fitting, which could result in damage to the strut and consequent separation of the strut and engine from the airplane.

Actions Since AD Was Issued

Since we issued that AD, we have determined that some operators have not maintained records of findings (positive or negative) beyond one year of inspections conducted in accordance with AD 2007–16–13 or AD 2005–12–04 (which AD 2007–16–13 superseded). Therefore, there is no way to determine conclusively what the findings were during previous inspections. Inspection findings during previous inspections are necessary to determine what additional corrective actions need to be taken in order to adequately address the unsafe condition identified in this AD. This AD has new requirements for these airplanes that do not have records of findings during previous inspections.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. For this reason, we are issuing this AD to supersede AD 2007–16–13. This new AD retains the requirements of the existing AD. This AD also requires that the existing requirements be performed on airplanes for which there are no conclusive records of previous inspections.

FAA's Justification and Determination of the Effective Date

We are issuing this AD to detect and correct cracks, loose and broken bolts, and shim migration in the joint between the aft torque bulkhead and the strut-to-diagonal brace fitting. These conditions could result in damage to the strut and consequent separation of the strut and engine from the airplane. Because of our requirement to promote safe flight of civil aircraft and thus, the critical need to ensure the structural integrity of the aft torque bulkhead and the strut-to-diagonal brace fitting for the engine strut and the short compliance time involved with this action, this AD must be issued immediately.

Because an unsafe condition exists that requires the immediate adoption of this AD, we find that notice and opportunity for prior public comment hereon are impracticable and that good

cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0226; Directorate Identifier 2008–NM–016–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 have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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 Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–15152 (72 FR 44753, August 9, 2007) and adding the following new airworthiness directive (AD):

2008–05–10 Boeing: Docket No. FAA–2008–0226; Directorate Identifier 2008–NM–016–AD; Amendment 39–15404.

Effective Date

(a) This AD becomes effective March 18, 2008.

Affected ADs

(b) This AD supersedes AD 2007–16–13. Accomplishing the actions specified in this AD terminates certain requirements of AD 2004–12–07, amendment 39–13666.

Applicability

(c) This AD applies to Boeing Model 757–200, –200PF, and –200CB series airplanes; certificated in any category; line numbers 1 through 1048 inclusive; powered by Rolls-Royce engines.

Unsafe Condition

(d) This AD results from our determination that an operator did not maintain records of previous inspections that are necessary to determine the appropriate corrective actions. We are issuing this AD to detect and correct cracks, loose and broken bolts, and shim migration in the joint between the aft torque bulkhead and the strut-to-diagonal brace fitting, which could result in damage to the strut and consequent separation of the strut and engine from 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.

Restatement of the Requirements of AD 2007–16–13

Service Bulletin Reference

(f) The term ''alert service bulletin,'' as used in this AD, means Boeing Alert Service Bulletin 757–54A0047, Revision 3, dated June 27, 2007.

One-Time Inspection and Repair

(g) For airplanes identified in paragraphs (g)(1) and (g)(2) of this AD: Within 90 days after August 24, 2007 (the effective date of AD 2007–16–13), do a high frequency eddy current (HFEC) inspection for cracking of the four critical fastener holes in the horizontal flange and, before further flight, do all applicable repairs, in accordance with Part IV of the Accomplishment Instructions of the alert service bulletin, except as required by paragraph (k) of this AD.

(1) Airplanes on which findings on the horizontal or vertical fasteners or the shims led to a rejection of any fastener during the actions specified in Boeing Alert Service Bulletin 757–54A0047, dated November 13, 2003; or Boeing Service Bulletin 757–54A0047, Revision 1, dated March 24, 2005.

(2) Airplanes that had equivalent findings prior to Boeing Alert Service Bulletin 757–54A0047, dated November 13, 2003, except for findings on airplanes identified as Group 1, Configuration 2, in the alert service bulletin that were prior to the incorporation of Boeing Service Bulletin 757–54–0035.

Repetitive Inspections and Repair

(h) At the applicable times specified in paragraph 1.E., ''Compliance,'' of the alert service bulletin, except as required by paragraphs (i) and (j) of this AD: Do the inspections specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD and, before further flight, do all applicable related investigative actions and repairs, by doing all the actions specified in Parts I and II of the Accomplishment Instructions of the alert service bulletin, except as required by paragraph (k) of this AD.

(1) Do detailed inspections of the shim installations between the vertical flange and bulkhead to determine if there are signs of movement.

(2) Do detailed inspections of the four fasteners in the vertical flange to determine if there are signs of movement or if there are gaps under the head or collar.

(3) Do detailed inspections of the fasteners that hold the strut to the horizontal flange of the strut-to-diagonal brace fitting to determine if there are signs of movement or if there are gaps under the head or collar.

Exceptions To Alert Service Bulletin Procedures Specified in Paragraph (l)(2) of this AD

(i) Where the alert service bulletin specifies a compliance time relative to ''the date on

this service bulletin,'' this AD requires compliance within the corresponding specified time relative to August 24, 2007.

(j) Where the alert service bulletin specifies a compliance time relative to the ''date of issuance of airworthiness certificate,'' this AD requires compliance within the corresponding time relative to the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(k) If any crack is found during any inspection required by this AD, and the alert service bulletin specifies to contact Boeing for appropriate action: Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (q) of this AD.

New Requirements of This AD

One-Time Inspection/Repair for Airplanes for Which There Are No Conclusive Inspection Records

(l) For airplanes for which there are no conclusive records showing no loose or missing fasteners during previous inspections done in accordance with the requirements of AD 2007–16–13, amendment 39–15152; or AD 2005–12–04, amendment 39–14120: Do the actions specified in paragraphs (l)(1) and (l)(2) of this AD, at the times specified in those paragraphs, as applicable.

(1) Within 90 days after the effective date of this AD, do the actions specified in paragraph (g) of this AD, except as required by paragraph (k) of this AD.

(2) At the applicable times specified in paragraph 1.E., ''Compliance,'' of the alert service bulletin, do the actions specified in paragraph (h) of this AD, except as required by paragraphs (j) and (m) of this AD. And, before further flight, do all applicable related investigative actions and repairs, by doing all the actions specified in Parts I and II of the Accomplishment Instructions of the alert service bulletin, except as required by paragraph (k) of this AD.

Exception To Alert Service Bulletin Procedures

(m) Where the alert service bulletin specifies a compliance time relative to ''the date on this service bulletin,'' this AD requires compliance within the corresponding specified time relative to the effective date of this AD.

Credit for Actions Done Using Previous Service Information

(n) Except for the actions specified in paragraph (l) of this AD, actions done before the effective date of this AD in accordance with Boeing Service Bulletin 757–54A0047, Revision 1, dated March 24, 2005; or Boeing Alert Service Bulletin 757–54A0047, Revision 2, dated January 31, 2007; are considered acceptable for compliance with the corresponding actions specified in this AD.

(o) An inspection and corrective actions done before June 29, 2005 (the effective date of AD 2005–12–04), in accordance with paragraph (b) or (c), as applicable, of AD 2004–12–07, are acceptable for compliance with the initial inspection requirement of paragraph (h) of this AD.

An Acceptable Method of Compliance With Certain Requirements of AD 2004–12–07

(p) Accomplishing the actions specified in this AD terminates the requirements specified in paragraphs (b) and (c) of AD 2004–12–07.

Alternative Methods of Compliance (AMOCs)

(q)(1) The Manager, Seattle 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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously in accordance with AD 2004–12–07 are approved as AMOCs for the corresponding provisions of this AD.

(5) AMOCs approved previously in accordance with AD 2005–12–04 are approved as AMOCs for the corresponding provisions of this AD.

(6) AMOCs approved previously in accordance with AD 2007–16–13 are approved as AMOCs for the corresponding provisions of this AD.

Material Incorporated by Reference

(r) You must use Boeing Alert Service Bulletin 757–54A0047, Revision 3, dated June 27, 2007, to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) On August 24, 2007 (72 FR 44753, August 9, 2007), the Director of the Federal Register approved the incorporation by reference of this service information.

(2) Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on February 22, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–3928 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA 2007–0036]

RIN 0960–AG49

Amendment to the Attorney Advisor Program

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are issuing this final rule to adopt without change the interim final rule we published on August 9, 2007, which temporarily modifies the prehearing procedures we follow in claims for Social Security disability benefits and supplemental security income (SSI) payments based on disability or blindness. Under this final rule, we are permitting certain attorney advisors to conduct certain prehearing proceedings, and where the documentary record developed as a result of these proceedings warrants, issue decisions that are wholly favorable to the parties to the hearing.

DATES: The interim rule published August 9, 2007 is effective March 3, 2008.

FOR FURTHER INFORMATION CONTACT: Marilyn Hull, Social Security Administration, 5107 Leesburg Pike, Falls Church, VA 22041–3260, 703–605–8500 for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html*.

Explanation of Changes

We are dedicated to providing high-quality service to the American public. Today and for the foreseeable future, we face significant challenges in our ability to provide the level of service that disability benefit claimants deserve because of the significantly increased

number and complexity of these benefit claims. Consequently, we are temporarily modifying the procedures we follow in the administrative law judge (ALJ) hearings process in claims for Social Security disability benefits and SSI payments based on disability or blindness. This temporary modification will help us provide accurate and timely service to claimants for Social Security disability benefits and SSI payments based on disability or blindness. With this modification, we are permitting certain attorney advisors to conduct certain prehearing proceedings to help develop claims and issue wholly favorable decisions in appropriate claims before a hearing is conducted. For reasons we explain in the Public Comments section of this preamble, we expect that this modification will help us to reduce the number of pending cases at the hearing level. We intend to monitor the program closely and to make changes if it does not meet our expectations.

This temporary modification applies only to claims processed under parts 404 and 416 of our regulations; it does not apply to claims processed under part 405 of our regulations, which concerns only disability claims filed in the Boston region on or after August 1, 2006. Parts 404 and 416 of our regulations concern disability cases in every area outside the Boston region and non-disability cases in every location.

Generally, when a claim is filed for Social Security disability benefits or SSI payments based on disability or blindness, a State agency makes the initial and reconsideration disability determinations for us. An ALJ conducts a hearing after we have made a reconsideration determination. Under this final rule, attorney advisors in our hearing offices whom we designate may conduct certain prehearing proceedings and, where appropriate, issue decisions that are wholly favorable to claimants and any other party to the hearing.

Attorney advisors have performed these duties in the past. On June 30, 1995, we announced final rules establishing the attorney advisor program for a limited period of 2 years. 60 FR 34126 (1995). The program's success prompted us to extend the program several times, until it finally ended in April 2001. (62 FR 35073 (June 30, 1997), 63 FR 35515 (June 30, 1998), 64 FR 13677 (March 22, 1999), 64 FR 51892 (September 27, 1999)).

The number of requests for hearings that we have received has significantly increased in recent years, and we expect that trend to continue because of the projected increase in the number of disability claims as the baby boomers move into their disability-prone years. In light of our current and projected workload, we plainly must do everything that we can to reduce the number of cases awaiting a hearing. This final rule is an important part of our ongoing effort to decide cases more efficiently and timely.

This final rule will allow us to expedite the processing of cases pending at the hearing level without affecting a claimant's right to a hearing before an ALJ. The attorney advisor's conduct of certain prehearing proceedings will not delay the scheduling of a hearing before an ALJ. If the prehearing proceedings are not concluded before the hearing date, the case will be sent to the ALJ unless a decision wholly favorable to the claimant and all other parties is in process, or the claimant and all other parties to the hearing agree in writing to delay the hearing until the prehearing proceedings are completed.

Prehearing proceedings may be conducted by an attorney advisor under this final rule if one of the following criteria is met: New and material evidence is submitted, there is an indication that additional evidence is available, there is a change in the law or regulations, or there is an error in the file or some other indication that a wholly favorable decision could be issued. We will mail the attorney advisor's decision to all parties. The notice of decision will state the basis for the decision and advise the parties that an ALJ will dismiss the hearing request unless a party requests to proceed with the hearing within 30 days after the date the notice of the decision of the attorney advisor was mailed.

These procedures will remain in effect for a period not to exceed 2 years from the effective date of this final rule, unless we terminate or extend them by publication of a final rule in the **Federal Register**.

Public Comments

On August 9, 2007, we published an interim final rule with a request for comments. (72 FR 44763). Although the interim final rule became effective on that date, we also provided the public with a 60-day comment period, which closed on October 9, 2007. We received timely comments from one individual and two professional organizations. We carefully considered all the comments. Because some of the comments were lengthy, we have summarized and paraphrased them below. However, we have tried to present all of the commenters' views accurately and to respond to all of the significant issues raised by the comments that were within the scope of this rule. We have not responded to comments that were outside the scope of the interim final rule. The individual commenter and one of the organizational commenters supported the changes. We appreciate this support.

In addition to submitting comments on its own behalf, the second organizational commenter also included, within its comment letter, comments made by individual ALJs in its constituency. Although we refer primarily to the comment letter from this organization below, we did carefully consider all of the comments included in the organization's letter, and some of the comments we summarize below are actually from individual members of the organization.

Comment: The first organizational commenter, which expressed strong support for the changes, noted that the changes should not negatively impact the decisionmaking process for cases that are heard by ALJs. The second organizational commenter did not support the interim final rule. This commenter expressed concern that ALJ productivity would fall. The commenter said that we would be using our ''most experienced and gifted writers'' to write the easiest decisions, leaving the hardest decisions to be written by our least experienced staff. The second commenter also referred to a 2002 General Accounting Office report entitled ''Disappointing Results From SSA's Efforts to Improve the Disability Claims Process Warrant Immediate Attention'' (''GAO report''), indicating that our own management had made the same observation.[1]

This commenter also stated that we had made a number of ''unverified programmatic assumptions,'' including that:

- The rule would not impose net aggregate delay to claims processing and would not exacerbate the aging of pending claims,
- The rule would result in fully developed claims ready for ALJ hearing, and
- An ALJ, upon receiving a case the attorney advisor determines should be heard, would have little need to do additional development of evidence or prehearing review.

The commenter indicated that these assumptions were contradicted by our past experience, prior studies and reports, and our current staffing needs. The commenter believed that, given our limited resources, there was an

[1] GAO 02–322, February 27, 2002, available at *http://www.gao.gov/new.items/d02322.pdf.* See p. 23.

''unbridgeable gulf'' between the case processing realities we face and the restoration of a temporary program that the commenter believed would waste resources.

Response: The primary purpose of the attorney advisor program is to help us process more efficiently the backlog of cases we are facing at the hearing level, given the realities of our current staffing and budget. Commissioner Astrue has recognized and testified in Congress that ALJs are ''achieving a record high production rate,'' yet backlogs continue to grow at the hearing level.[2] Plainly, we need to take decisive steps to address this situation.

This program is only one tool among several we are now using, or planning to use, to reduce the waiting time for claimants who have requested hearings.[3] We believe that the attorney advisor program is especially important because it helps us to identify individuals who are disabled and who should not have to appear at a hearing in order for us to decide their case.

Because of the provisions for prehearing proceedings in §§ 404.942 and 416.1442 and in our internal procedures implementing the attorney advisor program, we expect that ALJs will be able to decide more readily those cases that attorney advisors review but do not allow. This is because attorney advisors will obtain more evidence in some cases and those cases will be ready for an ALJ hearing sooner than they otherwise would be, and because the attorney advisors will review and recommend development of additional evidence in others. The attorney advisors will also provide ALJs with an analysis of the issues in cases in which they are unable to issue wholly favorable decisions, which will assist the ALJs who subsequently review the case. Also, under this final rule, the conduct of prehearing proceedings by attorney advisors will generally not delay the scheduling or holding of hearings, unless a decision wholly favorable to the claimant and all other parties is in process, or the claimant and all other parties to the hearing agree in writing to delay the hearing until the prehearing proceedings are completed.

Only certain attorney advisors are permitted to participate in this program. Our internal instructions provide that only Hearing Office GS–13 Senior Attorney Advisors, Supervisory Attorney Advisors who are Hearing Office Directors, Supervisory Attorney Advisors who are Group Supervisors, and attorneys at the GS–13 level and above in the regional offices of our Office of Disability Adjudication and Review are authorized to issue fully favorable decisions under the interim final rule. These same individuals will be authorized to issue decisions under this final rule. Our internal operating instructions also provide that the attorney advisors who participate in this program will continue to draft decisions for ALJs, as assigned by local hearing office management. Our instructions also allow the management of each local hearing office to decide the amount of time attorney advisors will devote to the adjudication of wholly favorable decisions. We believe that these modifications to the program are improvements over the way we administered the program from 1995 to 2001. Therefore, we anticipate that, with these modifications, ALJs should have sufficient qualified and experienced staff to draft their decisions, conduct research, and perform other tasks.

Nevertheless, we are aware that we are shifting valuable resources to this task, even if only part-time, and that there is a potential that this shift will affect ALJs' ability to issue their decisions. Based on our experience using this procedure in the past, we do not believe this will happen, but as we noted earlier in this preamble, we intend to monitor the program closely and will make changes to it, including ending it if necessary, if it does not meet our expectations.

We address the additional, specific concerns of the second organizational commenter in the responses that follow.

Comment: The second organizational commenter also expressed concern that the interim final rule was intended to ''pay down'' the backlog. This commenter also submitted a number of individual ALJ comments and concerns about allowance rates. Some individual ALJs also believed that the allowance rate would increase. One ALJ believed that the outcomes would vary by office. This ALJ stated that in offices in which the attorney advisors are more conservative than the ALJs, they would waste time reviewing cases that they would not allow, and the program would have no beneficial effect and would delay case processing. In offices in which attorney advisors and the ALJs are ''similarly disposed to granting certain cases without a hearing,'' the allowance rate would not change and the program would again have no beneficial effect. In offices in which the attorneys are ''more sympathetic'' to the claimants than the ALJs, ''many, many cases'' would be paid without merit.

Response: We do not intend by this final rule to ''pay down'' the backlog of cases awaiting a hearing, nor do we expect the allowance rate to increase. Rather, we are providing our hearing offices with additional adjudicative capacity to more quickly decide some cases in which we can make a wholly favorable decision without a hearing. This will provide better service to claimants and, we expect, will help us to make faster decisions on all pending hearing requests and to reduce the number of cases in our hearing offices.

Therefore, we expect that the overall allowance rate at the hearing level will not change. The purpose of this program is to issue decisions more quickly in cases in which we can make a favorable decision without the time and expense of holding an ALJ hearing, and to improve the efficiency of our hearing office operations given our current staffing and budget. As we explain in more detail in response to another comment below, we plan to carefully monitor attorney advisor decisions for quality to ensure that they are making wholly favorable decisions only in appropriate cases.

Comment: The same commenter expressed concern about the accuracy, quality, and legal sufficiency of attorney advisor decisions. The commenter referred to a statement in the 2002 GAO report indicating that there were ''mixed'' findings on the accuracy of attorney advisors' decisions the first time we implemented this program. The commenter also referred to an internal Agency report issued by our Office of Quality Performance (OQP) in 2001,[4] which found that decisions issued by attorney advisors under the program were supported by substantial evidence 78 percent of the time.

Response: We are aware of concerns that were raised regarding the quality of decisions made by attorney advisors under our prior rule, and we intend to vigorously monitor the quality of attorney advisor decisions under this final rule. We will randomly select attorney advisor decisions for review by OQP after they have been issued and the decision has been effectuated. We will also perform quality reviews of attorney advisor decisions before they are issued. We will share the information from these reviews with our attorney advisors and use it for training purposes to continually improve the program.

[2] Testimony before the Senate Finance Committee, May 23, 2007, available at: *http://www.socialsecurity.gov/legislation/testimony_052307.htm.*

[3] For our current, complete plan, see ''Plan to Reduce the Hearings Backlog and Improve Public Service at the Social Security Administration,'' September, 13, 2007, available at: *http://www.socialsecurity.gov/hearingsbacklog.pdf.*

[4] In 2001, OQP was called the Office of Quality Assurance and Performance Assessment.

We must also put the data cited by the commenter in perspective. The GAO reported results from two studies: One conducted in OQP and the other by the Appeals Council. The reviews in OQP were conducted by ALJs and reported ''support'' rates; that is, the rate at which the reviewing ALJs agreed that the attorney advisors' decisions were supported by substantial evidence. The GAO indicated that ''the quality of decisions made by [attorney advisors] generally increased over the period of the initiative, though falling short of the quality of decisions made by the ALJs.'' [5] However, in fact, while OQP did report a support rate for attorney advisor decisions of 78 percent, they also reported a support rate for ALJ on-the-record decisions (that is, decisions made based on the written information in the case file without holding a hearing) of 81 percent, essentially the same as for attorney advisors. Moreover, another Agency internal report issued by OQP in December 2000 showed an 80 percent support rate for attorney advisor decisions in fiscal year 2000. The GAO reported that the study by the Appeals Council indicated that the quality of decisions made by attorney advisors was ''comparable'' to those made by the ALJs.[6]

Finally, we are confident that these ''most experienced and gifted writers,'' to use the commenter's own description, will produce legally sufficient decisions.

Comment: The same commenter reported an individual ALJ's comment asserting that during the first attorney advisor program the lack of sufficient attorneys to write the difficult decisions for cases heard by ALJs resulted in a case writing backlog, and that many attorney advisors could not keep up with the flow of cases to be reviewed.

Response: Although this final rule is substantively the same as the rule we published on June 30, 1995, our internal procedures address current operational issues, including our limited staff. They provide each hearing office with the flexibility to assign work to attorney advisors according to the needs and workloads of the office. Since our intent is to use this program to help reduce the backlog of cases and to provide better and faster service to the public, we will monitor it carefully and immediately take action if we find that it is having the effect the commenter was concerned about—the opposite of what we hope to achieve.

Comment: The same commenter reported an individual ALJ's comment that attorney advisors made the most errors in cases involving mental impairments and that such cases are generally not ''readily susceptible to on-the-record decisions.''

Response: We have already noted that we will carefully monitor the quality of attorney advisor decisions, and will take appropriate action if we find that there are special problems with the adjudication of cases involving mental impairments. Otherwise, we do not agree with the commenter. We believe that there are no inherent features of cases involving mental impairments that would make them any less susceptible to on-the-record decisions than any other cases.

Comment: The same commenter reported an individual ALJ's concern that attorney advisors would ''waste a lot of time'' reviewing cases that will not result in wholly favorable decisions.

Response: We do not agree that a prehearing review of cases will be a ''waste of time'' even if the attorney advisor is not able to make a wholly favorable decision. Our internal instructions for these rules permit attorney advisors to obtain evidence from the claimant or the claimant's representative and require them to provide the ALJ with an analysis of the issues in the case, including an explanation of why a wholly favorable decision could not be made on the record. Our instructions also require the attorney advisor to make recommendations to the ALJ for additional development of evidence to complete the record. We believe that, far from being a ''waste'' of time, these actions will help ALJs to prepare cases for a hearing and to more quickly decide cases that require a hearing after prehearing review.

Comment: The same commenter reported individual ALJ concerns that attorney advisor independence will be compromised by managerial oversight, performance evaluations, and ''bonuses'' received by attorney advisors. The individual ALJs were also concerned that the attorney advisor program will ''erode the integrity of the independent due process hearing and the role of the ALJ in that process.''

Response: Our attorney advisors have always been subject to ''managerial oversight,'' and they will continue to be under this final rule. We do not expect the implementation of this final rule to adversely affect their ability to perform their jobs in an appropriate manner.

Regarding the integrity of the independent due process hearing and the role of the ALJ in that process, this final rule augments the process by authorizing attorney advisors to make wholly favorable decisions in claims for disability benefits when there is no need for a hearing. Section 205(b) of the Social Security Act (the Act) requires the Commissioner to make findings of fact, and decisions as to the rights of any individual applying for a payment. The Act further provides that, upon request by any such individual (or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, surviving divorced father, husband, divorced husband, widower, surviving divorced husband, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision), the Commissioner shall give the individual reasonable notice and opportunity for a hearing. The final rules explicitly preserve the individual's right to a hearing which will be conducted by an ALJ if the individual is dissatisfied with the decision made by the attorney advisor.

Finally, we note that similar concerns were expressed in 1995. Our prior experience using attorney advisors to make decisions from 1995 to 2001 shows that concerns like those characterized above were unfounded. As was the case under our prior rules, attorney advisors who are authorized to conduct prehearing proceedings and issue wholly favorable decisions under the final rule will not conduct a hearing. Hearings will continue to be conducted by ALJs in appropriate cases.

Comment: The same commenter reported an individual ALJ's concern that there would be an increased potential for abuse, and even fraud, since attorney advisors are not subject to the same financial disclosure rules that ALJs are.

Response: We do not believe that this rule will increase the likelihood of fraud or abuse because attorney advisors are not required to submit financial reports. We know of no fraud or abuse resulting from the prior rules. However, we will handle any alleged fraud or abuse under our existing guidelines and procedures.

Comment: The same commenter reported individual ALJs' concerns that ALJs would have to take on more ''clerical functions,'' and that ALJs ''will be forced to write more and more of their own decisions.''

Response: We do not intend for ALJs to take on any additional ''clerical functions'' under this final rule, and we do not expect implementation of this final rule to affect the ability of our decision writers to write decisions on behalf of the ALJs.

Comment: The same commenter indicated that we had rushed to this rule without asking for comments first.

[5] GAO report, p. 23.

[6] Id.

Response: We disagree with the commenter's observation that we should have first published a notice of proposed rulemaking with respect to this rule. We explained in detail in the preamble to the interim final rule why we determined that notice-and-comment rulemaking was both unnecessary and contrary to the public interest under the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B)). Therefore, we properly determined that we had good cause to publish a final rule without requesting prior public comment. (72 FR at 44764). However, we also recognized that the rule we published in August 2007 concerned a subject about which the public was likely to be interested. As a result, we made the rule we published in August 2007 an interim final rule, and we requested public comments regarding the changes we made. Our actions in this regard are consistent with both the APA and good rulemaking practice.

Comment: The same commenter made a number of alternative recommendations for us to consider instead of the attorney advisor program, such as the implementation of a ''Government Representative Program.'' The commenter also recommended modifications to the attorney advisor program.

Response: We did not adopt the comments suggesting alternatives to the attorney advisor program because they were outside the scope of this rulemaking proceeding. The other comments addressed our internal procedures rather than the substance of the interim final rule. In our responses to prior comments, we have discussed our internal procedures, and explained how we believe those procedures provide adequate safeguards to address the concerns that the commenter raised.

Comment: The same commenter reported an individual ALJ's recommendation that the final rule require that the attorney advisors be limited to reviewing, developing the record, and drafting recommended ''on the record'' wholly favorable decisions for an ALJ to either sign such decisions or hear such cases.

Response: We did not adopt this comment suggesting an alternative to the attorney advisor program because it is outside the scope of this rulemaking proceeding.

Therefore, for all the reasons stated above, we are adopting the interim final rule without change.

Regulatory Procedures

Executive Order 12866, as Amended

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule meets the criteria for a significant regulatory action under Executive Order 12866, as amended. Accordingly, it was subject to OMB review. We also have determined that this rule meets the plain language requirement of Executive Order 12866, as amended.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities as it affects only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

This rule will impose no additional reporting or recordkeeping requirements requiring OMB clearance.

Federalism Impact and Unfunded Mandates Impact

We have reviewed this rule under the threshold criteria of Executive Order 13132 and the Unfunded Mandates Reform Act and have determined that it does not have substantial direct effects on the States, on the relationship between the national government and the States, on the distribution of power and responsibilities among the various levels of government, or on imposing any costs on State, local, or tribal governments. This rule does not affect the roles of the State, local, or tribal governments.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind, Disability benefits; Old-age, Survivors, and Disability insurance; Reporting and recordkeeping requirements; Social Security.

20 CFR Part 416

Administrative practice and procedure; Aged, Blind, Disability benefits; Public assistance programs; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Dated: January 23, 2008.

Michael J. Astrue,

Commissioner of Social Security.

■ Accordingly, the interim final rule amending subpart J of part 404 and subpart N of part 416 of chapter III of title 20 of the Code of Federal Regulations, which was published at 72 FR 44763 on August 9, 2007, is adopted as a final rule without change.

[FR Doc. E8–3945 Filed 2–29–08; 8:45 am]

BILLING CODE 4191–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–378; MB Docket No. 07–165; RM–11371]

Radio Broadcasting Services; Blanca, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of Kevin J. Youngers, Channel 249C2 at Blanca, Colorado, is allotted as the community's first local aural transmission service. Channel 249C2 is allotted at Blanca, Colorado with a site restriction of 6.6 kilometers (4.1 miles) east of the community at coordinates 37–26–35 NL and 105–26–29 WL .

DATES: Effective March 31, 2008.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Victoria McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order MB Docket No. 07–165, adopted February 13, 2008, and released February 15, 2008. The *Notice of Proposed Rule Making* proposed the allotment of Channel 249C2 at Blanca, Colorado. *See* 72 FR 46949, published August 22, 2007. To accommodate the allotment, United States CP, LLC, permittee on Channel 249A at Westcliffe, Colorado, has consented to substitute Channel 269A for Channel 249A at Westcliffe. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's copy contractor, Best

Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Colorado is amended by adding Blanca, Channel 249C2.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E8–4028 Filed 2–29–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

RIN 0750–AD76

Defense Federal Acquisition Regulation Supplement; Codification and Modification of Berry Amendment (DFARS Case 2002–D002)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, with changes, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 832 of the National Defense Authorization Act for Fiscal Year 2002. Section 832 codified and made modifications to the provision of law known as the ''Berry Amendment,'' which requires the acquisition of certain items from domestic sources.

DATES: *Effective Date:* March 3, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone 703–602–0328; facsimile 703–602–7887. Please cite DFARS Case 2002–D002.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 67 FR 20697 on April 26, 2002. The rule amended the DFARS to implement Section 832 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107–107). Section 832 codified and made minor modifications to the provision of law known as the Berry Amendment (formerly 10 U.S.C. 2241 note, Limitations on Procurement of Food, Clothing, and Specialty Metals Not Produced in the United States; now codified at 10 U.S.C. 2533a).

Twenty-two sources submitted comments on the interim rule. A discussion of the comments is provided below:

1. Clothing, Fabrics, and Fibers

a. *De minimis exception for cotton, other natural fibers, or wool.*

(1) *Applicability of exception.*

Comment: One respondent commented on the applicability of the exception in the interim rule at 225.7002–2(i) (now 225.7002–2(j)) for incidental amounts of cotton, other natural fibers, or wool. The respondent stated that the exception should apply only to the incidental amount of cotton, other natural fibers, or wool, not to the end item itself, if the end item is otherwise subject to the Berry Amendment. For example, a jacket of synthetic fibers with cotton lining in the pockets would still be subject to the Berry Amendment with regard to origin of the jacket as a whole. Only the cotton lining of the pockets would be exempt.

DoD Response: DoD concurs and has clarified this point in the final rule.

(2) *Simplified acquisition threshold.*

Comment: One respondent requested that DoD revise the exception in the interim rule at 225.7002–2(i) (now 225.7002–2(j)) to clarify that cotton, other natural fibers, or wool must be sourced domestically if the simplified acquisition threshold is met, regardless of their worth as a percentage of the total price of the end product.

DoD Response: DoD agrees with the intent of the comment, but does not believe a DFARS change is necessary. DFARS 225.7002–2(j) already states that the exception applies only if the value of the fibers is not more than 10 percent of the total price of the end product and does not exceed the simplified acquisition threshold.

b. *Para-aramid fibers.*

Comment: One respondent recommended that the exception for para-aramid fibers at 225.7002–2(m)(2) (now 225.7002–2(o)(2)) be extended to include all fabrics produced in compliance with the North American Free Trade Agreement (NAFTA), and to allow for fabrics made with Kermel aramid fiber produced in France and spun into yarn that is woven and finished in Canada.

DoD Response: The comment is outside the scope of this DFARS case. Section 807 of Public Law 105–261 only provides authority for DoD to waive the Berry Amendment restrictions for procurement of para-aramid fibers from countries that are party to a defense memorandum of understanding (qualifying countries). Mexico is not a qualifying country. Canada and France are qualifying countries, and can request a waiver from the Under Secretary of Defense (Acquisition, Technology, and Logistics), as did the Netherlands.

c. *Examples of textile products.*

Comment: One respondent suggested that DoD modify the rule at 225.7002–2(m)(1) (now 225.7002–2(o)(1)) to state that ''Examples of textile products, made in whole or in part of fabric, include [but are not limited to]—''.

DoD Response: DoD does not believe the suggested change is necessary, since the term ''examples'' means that the list is not exhaustive. Similar language is common throughout the DFARS.

d. *Footwear.*

Comment: One respondent requested that DoD clarify in the regulations that footwear is indeed included under the Berry Amendment restriction on clothing.

DoD Response: This issue has since been clarified at DFARS 225.7002–1(a)(2), which now lists footwear as an item of clothing.

e. *Parachutes.*

Comment: Several respondents requested that DoD include parachutes as a listed item under the Berry Amendment. In the past several years, some parachutes have been manufactured in Mexico, although the synthetic fibers and fabric were manufactured in the United States.

DoD Response: DoD has implemented the law as written and cannot add items to the list of restricted items without a change to the law.

2. Food Items—Exception for Products Manufactured or Processed in the United States

a. *Raw products.*

Comment: There was mixed response as to whether procurement of food items that are manufactured or processed in

the United States, but are from raw products of foreign origin, should be allowed. Some respondents favored the clarification of the exception in the Berry Amendment relating to foods manufactured or processed in the United States. Other respondents objected on the basis of harm to small businesses and possible contamination of foreign food ingredients (particularly fish). Another respondent suggested that foreign suppliers of seafood raw materials should be held to the same third-party verification requirements for sanitation as domestic processors.

DoD Response: The issue relating to the requirement for seafood products manufactured or processed in the United States to be made from domestic fish or seafood was resolved by Section 8118 of the Defense Appropriations Act for Fiscal Year 2005 (Pub. L. 108–287), which made this requirement permanent. This requirement is implemented at DFARS 225.7002–2(l). The other comments are outside the scope of this DFARS case.

b. *Definition of ''manufactured'' and ''processed.''*

Comment: There was mixed response regarding definition of the terms ''manufactured'' and ''processed.'' One respondent was concerned that suppliers may mistakenly consider packaging, repackaging, or blending sufficient processing to change the foreign raw materials into a product that could be procured by the U.S. military. The respondent cited the definition of ''processed food'' in the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(gg)).

Another respondent strongly urged that DoD take a ''common-sense'' approach and not attempt to impose a highly technical and potentially overly restrictive definition of what constitutes a product manufactured or processed in the United States. This respondent stated that widely accepted and robust definitions and standards already exist for such matters under U.S. Customs Law.

DoD Response: DoD agrees that the definition of these terms would be extremely complex and would probably vary depending on the food being manufactured or processed. The ''definition'' in the Federal Food, Drug and Cosmetic Act is not really definitive, because it only cites examples of processing ''such as canning, cooking, freezing, dehydration, or milling.'' This is not an exhaustive list of the ways in which food might be processed, and does not present criteria by which to determine whether the actions carried out constitute ''processing.''

c. *Packaging for meals-ready-to-eat (MRE).*

Comment: One respondent stated that the rule should explicitly require domestic sourcing for MRE packaging. The respondent acknowledged that packaging has never been explicitly included in the Berry Amendment, but believed that it has been strongly implied. The respondent expressed concern that the MRE pouches may be contaminated, and thus may contaminate the food.

DoD Response: The comment is outside the scope of this DFARS case, since food packaging is not covered by the Berry Amendment.

3. Items of Individual Equipment

Comment: One respondent objected to the parenthetical explanation of items of individual equipment at DFARS 225.7002–1(a)(10), ''(Federal Supply Class 8465).'' The respondent was concerned that, because of this insertion, items that normally may be considered under the Berry Amendment may inadvertently be excluded.

DoD Response: The comment is outside the scope of this DFARS case. The reference to Federal Supply Class 8465 has been in the DFARS since 1997, and was not changed by this DFARS rule. However, DoD recognizes the concerns of the respondent and is willing to further consider the issue under a separate DFARS case, if adequate supporting rationale is received.

4. Specialty Metals

One respondent had three objections to the DFARS implementation of the Berry Amendment with regard to specialty metals (none of which were changed by the interim rule). These objections are no longer pertinent, as the result of Section 842 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364), which established separate restrictions on specialty metals under 10 U.S.C. 2533b; and Sections 804 and 884 of the National Defense Authorization Act for Fiscal Year 2008, which further amended the restrictions. DoD is implementing these statutory changes under a separate DFARS case.

5. Other Exceptions

a. *Activities located outside the United States.*

Comment: One respondent stated that the exceptions in the interim rule at 225.7002–2(e) and (f) (now 225.7002–2(e) and (g)) refer to ''activities located outside the United States'' instead of using the statutory language of ''establishment located outside the United States'' (10 U.S.C. 2533a(d)(3)).

DoD Response: The interim rule made no change to the cited DFARS language. DoD refers to its overseas establishments as ''activities'' and considers this term to accurately reflect the intent of the law.

b. *NAFTA.*

Comment: One respondent recommended that the Berry Amendment be expanded to include the partners of NAFTA, allowing Canadian and Mexican firms to participate in the U.S. purchasing process.

DoD Response: The comment is outside the scope of this DFARS case. To allow purchases of restricted items from Canada and Mexico would require a change to the Berry Amendment.

6. Protectionism

Comment: One respondent objected to the ''protectionism'' of the Berry Amendment because of increased costs.

DoD Response: The comment relates to the merits of the Berry Amendment itself, not the DFARS rule, and, therefore, is outside the scope of this DFARS case.

7. Training

Comment: One respondent commented on the need for training on the Berry Amendment for procurement officers and other personnel to make the procurement process as seamless as possible. The respondent also recommended publication of ''Frequently Asked Questions'' on the Defense Procurement website to benefit the general public, as well as Congressional, Administration, and DoD staffs.

DoD Response: DoD recognizes the need for more information and training on the Berry Amendment. A Continuous Learning Module on the Berry Amendment (CLC 125) is now available at *https://learn.dau.mil.* In addition, answers to frequently asked questions are available at *http://www.acq.osd.mil/dpap/cpic/ic/berry_amendment_faq.html*. The Berry Amendment is a very complex issue that frequently requires case-by-case determination of applicability. However, DoD promotes a broader understanding of the basic concepts, so that procurement personnel will recognize the situations in which they need to seek additional guidance.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule primarily clarifies existing policy pertaining to the acquisition of certain items from domestic sources.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Accordingly, the interim rule amending 48 CFR parts 225 and 252, which was published at 67 FR 20697 on April 26, 2002, is adopted as a final rule with the following changes:

■ 1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

■ 2. Section 225.7002–2 is amended by revising paragraph (j) introductory text to read as follows:

225.7002–2 Exceptions.

(j) Acquisitions of incidental amounts of cotton, other natural fibers, or wool incorporated in an end product, for which the estimated value of the cotton, other natural fibers, or wool—

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.212–7001 [Amended]

■ 3. Section 252.212–7001 is amended as follows:

■ a. By revising the clause date to read ''(MAR 2008)''; and

■ b. In paragraph (b)(5), by removing ''(JAN 2007)'' and adding in its place ''(MAR 2008)''.

■ 4. Section 252.225–7012 is amended by revising the clause date and paragraph (c)(2) introductory text to read as follows:

252.225–7012 Preference for Certain Domestic Commodities.

* * * * *

PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (MAR 2008)

* * * * *

(c) * * *

(2) To incidental amounts of cotton, other natural fibers, or wool incorporated in an end product, for which the estimated value of the cotton, other natural fibers, or wool—

* * * * *

[FR Doc. E8–3946 Filed 2–29–08; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 232 and 252 and Appendix F to Chapter 2

RIN 0750–AF63

Defense Federal Acquisition Regulation Supplement; Mandatory Use of Wide Area WorkFlow (DFARS Case 2006–D049)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to require use of the Wide Area WorkFlow electronic system for submitting and processing payment requests and receiving reports under DoD contracts. Use of Wide Area WorkFlow facilitates timely and accurate payments to DoD contractors.

DATES: Effective Date: March 3, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (CPF), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone 703–602–0326; facsimile 703–602–7887. Please cite DFARS Case 2006–D049.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule requires use of the Wide Area WorkFlow (WAWF) electronic system for submission and processing of payment requests and receiving reports under DoD contracts. WAWF, when fully implemented, will eliminate paper documents, eliminate redundant data entry, improve data accuracy, reduce the number of lost or misplaced documents, and result in more timely payments to contractors.

DoD published a proposed rule at 72 FR 45405 on August 14, 2007. Sixteen respondents submitted comments on the proposed rule. A discussion of the comments is provided below:

1. Recommendation To Allow Third Party Payment System (TPPS) U.S. Bank—PowerTrack Transactions

Comment: Eight respondents expressed concern that the rule would no longer support the use of TPPS, indicating that the rule fails to acknowledge the unique needs of suppliers who invoice on a transaction basis, such as those in the express and ground package delivery industry.

DoD Response: The rule has been amended to permit the use of a DoD-approved electronic third party payment system or other exempt vendor payment/invoicing system (such as PowerTrack, Transportation Financial Management System, and Cargo and Billing System) for payment of commercial transportation services.

2. Recommendation To Allow Continued Use of the Governmentwide Commercial Purchase Card

Comment: One respondent questioned the functionality of WAWF to support Government purchase card (GPC) transactions.

DoD Response: DFARS 232.7002(a)(1) exempts purchases paid for with a GPC. Therefore, the requirement to submit payment requests electronically through WAWF does not extend to GPC purchases.

3. Recommendation To Exclude Existing Foreign Military Sales Contracts

Comment: One respondent expressed concern that the rule would require modification of existing foreign military sales contracts.

DoD Response: In accordance with FAR 1.108(d), the rule is prospective in nature, becoming effective for solicitations issued on or after the effective date of the rule. It does not require modification of existing contracts.

4. Government Not Fully Compliant

Comment: Three respondents expressed concern that WAWF has not been fully implemented within DoD.

DoD Response: There are currently over 145,000 Government users of WAWF, with new users being added at the rate of 2,500 per month. All of the military departments are expanding their use of WAWF and have targets to complete deployment in fiscal year 2008. However, DoD recognizes there are instances where WAWF cannot be used, such as in a contingency environment. Paragraph (c)(2) of the clause at 252.232–7003 provides an

exception to the use of WAWF for those DoD locations that are unable to receive a payment request or provide acceptance in electronic form.

5. Acceptance Issues

a. *Clarification that WAWF includes receiving reports.*

Comment: One respondent recommended clarifying that WAWF also includes receipt and acceptance, not just payment requests, since receiving reports are part of the payment process.

DoD Response: The rule has been amended to clarify that the electronic submission of payment requests also includes the electronic submission of receiving report documentation necessary to support payment. Receiving reports are a key part of the payment process and have an important and close interrelationship with payment requests in WAWF.

b. *Blanket exception for installations unable to provide acceptance in WAWF.*

Comment: One respondent recommended a blanket exception for payments on installation support contracts where there presently is no centralized structure in place for acceptance of items or services in WAWF.

DoD Response: Paragraph (c)(2) of the clause at 252.232–7003 contains an exception to the use of WAWF for those DoD locations that are unable to provide acceptance in electronic form. However, DoD expects that use of this exception will be rare, since DoD is committed to full implementation of WAWF by the end of fiscal year 2008.

6. Recommendation for the Clause To Include Payment Instructions

Comment: One respondent recommended that the contract clause contain actual payment instructions, including fill-ins for the information required by WAWF, such as required DoDAACs and supplemental e-mail addresses for the contracting officer's representative, the procuring contracting officer, or other contract administrators.

DoD Response: The contracting office will include DoDAACs and supplemental e-mail addresses within the contract as necessary, with the exception of those for the Defense Contract Audit Agency (DCAA). The contractor should follow the instructions in WAWF to determine the appropriate DCAA office and DoDAAC.

7. Recommendation To Clarify Who Has Exception Authority (Procuring Contracting Officer (PCO) or Administrative Contracting Officer (ACO)) for Use of WAWF

Comment: One respondent recommended clarification in the contract clause and its prescription to provide authority for the PCO to grant exceptions to the use of WAWF at the time of contract formation. The determination should be included in Section G of the contract, eliminating the requirement for a copy of the ACO's determination to be provided with each payment request.

DoD Response: Prior to award, the PCO may authorize a contractor to use an electronic form other than WAWF, in accordance with DFARS 232.7003(b), and the authorization will be annotated in Section G of the contract. After award, the ACO may authorize (in writing) the contractor to submit non-electronic payment requests and receiving reports when electronic submission would be unduly burdensome to the contractor (DFARS 252.232–7003(c)(3)). The requirement for the contractor to provide a copy of the ACO's written authorization with the payment request is intended to facilitate processing of the request and prevent inadvertent rejection of the paper document.

8. WAWF System Issues

a. *Credit invoices cannot process in WAWF.*

Comment: One respondent suggested that, because the current workload for negative invoices requires the submission of paper invoices, the rule should provide the authority to use alternative billing arrangements when WAWF is not suitable or available.

DoD Response: The requirement to submit payment requests in electronic form does not extend to credit invoices/vouchers. WAWF was designed to comply with requirements for payments and will not be modified to accept credits. Any credits due to the Government on invoices with negative amounts should be coordinated with the Defense Finance and Accounting Service entitlement office.

b. *User difficulties.*

Comment: One respondent expressed concern that WAWF is not vendor-friendly for input of documents. There are too many screens, fields, and steps; DoD activities do not always input the required purchase order and modification information; and invoices are not paid any faster than when using the mail system.

DoD Response: Although WAWF input requires the use of multiple screens and fields, the information required for payment requests remains in compliance with FAR 32.905, Payment documentation and process. Purchase order and modification information used by WAWF is extracted from the Electronic Document Access (EDA) system to populate the WAWF data screens; the information is not input to WAWF. Therefore, errors in the data pulled from the EDA system are not a limitation of WAWF, but rather an EDA issue. Further, the decrease in processing time from submission to payment is realized in WAWF's immediate transmission of a document from action step to action step.

c. *Company-wide computer system revamp.*

Comment: One respondent stated that it was in the middle of a company-wide computer system revamp and any changes at this time would require a 12-month lead time.

DoD Response: The rule is prospective in nature, becoming effective for solicitations issued on or after the effective date of the rule. Contractors will be expected to make the system changes necessary to comply with the provisions of new awards. However, the rule provides for the use of an alternate electronic form if authorized by the contracting officer.

d. *Electronic data interchange (EDI) American National Standards Institute (ANSI) X.12 Capability.*

Comment: One respondent requested a clear understanding of the EDI ANSI X.12 interfacing options with DoD.

DoD Response: It is anticipated that WAWF will support EDI ANSI X.12 into the future. No changes are being contemplated.

e. *Grant and cooperative agreement processing capability.*

Comment: One respondent recommended inclusion of non-acquisition instruments (grants and cooperative agreements).

DoD Response: While use of WAWF for these instruments will not be mandated, WAWF Version 3.12 (released October 21, 2007) accommodates the processing of grant payments and other transactions.

f. *WAWF downtime.*

Comment: One respondent expressed concern that WAWF is frequently not available.

DoD Response: Statistics maintained by the WAWF Program Office show that WAWF availability has been at 99.955 percent for peak hours and 100 percent for off-peak hours.

g. *Processing of 9000 series, contract data requirements list, and first article contract line items.*

Comment: One respondent stated that WAWF does not accept 9000 series, contract data requirements list, and first article contract line items, and should not be mandated until all items may be processed electronically.

DoD Response: WAWF Version 3.12, released October 21, 2007, accommodates the processing of 9000 series, contract data requirements list, and first article contract line items.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD has prepared a final regulatory flexibility analysis consistent with 5 U.S.C. 604. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

The objective of the rule is to fully automate the payment process, including receiving reports, to significantly improve the timeliness of payments and to reduce DoD's interest charges for late payments. The rule continues DoD's implementation of the electronic invoicing requirements of 10 U.S.C. 2227, as added by Section 1008 of the National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398).

The DFARS presently identifies three accepted electronic forms of transmitting payment requests under DoD contracts: (1) American National Standards Institute (ANSI) X.12 Electronic Data Interchange (EDI); (2) Web Invoicing System (WInS); and (3) WAWF. ANSI X.12 EDI and WInS cannot process all DoD payment request types, nor can they process receiving reports. In addition, EDI and WInS information cannot be made available to all interested Government offices and organizations. WAWF is the only DoD system that can process all payment request types as well as receiving reports. WAWF keeps historical files that are readily available for both contractor and Government use. The use of WAWF already has contributed significantly to improving the timeliness of payments and to DoD's goal of reducing interest charges for late payments.

The rule will still allow a contractor to submit a payment request through an electronic means other than WAWF, or in a non-electronic format, if authorized by the contracting officer. In addition, the rule will allow contractors to submit ANSI X.12 EDI transactions through WAWF.

Approximately 1,000 small entities will be required to switch from WInS to the WAWF system, used by over 20,000 small entities. Both systems involve submission of invoices through the World Wide Web. Approximately 1 hour is needed to learn the WAWF system. No reporting, recordkeeping, or compliance records will be required from small entities. All such records will be generated by DoD as a by-product of the use of the required system.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 232 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 232 and 252 and Appendix F to chapter 2 are amended as follows:

■ 1. The authority citation for 48 CFR parts 232 and 252 and Appendix F to subchapter I continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 232—CONTRACT FINANCING

■ 2. The heading of subpart 232.70 is revised to read as follows:

Subpart 232.70—Electronic Submission and Processing of Payment Requests and Receiving Reports

■ 3. Section 232.7002 is amended by revising paragraph (a) introductory text, paragraph (a)(6), the last sentence of paragraph (b), paragraph (c) introductory text, and the first sentence of paragraph (c)(1) to read as follows:

232.7002 Policy.

(a) Contractors shall submit payment requests and receiving reports in electronic form, except for—

* * * * *

(6) Cases in which DoD is unable to receive payment requests or provide acceptance in electronic form; or

* * * * *

(b) * * * Scanned documents are acceptable for processing supporting documentation other than receiving reports and other forms of acceptance.

(c) When payment requests and receiving reports will not be submitted in electronic form—

(1) Payment requests and receiving reports shall be submitted by facsimile or conventional mail. * * *

* * * * *

4. Sections 232.7003 and 232.7004 are revised to read as follows:

232.7003 Procedures.

(a) The accepted electronic form for submission of payment requests and receiving reports is Wide Area WorkFlow (see Web site—*https://wawf.eb.mil/*).

(b) If the payment office and the contract administration office concur, the contracting officer may authorize a contractor to submit a payment request and receiving report using an electronic form other than Wide Area WorkFlow. However, with this authorization, the contractor and the contracting officer shall agree to a plan, which shall include a timeline, specifying when the contractor will transfer to Wide Area WorkFlow.

(c) For payment of commercial transportation services provided under a Government rate tender or a contract for transportation services, the use of a DoD-approved electronic third party payment system or other exempted vendor payment/invoicing system (e.g., PowerTrack, Transportation Financial Management System, and Cargo and Billing System) is permitted.

232.7004 Contract clause.

Except as provided in 232.7002(a), use the clause at 252.232–7003, Electronic Submission of Payment Requests and Receiving Reports, in solicitations and contracts.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Section 252.212–7001 is amended by revising paragraph (b)(17) to read as follows:

252.212–7001 Contract Terms and Conditions Required To Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.

* * * * *

(b) * * *

(17) __252.232–7003, Electronic Submission of Payment Requests and Receiving Reports (MAR 2008) (10 U.S.C. 2227).

■ 6. Section 252.232–7003 is amended by revising the section heading, the clause title and date, and paragraphs (a)(2), (b), and (c) to read as follows:

252.232–7003 Electronic Submission of Payment Requests and Receiving Reports.

* * * * *

ELECTRONIC SUBMISSION OF PAYMENT REQUESTS AND RECEIVING REPORTS (MAR 2008)

(a) * * *

(2) *Electronic form* means any automated system that transmits information electronically from the initiating system to all affected systems. Facsimile, e-mail, and scanned documents are not acceptable electronic forms for submission of payment requests. However, scanned documents are acceptable when they are part of a submission of a payment request made using Wide Area WorkFlow (WAWF) or another electronic form authorized by the Contracting Officer.

* * * * *

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests and receiving reports using WAWF, in one of the following electronic formats that WAWF accepts: Electronic Data Interchange, Secure File Transfer Protocol, or World Wide Web input. Information regarding WAWF is available on the Internet at *https://wawf.eb.mil/*.

(c) The Contractor may submit a payment request and receiving report using other than WAWF only when—

(1) The Contracting Officer authorizes use of another electronic form. With such an authorization, the Contractor and the Contracting Officer shall agree to a plan, which shall include a timeline, specifying when the Contractor will transfer to WAWF;

(2) DoD is unable to receive a payment request or provide acceptance in electronic form;

(3) The Contracting Officer administering the contract for payment has determined, in writing, that electronic submission would be unduly burdensome to the Contractor. In such cases, the Contractor shall include a copy of the Contracting Officer's determination with each request for payment; or

(4) DoD makes payment for commercial transportation services provided under a Government rate tender or a contract for transportation services using a DoD-approved electronic third party payment system or other exempted vendor payment/invoicing system (e.g., PowerTrack, Transportation Financial Management System, and Cargo and Billing System).

* * * * *

■ 7. Section 252.246–7000 is amended by revising the clause date and paragraph (b) to read as follows:

252.246–7000 Material Inspection and Receiving Report.

* * * * *

MATERIAL INSPECTION AND RECEIVING REPORT (MAR 2008)

* * * * *

(b) Contractor submission of the material inspection and receiving information required by Appendix F of the Defense FAR Supplement by using the Wide Area WorkFlow (WAWF) electronic form (see paragraph (b) of the clause at 252.232–7003) fulfills the requirement for a material inspection and receiving report (DD Form 250). Two copies of the receiving report (paper copies of either the DD Form 250 or the WAWF report) shall be distributed with the shipment, in accordance with Appendix F, Part 4, F–401, Table 1, of the Defense FAR Supplement.

Appendix F—Material Inspection and Receiving Report

■ 8. Appendix F to chapter 2 is amended in Part 3, Section F–306, by revising paragraph (a) to read as follows:

F–306 Invoice instructions.

(a) Contractors shall submit payment requests and receiving reports in electronic form, unless an exception in 232.7002 applies. Contractor submission of the material inspection and receiving information required by this appendix by using the Wide Area WorkFlow electronic form (see paragraph (b) of the clause at 252.232–7003) fulfills the requirement for an MIRR.

* * * * *

■ 9. Appendix F to chapter 2 is amended in Part 4, Section F–401, by revising paragraph (a) to read as follows:

F–401 Distribution.

(a) The contractor is responsible for distributing the DD Form 250, including mailing and payment of postage. Use of the Wide Area WorkFlow electronic form satisfies the distribution requirements of this section, except for the copies required to accompany shipment.

* * * * *

[FR Doc. E8–3947 Filed 2–29–08; 8:45 am]

BILLING CODE 5001–08–P

Proposed Rules

Federal Register
Vol. 73, No. 42
Monday, March 3, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Docket No. AO–214–A7; AMS–FV–07–0050; FV07–981–1]

Almonds Grown in California; Secretary's Decision and Referendum Order on Proposed Amendment of Marketing Order No. 981

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This decision proposes amendments to Marketing Order No. 981 (order), which regulates the handling of almonds grown in California, and provides growers with the opportunity to vote in a referendum to determine if they favor the changes. The amendments are based on those proposed by the Almond Board of California (Board), which is responsible for local administration of the order. The amendments would authorize the establishment of different outgoing quality requirements for different markets and would authorize the establishment of bulk container marking and labeling requirements. The proposals are intended to provide additional flexibility in administering the quality control provisions of the order and provide the industry with additional tools for the marketing of almonds.

DATES: The referendum will be conducted from March 24 through April 11, 2008. The representative period for the purpose of the referendum is August 1, 2006, through July 31, 2007.

FOR FURTHER INFORMATION CONTACT: Martin Engeler, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102-B, Fresno, California 93721; Telephone: (559) 487–5110, Fax: (559) 487–5906, or E-mail: *Martin.Engeler@usda.gov;* or Laurel May, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Laurel.May@usda.gov.*

Small businesses may request information on this proceeding by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on June 29, 2007, and published in the July 6, 2007, issue of the **Federal Register** (72 FR 36900), and a Recommended Decision issued on December 21, 2007, and published in the December 28, 2007, issue of the **Federal Register** (72 FR 73671).

This action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866.

Preliminary Statement

The proposed amendments are based on the record of a public hearing held August 2, 2007, in Modesto, California, to consider such amendments to the order. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–612), hereinafter referred to as the ''Act,'' and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900). The Notice of Hearing was published in the **Federal Register** on July 6, 2007 (72 FR 36900), and contained amendment proposals submitted by the Board.

The amendments included in this decision would:

1. Authorize the establishment of different outgoing almond quality requirements for different markets; and
2. Authorize the establishment of container marking and labeling requirements.

In addition, the Agricultural Marketing Service (AMS) proposed to make changes as may be necessary to the order, if any of the proposed changes are adopted, so that all of the order's provisions conform to the effectuated amendments.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of AMS on December 21, 2007, filed with the Hearing Clerk, U.S. Department of Agriculture (USDA), a Recommended Decision and Opportunity to File Written Exceptions thereto by January 17, 2008. None were filed.

Small Business Consideration

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions so that small businesses will not be unduly or disproportionately burdened. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit.

Small agricultural service firms, which include handlers regulated under the order, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,500,000. Small agricultural producers have been defined as those with annual receipts of less than $750,000.

There are approximately 104 handlers of almonds subject to regulation under the order and approximately 6,000 producers of almonds in the regulated area. Information provided at the hearing indicates that approximately 50 percent of the handlers would be considered small agricultural service firms. According to data reported by the National Agricultural Statistics Service (NASS), the two-year average crop value for 2005–06 and 2006–07 was $2.283 billion. Dividing that average by 6,000 producers yields average estimated producer revenues of $380,500, which suggests that the majority of almond producers would also be considered small entities according to the SBA's definition.

The order regulates the handling of almonds grown in the state of California. The California almond bearing acreage increased nearly 40

percent between 1996 and 2006, from 418,000 to 585,000 acres. Approximately 1.115 billion pounds (shelled basis) of almonds were produced during the 2006–07 season. Bearing acreage for the 2007–08 season is estimated to be 615,000 acres. NASS has forecasted that the 2007–08 crop will reach 1.330 billion pounds (shelled basis). More than two thirds of California's almond crop is exported to approximately 90 countries worldwide, and comprises nearly 80 percent of the world's almond supply.

Under the order, incoming and outgoing quality regulations are established, statistical information is collected, production research projects are conducted, and marketing research and generic promotion programs are sponsored. Program activities administered by the Board are designed to support large and small almond producers and handlers. The 10-member Board is comprised of both producer and handler representatives from the production area. Board meetings where regulatory recommendations and other decisions are made are open to the public. All members are able to participate in Board deliberations, and each Board member has an equal vote. Others in attendance at meetings are also allowed to express their views.

The Board's Food Quality and Safety Committee discussed the need for amendments to the order at meetings held on May 12, 2005; July 20, 2005; and November 1, 2006. The Board approved language for two proposed amendments to the order at their meeting on November 28, 2006. During a conference call on February 27, 2007, the Board confirmed that the two amendments should be proposed to USDA. The views of all participants were considered throughout this process.

In addition, the hearing to receive evidence on the proposed changes was open to the public and all interested parties were invited and encouraged to participate and provide their views.

The proposed amendments are intended to provide the Board and the industry with additional flexibility in the marketing of California almonds. Record evidence indicates that the proposed amendments are intended to benefit all producers and handlers under the order, regardless of size. There would be no cost implications for handlers or growers from adding the proposed order authorities. Costs of implementation would be incurred only if specific additional requirements were established following future informal rulemaking. All grower and handler witnesses supported the proposed amendments and commented on the implications of implementing specific requirements in the future. In that context, witnesses stated that they expected the benefits to be substantial and the costs of any future requirements to be minimal.

A description of the proposed amendments and their anticipated economic impact on small and large entities is discussed below.

Proposal 1—Adding the Authority To Establish Different Outgoing Quality Requirements for Different Markets

The record shows that the proposal to add authority to establish different outgoing quality requirements for different markets would, in itself, have no economic impact on producers or handlers of any size. Regulations implemented under that authority could impose additional costs on handlers required to comply with them. However, witnesses testified that establishing mandatory regulations for different markets could increase the industry's credibility and reduce the risk that shipments of substandard product could jeopardize the entire industry's reputation. Record evidence shows that any additional costs are likely to be offset by the benefits of complying with those requirements.

Witnesses cited decreased delays and demurrage charges, as well as fewer rejected loads and increased customer confidence, as expected benefits. Recently, almonds have been rejected in the EU due to aflatoxin levels exceeding its importing tolerances. Information provided at the hearing shows that the rejection of a 44,000 pound container of almonds in the EU costs about $10,000, or 22.7 cents per pound. The cost includes demurrage for unanticipated delays at port, warehousing product while awaiting official import testing results, shipping rejected almonds back to the U.S., and shipping a replacement container back to the EU.

To reduce the risk of rejections, the California almond industry developed a voluntary aflatoxin testing protocol. Witnesses estimated that the cost of the pre-export testing, including the value of the sample, analytical fees, courier fees, and sampling labor is less than 2 cents per pound, which is less than 10 percent of the cost associated with a rejection. Proponents testified that if a requirement that all almonds destined for the EU be tested prior to shipment was established under authority provided by the proposed order amendment, handlers would incur the cost of testing, but those costs would be expected to be more than offset by the reduced risk of rejections.

It's likely that most handlers are already complying with their customers' specific market requirements on a voluntary basis as a part of doing business, but witnesses explained that mandatory requirements lend credibility to the entire industry. In addition, such requirements could reduce the risk that one shipment of substandard product would jeopardize the entire industry's reputation.

Currently, outgoing quality requirements established under the order apply to all handler entities regardless of size. If the proposed amendment and subsequent regulations established thereunder are implemented, distribution of any increased costs between small and large entities would depend on the requirements established for the markets to which individual handlers shipped their almonds as well as the volume of almonds shipped to those markets. But increases in cost would be equitable to all entities because requirements for each market would be imposed uniformly on all handlers shipping to that market.

Witnesses explained that almonds are used in many different ways by the various markets. In Europe, almonds are widely used as marzipan and ingredients for baked goods, candy, and other dishes. In India and the Middle East, almonds are presented as gifts at holidays and weddings, and play a part in other cultural traditions. India imports large quantities of inshell almonds that are then processed by hand. The wide range of uses leads to a similarly wide array of customer requirements.

According to record testimony, handlers adapt their export methods to satisfy customer requirements. One witness explained that it is often difficult for smaller handlers to stay informed of rapidly changing import regulations. The witness stated that small handlers in particular would benefit from the proposed authority to establish different requirements for different markets by avoiding costly mistakes that could be associated with not understanding various market and import requirements. If regulations were established under the proposed authority, the Board would provide information about updated requirements to the industry.

Finally, one witness explained that having the ability under the order to establish different outgoing quality requirements for different markets would not restrict handlers' choices regarding which markets to supply. Rather, the provision would ensure that the important standards that

differentiate markets would be consistently met by all handlers shipping to those markets.

Proposal 2—Adding the Authority To Establish Container Labeling and Marking Requirements

The proposal described in Material Issue No. 2 would add § 981.43 to the order to provide general authority to establish container marking and labeling requirements. If implemented, the proposed amendment would allow the Board, through the informal rulemaking process, to recommend and establish uniform container marking and labeling regulations in response to evolving market requirements. Under current order provisions, there is only very limited authority for container marking and labeling requirements.

Witnesses testified that the lack of this authority has hindered them from adapting quickly and appropriately to recent market situations. In one case described at the hearing, the industry was unable to implement container marking or labeling following recalls for possible *Salmonella* contamination. Witnesses stated that customer confidence in almond quality could have been reinforced if the necessary authority to establish marking and labeling requirements had been available. Such authority would have allowed the industry to prescribe labeling to clearly indicate which almonds had been treated to reduce risk of contamination.

The proposed amendment would allow the industry to respond to evolving market needs as they develop by establishing uniform and consistent marking and labeling requirements. According to proponents, the ability to communicate important product information to customers in a uniform and consistent manner will be essential as the industry strives to maintain its position in the expanding global marketplace.

If the proposed amendment is implemented, costs of complying with any regulations established thereunder would not be disproportionate to small businesses. Witnesses testified that applying labels and marks to almond containers is currently a common practice, and industry handlers already have container marking processes and equipment in place. Therefore, the costs associated with the addition of uniform marking or labeling requirements would be minimal for both small and large entities. The record shows that any costs would likely be offset by the benefits derived from being more responsive to market demands.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact of the proposed amendments to the order on small entities. The record evidence indicates that the proposed amendments are intended to benefit all producers and handlers under the order, regardless of size. Further, the record shows that the costs associated with implementing regulations would be outweighed by the benefits expected to accrue to the California almond industry.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. These amendments are designed to enhance the administration and functioning of the order to the benefit the California almond industry.

Paperwork Reduction Act

Information collection requirements for Part 981 are currently approved by the Office of Management and Budget (OMB), under OMB Number 0581–0178, Vegetable and Specialty Crops. Implementation of these proposed amendments would not trigger any changes to those requirements. Should any such changes become necessary in the future, they would be submitted to OMB for approval.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Civil Justice Reform

The amendments to Marketing Order 981 proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this proposal.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of the entry of the ruling.

Findings and Conclusions

The findings and conclusions, rulings, and general findings and determinations included in the Recommended Decision set forth in the December 28, 2007 issue of the **Federal Register** are hereby approved and adopted.

Marketing Order

Annexed hereto and made a part hereof is the document entitled ''Order Amending the Order Regulating the Handling of Almonds Grown in California.'' This document has been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions.

It is hereby ordered, That this entire decision be published in the **Federal Register**.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR part 900.400–407) to determine whether the annexed order amending the order regulating the handling of almonds grown in California is approved or favored by growers, as defined under the terms of the order, who during the representative period were engaged in the production of almonds in the production area.

The representative period for the conduct of such referendum is hereby determined to be August 1, 2006, through July 31, 2007.

The agents of the Secretary to conduct such referendum are hereby designated to be Kurt Kimmel and Terry Vawter, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or E-mail: *Kurt.Kimmel@usda.gov* or *Terry Vawter@usda.gov,* respectively.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

Dated: February 27, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

Order Amending the Order Regulating the Handling of Almonds Grown in California [1]

Findings and determinations

The findings and determinations hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of the marketing order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings and Determinations Upon the Basis of the Hearing Record.*

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–612), and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon the proposed amendments to the Marketing Order No. 981 (7 CFR part 981), regulating the handling of almonds grown in California. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The marketing order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

(2) The marketing order, as amended, and as hereby proposed to be further amended, regulates the handling of almonds grown in the production area in the same manner as, and is applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing order upon which a hearing has been held;

(3) The marketing order, as amended, and as hereby proposed to be further amended, is limited to its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing order, as amended, and as hereby proposed to be further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of almonds grown in the production area; and

(5) All handling of almonds grown in the production area as defined in the marketing order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, all handling of almonds grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby proposed to be amended as follows:

The provisions of the proposed marketing order amending the order contained in the Recommended Decision issued by the Administrator on December 21, 2007, and published in the **Federal Register** (72 FR 73671) on December 28, 2007, will be and are the terms and provisions of this order amending the order and are set forth in full herein.

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Amend paragraph (b) of § 981.42 by adding the following sentence before the last sentence to read as follows:

§ 981.42 Quality control.

* * * * *

(b) * * * The Board may, with the approval of the Secretary, establish different outgoing quality requirements for different markets. * * *

3. Add a new § 981.43 to read as follows:

§ 981.43 Marking or labeling of containers.

The Board may, with the approval of the Secretary, establish regulations to require handlers to mark or label their containers that are used in packaging or handling of bulk almonds. For purposes of this section, *container* means a box, bin, bag, carton, or any other type of receptacle used in the packaging or handling of bulk almonds.

[FR Doc. E8–4017 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–02–P

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0177; Directorate Identifier 2007–CE–093–AD]

RIN 2120–AA64

Airworthiness Directives; Taylorcraft Models A, B, and F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document makes a correction to a current notice of proposed rulemaking (NPRM), which was published in the **Federal Register** on February 20, 2008 (73 FR 9239), and applies to certain Taylorcraft Models A, B, and F series airplanes. The NPRM proposed to require inspection of the wing strut attach fittings for corrosion or cracks and would require repair or replacement if corrosion or cracks are found. The docket number was incorrectly referenced at ''FAA–2007–0177'' instead of ''FAA–2008–0177.'' The NPRM is posted in the FAA–2008–0177 docket section of the Federal Docket Management System (FDMS). This document corrects the docket number and should further reduce the confusion associated with the inadvertent error.

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

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

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

FOR FURTHER INFORMATION CONTACT: Andy McAnaul, Aerospace Engineer, 10100 Reunion Place, San Antonio, Texas 78216; telephone: (210) 308–3365; fax: (210) 308–3370.

SUPPLEMENTARY INFORMATION:

Discussion

On February 12, 2008, the FAA issued an NPRM (73 FR 9239; February 20,

2008), which applies to certain Taylorcraft Models A, B, and F series airplanes. This proposed AD would require inspection of the wing strut attach fittings for corrosion or cracks and would require repair or replacement if corrosion or cracks are found.

The docket number was incorrectly referenced as ''FAA–2007–0177'' instead of ''FAA–2008–0177.'' The NPRM is posted in the FAA–2008–0177 docket section of the FDMS.

Need for the Correction

This correction is needed to identify the docket number and should further reduce the confusion associated with the inadvertent error.

Correction of Publication

Accordingly, the publication of February 20, 2008 (73 FR 9239), which was the subject of FR Doc. E8–2995, is corrected as follows:

On page 9239, in the second column, in the first line under 14 CFR Part 39, replace ''[Docket No. FAA–2007–0177;'' with ''[Docket No. FAA–2008–0177;''

On page 9240, in the first column, in the second line from the top of the page, replace ''FAA–2007–0177;'' with ''FAA–2008–0177''.

On page 9241, in the first column, in the third line under § 39.13 [Amended], replace ''FAA–2007–0177;'' with ''FAA–2008–0177''.

Action is taken herein to correct this reference in the NPRM.

Issued in Kansas City, Missouri, on February 25, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 08–892 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0232; Directorate Identifier 2007–NM–309–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–200 and A340–300 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. 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:

During fatigue tests (EF3) on the A340–600, multiple damage were found in the upper side shell structure at skin and frame (FR) 84 & 85 interface, from stringer 6 to 15 LH/RH. This damage occurred between 58,341 and 72,891 simulated Flight Cycles (FC).

Due to the higher Design Service Goal and different design (e.g. skin thickness) for A330–200 and A340–300 aircraft series, the damage assessment concluded on [a] potential impact on these aircraft series.

* * * * *

The unsafe condition is loss of integrity of the upper shell structure of the fuselage. 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 April 2, 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: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1138; 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–2008–0232; Directorate Identifier 2007–NM–309–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

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2007–0269R1, dated October 15, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

During fatigue tests (EF3) on the A340–600, multiple damage were found in the upper side shell structure at skin and frame (FR) 84 & 85 interface, from stringer 6 to 15 LH/RH. This damage occurred between 58,341 and 72,891 simulated Flight Cycles (FC).

Due to the higher Design Service Goal and different design (e.g. skin thickness) for A330–200 and A340–300 aircraft series, the damage assessment concluded on [a] potential impact on these aircraft series.

In order to allow early detection of cracks which could avoid possible crack propagation and consequently to maintain the structural integrity of the upper side shell structure between FR84 and FR87, this Airworthiness Directive (AD) mandates an inspection program of this area [for cracking] using a high frequency eddy current (HFEC) method and a modification to improve the upper shell structure.

This Revision 1 is issued to clarify that this AD is not applicable to aircraft A340–300 series on which both AIRBUS modifications 44205 and 45012 have been embodied in production.

The unsafe condition is loss of integrity of the upper shell structure of the fuselage between FR84 and FR87. Corrective actions include contacting Airbus and repairing any crack. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Service Bulletin A330–53–3152, dated April 10, 2007;

Service Bulletin A330–53–3157, dated July 5, 2006; and Service Bulletin A340–53–4163, dated July 5, 2006. 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 7 products of U.S. registry. We also estimate that it would take about 601 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $52,160 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 costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $701,680, or $100,240 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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 adding the following new AD:

Airbus: Docket No. FAA–2008–0232; Directorate Identifier 2007–NM–309–AD.

Comments Due Date

(a) We must receive comments by April 2, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A330–200 and A340–300 series airplanes, certificated in any category, all certified models; all serial numbers on which Airbus Modification 44205 has been embodied in production, except those on which Airbus Modification 52974 or 53223 has been embodied in production. This AD is not applicable to Model A340–300 series airplanes on which both Modifications 44205 and 45012 have been embodied in production.

Subject

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

Reason

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

During fatigue tests (EF3) on the A340–600, multiple damage were found in the upper side shell structure at skin and frame (FR) 84 & 85 interface, from stringer 6 to 15 LH/RH. This damage occurred between 58,341 and 72,891 simulated Flight Cycles (FC).

Due to the higher Design Service Goal and different design (e.g. skin thickness) for A330–200 and A340–300 aircraft series, the damage assessment concluded on [a] potential impact on these aircraft series.

In order to allow early detection of cracks which could avoid possible crack propagation and consequently to maintain the structural integrity of the upper side shell structure between FR84 and FR87, this Airworthiness Directive (AD) mandates an inspection program of this area [for cracking] using a high frequency eddy current (HFEC) method and a modification to improve the upper shell structure.

This Revision 1 is issued to clarify that this AD is not applicable to aircraft A340–300 series on which both AIRBUS modifications 44205 and 45012 have been embodied in production.

The unsafe condition is loss of integrity of the upper shell structure of the fuselage between FR84 and FR87. Corrective actions include contacting Airbus and repairing any crack.

Actions and Compliance

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

(1) For Airbus Model A330–200 series airplanes, as identified in paragraph (c) of this AD, on which Modification 45012 has been embodied in production: At the later of the compliance times specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD, do the HFEC inspection for cracking, and corrective actions as applicable; and modify the upper shell structure of the fuselage; in accordance with the Accomplishment Instructions of

Airbus Service Bulletin A330–53–3152, dated April 10, 2007. Do all applicable corrective actions before further flight.

(i) Prior to the compliance time shown in Table 1 of this AD after the first flight of the airplane, depending on airplane configuration.

TABLE 1.—COMPLIANCE TIMES FOR MODEL A330 SERIES AIRPLANES WITH MODIFICATION 45012 EMBODIED

Airplane configuration	Threshold
Pre-modification 48827 (WV20 to WV27)	25,400 total flight cycles.
Post-modification 48827 (WV50 to WV56)	17,100 total flight cycles or 94,700 total flight hours, whichever occurs first.

(ii) Within 90 days after the effective date of this AD.

(2) For Airbus Model A330–200 and A340–300 series airplanes as identified in paragraph (c) of this AD, on which Modification 45012 has not been embodied in production: At the later of the compliance times specified in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD, modify the upper shell structure of the fuselage in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3157 or Service Bulletin A340–53–4163, as applicable, both dated July 5, 2006.

(i) Prior to the compliance time shown in Table 2 of this AD after the first flight of the airplane.

TABLE 2.—COMPLIANCE TIMES FOR MODEL A330–200 AND A340–300 SERIES AIRPLANES WITHOUT MODIFICATION 45012 EMBODIED

Airplane series	Threshold
A330–200	6,600 total flight cycles.
A340–300	14,000 total flight cycles.

(ii) Within 90 days after the effective date of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, 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: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1138; 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 2007–0269R1, dated October 15, 2007, Airbus Service Bulletin A330–53–3152, dated April 10, 2007; Airbus Service Bulletin A330–53–3157, dated July 5, 2006; and Airbus Service Bulletin A340–53–4163, dated July 5, 2006; for related information.

Issued in Renton, Washington, on February 25, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–3969 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0231; Directorate Identifier 2007–NM–218–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker F.28 Mark 0070 and Mark 0100 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. 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:

To date, there have been at least 10 reported events on Fokker 70 (F28 Mark 0070) and Fokker 100 (F28 Mark 0100) aircraft where the flight crew manually overpowered the autopilot, inadvertently neglecting to disengage the autopilot. * * * When the autopilot is not disengaged, the elevator servomotor is overpowered and the horizontal stabilizer is moved by the Automatic Flight Control & Augmentation System (AFCAS) auto-trim in a direction opposite to the (manual) deflection of the elevator, causing high elevator control forces. This condition, if not corrected, could cause the stabilizer to move to an extreme out-of-trim position, creating the (remote) possibility of loss of control of the aircraft, due to the extreme control loads.

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 April 2, 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 Rodriguez, Aerospace Engineer,

International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; 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–2008–0231; Directorate Identifier 2007–NM–218–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

The Civil Aviation Authority—The Netherlands (CAA–NL), which is the aviation authority for the Netherlands, has issued Dutch Airworthiness Directive NL–2006–010, dated July 14, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> To date, there have been at least 10 reported events on Fokker 70 (F28 Mark 0070) and Fokker 100 (F28 Mark 0100) aircraft where the flight crew manually overpowered the autopilot, inadvertently neglecting to disengage the autopilot. Detailed investigation of these incidents has shown that this usually occurs in a high workload environment that demands immediate manual control of the aircraft by the pilot flying, e.g., terrain warning. When the autopilot is not disengaged, the elevator servomotor is overpowered and the horizontal stabilizer is moved by the Automatic Flight Control & Augmentation System (AFCAS) auto-trim in a direction opposite to the (manual) deflection of the elevator, causing high elevator control forces. This condition, if not corrected, could cause the stabilizer to move to an extreme out-of-trim position, creating the (remote) possibility of loss of control of the aircraft, due to the extreme control loads. In the original design of AFCAS, operation of the control wheel-mounted stabilizer trim switches has no effect when the autopilot is engaged. Based on the assumption that stabilizer trim switches will be operated by the pilot flying when encountering high control forces, an Autopilot Disconnect Unit has been developed that disconnects the autopilot when the stabilizer trim switches are operated. Since a potentially unsafe condition has been identified that may exist or develop on aircraft of this type design, this Airworthiness Directive requires the installation of Autopilot Disconnect Units and associated wiring changes.

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

Relevant Service Information

Fokker Services B.V. has issued Fokker Service Bulletin SBF100–22–050, dated April 25, 2006, including the drawings listed in the following table. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

DRAWINGS INCLUDED IN FOKKER SERVICE BULLETIN SBF100–27–050

Fokker drawing	Sheet	Issue	Date
W41501	057	CQ	April 25, 2006.
W41501	058	CQ	April 25, 2006.
W41501	059	CQ	April 25, 2006.
W41501	060	CQ	April 25, 2006.
W41501	061	CR	April 25, 2006.
W41501	062	CR	April 25, 2006.
W41504	009	K	April 25, 2006.
W41504	010	K	April 25, 2006.
W41504	011	J	April 25, 2006.
W41504	012	L	April 25, 2006.
W41504	013	L	April 25, 2006.
W46140	27	AR	March 5, 2002.
W46140	28	AR	March 8, 2002.
W46143	02	K	February 26, 2002.
W46143	03	K	March 8, 2002.
W46144	06	R	March 4, 2002.
W46144	07	S	March 7, 2002.
W46912	01	D	March 12, 2002.
W46930	01	Original	March 14, 2002.
W46930	02	E	March 14, 2002.
W46932	01	D	March 13, 2002.
W59140	177	GC	February 8, 2006.
W59140	178	GB	February 6, 2006.
W59140	221	GB	February 6, 2006.

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 12 products of U.S. registry. We also estimate that it would take about 27 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $3,000 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 costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $61,920, or $5,160 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 adding the following new AD:

Fokker Services B.V.: Docket No. FAA–2008–0231; Directorate Identifier 2007–NM–218–AD.

Comments Due Date

(a) We must receive comments by April 2, 2008.

Affected ADs

(b) None.

Applicability

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

Subject

(d) Air Transport Association (ATA) of America Code 22: Auto flight.

Reason

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

To date, there have been at least 10 reported events on Fokker 70 (F28 Mark 0070) and Fokker 100 (F28 Mark 0100) aircraft where the flight crew manually overpowered the autopilot, inadvertently neglecting to disengage the autopilot. Detailed investigation of these incidents has shown that this usually occurs in a high workload environment that demands immediate manual control of the aircraft by the pilot flying, e.g. terrain warning. When the autopilot is not disengaged, the elevator servomotor is overpowered and the horizontal stabilizer is moved by the Automatic Flight Control & Augmentation System (AFCAS) auto-trim in a direction opposite to the (manual) deflection of the elevator, causing high elevator control forces. This condition, if not corrected, could cause the stabilizer to move to an extreme out-of-trim position, creating the (remote) possibility of loss of control of the aircraft, due to the extreme control loads. In the original design of AFCAS, operation of the control wheel-mounted stabilizer trim switches has no effect when the autopilot is engaged. Based on the assumption that stabilizer trim switches will be operated by the pilot flying when encountering high control forces, an Autopilot Disconnect Unit has been developed that disconnects the autopilot when the stabilizer trim switches are operated. Since a potentially unsafe condition has been identified that may exist or develop on aircraft of this type design, this Airworthiness Directive requires the installation of Autopilot Disconnect Units and associated wiring changes.

Actions and Compliance

(f) Within 36 months after the effective date of this AD, unless already done, install autopilot disconnect units and do associated wiring changes in accordance with Section 3, ''Accomplishment Instructions,'' of Fokker Service Bulletin SBF100–22–050, dated April 25, 2006, including the drawings listed in Table 1 of this AD.

TABLE 1.—DRAWINGS INCLUDED IN FOKKER SERVICE BULLETIN SBF100–27–050

Fokker drawing	Sheet	Issue	Date
W41501	057	CQ	April 25, 2006.
W41501	058	CQ	April 25, 2006.
W41501	059	CQ	April 25, 2006.
W41501	060	CQ	April 25, 2006.
W41501	061	CR	April 25, 2006.
W41501	062	CR	April 25, 2006.
W41504	009	K	April 25, 2006.
W41504	010	K	April 25, 2006.

TABLE 1.—DRAWINGS INCLUDED IN FOKKER SERVICE BULLETIN SBF100–27–050—Continued

Fokker drawing	Sheet	Issue	Date
W41504	011	J	April 25, 2006.
W41504	012	L	April 25, 2006.
W41504	013	L	April 25, 2006.
W46140	27	AR	March 5, 2002.
W46140	28	AR	March 8, 2002.
W46143	02	K	February 26, 2002.
W46143	03	K	March 8, 2002.
W46144	06	R	March 4, 2002.
W46144	07	S	March 7, 2002.
W46912	01	D	March 12, 2002.
W46930	01	Original	March 14, 2002.
W46930	02	E	March 14, 2002.
W46932	01	D	March 13, 2002.
W59140	177	GC	February 8, 2006.
W59140	178	GB	February 6, 2006.
W59140	221	GB	February 6, 2006.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, 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 Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Dutch Airworthiness Directive NL–2006–010, dated July 14, 2006; and Fokker Service Bulletin SBF100–22–050, dated April 25, 2006, including the drawings listed in Table 1 of this AD; for related information.

Issued in Renton, Washington, on February 25, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–3971 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0247; Directorate Identifier 2008–CE–003–AD]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. AT–200, AT–300, AT–400, AT–500, AT–600, AT–800 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2002–25–09, which applies to certain Air Tractor, Inc. (Air Tractor) AT–250, AT–300, AT–400, and AT–500 series airplanes. AD 2002–25–09 currently requires you to install an overturn skid plate in the cockpit area. Since we issued AD 2002–25–09, we received a report of the bolts attaching the forward end of the original design overturn skid plate to the airframe breaking in an overturn accident. This allowed the skid plate to rotate around the rear attach point and the forward end of the plate to enter the cockpit area. Consequently, this proposed AD would require the installation of a modified skid plate kit or modification to skid plate kits that are already installed, including those already installed on AT–402B, AT–502B, AT–602, and AT–802A series airplanes during production. We are proposing this AD to prevent the front and rear connections of the overturn skid plate to the airplane from breaking, which could allow foreign debris to enter the cockpit during an airplane overturn. This condition, if not corrected, could lead to pilot injury.

DATES: We must receive comments on this proposed AD by May 2, 2008.

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

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

For service information identified in this proposed AD, contact Air Tractor Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564–5616; fax: (940) 564–5612.

FOR FURTHER INFORMATION CONTACT: Andy McAnaul, Aerospace Engineer, ASW–150, FAA San Antonio MIDO–43, 10100 Reunion Place, Suite 650, San Antonio, Texas 78216, phone: (210) 308–3365, fax: (210) 308–3370.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments

regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, ''FAA–2008–0247; Directorate Identifier 2008–CE–003–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Discussion

Reports of foreign material entering the cabin area during an overturn skid on Air Tractor, Inc. (Air Tractor) AT–301 and AT–401 series airplanes caused us to issue AD 2002–25–09, Amendment 39–12985 (67 FR 78156, December 23, 2002). AD 2002–25–09 currently requires you to install overturn skid plate, part number (P/N) 11411–1–500 or an FAA-approved equivalent P/N. The manufacturer incorporated skid plates in some production models including Models AT–402B, AT–502B, AT–602, and AT–802A airplanes. Since we issued AD 2002–25–09, we received a report of the bolts breaking in an overturn accident where they attach the forward end of the original design overturn skid plate to the airframe. This allowed the skid plate to rotate around the rear attach point and the forward end of the plate to enter the cockpit area. We are proposing this AD to prevent the front and rear connections of the overturn skid plate to the airplane from breaking, which could allow foreign debris to enter the cockpit during an airplane overturn. This condition, if not corrected, could lead to pilot injury.

Relevant Service Information

We have reviewed Snow Engineering Company Service Letter # 97, Revised November 7, 2007.

The service information describes procedures for:

- Modifying the overturn skid plate by enlarging the mounting holes and replacing existing clamps and hardware on airplanes with the overturn skid plate installed; and
- Installing the overturn skid plate for airplanes that do not have the overturn skid plate currently installed.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This proposed AD would supersede AD 2002–25–09 with a new AD that would require:

- *For airplanes with an installation previously accomplished per the original AD:* incorporating modification kit part-number (P/N) 11411–1–501 composed of the heavier attaching hardware; and
- *For airplanes without the overturn skid plate installed:* incorporating kit P/N 11411–1–502, which incorporates the skid plate and the heavier attaching hardware.

The airplanes below include all of the airplanes from the original AD, which did not have the factory-installed skid plate:

Models	Serial Nos.
AT–250, AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–401A, AT–402, and AT–402A.	–0001 through –0829.
AT–501, AT–502, AT–502A.	–0001 through –0147.

The airplanes in the table below have been added to this proposed AD. They have a factory-installed skid plate and require installation of the overturn skid plate modification kit part number 1411–1–501:

Models	Serial Nos.
AT–250, AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–401A, AT–402, AT–402A and AT–402B.	–0830 through –1196.
AT–501, AT–502, AT–502A, and AT–502B.	–0148 through –2620.
AT–602	–0337 through –1153.
AT–802A	–0003 through –0282.

Costs of Compliance

We estimate that this proposed AD would affect 2,026 airplanes in the U.S. registry.

We presume that all airplanes in the U.S. fleet have a skid plate installed (as required by AD 2002–25–09) and the only cost is to incorporate the modification kit P/N 11411–1–501 in determining the total cost on U.S. operators. We estimate the following costs to do the proposed modification of installing the overturn skid plate modification kit P/N 11411–1–501 to those planes that currently have the overturn skid plate installed:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 work-hours × $80 per hour = $160	$42	$202	$409,252

The proposed AD includes a requirement for those few, if any, airplanes that have not operated past the compliance time of AD 2002–25–09.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 Airworthiness Directive (AD) 2002–25–09, Amendment 39–12985 (67 FR 78156, December 23, 2002), and adding the following new AD:

Air Tractor, Inc.: Docket No. FAA–2008–0247; Directorate Identifier 2008–CE–003–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by May 2, 2008.

Affected ADs

(b) This AD supersedes AD 2002–25–09, Amendment 39–12985.

Applicability

(c) This AD applies to the following airplane models and serial numbers that are certificated in any category:

Models	Serial Nos.
AT–250, AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–401A, AT–402, AT–402A and AT–402B.	–0001 through –1196.
AT–501, AT–502, AT–502A, and AT–502B.	–0001 through –2620.
AT–602	–0337 through –1153.
AT–802A	–0003 through –0282.

Unsafe Condition

(d) Since we issued AD 2002–25–09, we received a report of the bolts that attach the forward end of the original design overturn skid plate to the airframe breaking in an overturn accident. This allowed the skid plate to rotate around the rear attach point, and the forward end of the plate to enter the cockpit area. We are proposing this AD to prevent the front and rear connections of the overturn skid plate to the airplane from breaking, which could allow foreign debris to enter the cockpit during an airplane overturn. This condition, if not corrected, could lead to pilot injury.

Compliance

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

Actions	Compliance	Procedures
(1) If overturn skid plate kit part number (P/N) 11411–1–500 or an FAA-approved equivalent P/N is already installed, then install P/N 11411–1–501 modification kit.	Within the next 180 days after the effective date of this AD.	Follow Snow Engineering Co. Service Letter #97, revised November 7, 2007.
(2) If there is no overturn skid plate installed, then install overturn skid plate kit P/N 11411–1–502 or an FAA-approved equivalent part number.	Within the next 180 days after the effective date of this AD.	Follow Snow Engineering Co. Service Letter #97, revised November 7, 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: Andy McAnaul, Aerospace Engineer, ASW–150, FAA San Antonio MIDO–43, 10100 Reunion Place, Suite 650, San Antonio, Texas 78216, phone: (210) 308–3365; fax: (210) 308–3370. 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.

Related Information

(g) To get copies of the service information referenced in this AD, contact Air Tractor Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564–5616; fax: (940) 564–5612. 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.*

Issued in Kansas City, Missouri, on February 26, 2008.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4005 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 260

Guides for the Use of Environmental Marketing Claims; The Green Guides and Packaging; Public Workshop

AGENCY: Federal Trade Commission.

ACTION: Announcement of public workshop; request for public comment.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') is planning to host a public workshop on April 30, 2008, to examine developments in green packaging claims and consumer perception of such claims. The workshop is a component of the Commission's regulatory review of the Guides for the Use of Environmental Marketing Claims, which was announced on November 26, 2007.

DATES: The workshop will be held on Wednesday, April 30, 2008, from 9 AM to 5 PM at the FTC's Satellite Building Conference Center, located at 601 New Jersey Avenue, N.W., Washington, D.C. Any written comments in response to this Notice must be received by May 19, 2008.

REGISTRATION INFORMATION:

The workshop is open to the public, and there is no fee for attendance. The FTC also plans to make this workshop available via webcast (see *http://www.ftc.gov/bcp/workshops/packaging/index.html).* For admittance to the Conference Center, all attendees will be required to show a valid photo identification such as a driver's license. The FTC will accept pre-registration for this workshop. Pre-registration is not necessary to attend, but is encouraged so that we may better plan this event. To pre-register, please email your name and affiliation to *greenpackagingworkshop@ftc.gov*. When you pre-register, we will collect your name, affiliation, and your email address. This information will be used to estimate how many people will attend. We may use your email address to contact you with information about the workshop.

Under the Freedom of Information Act (''FOIA'') or other laws, we may be required to disclose to outside organizations the information you provide. For additional information, including routine uses permitted by the Privacy Act, see the Commission's Privacy Policy at *www.ftc.gov/ftc/privacy.shtm.* The FTC Act and other laws the Commission administers permit the collection of this contact information to consider and use for the above purposes.

WRITTEN AND ELECTRONIC COMMENTS:

The submission of comments is not required for attendance at the workshop. If you wish to submit written or electronic comments to inform discussion at the workshop, such comments must be received by April11, 2008. All comments in response to this Notice must be submitted no later than May 19, 2008. Comments should refer to ''Green Packaging Workshop—Comment, Project No. P084200,'' to facilitate organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex B), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

Comments filed in electronic form should be submitted by following the instructions on the web-based form at *https://secure.commentworks.com/ftc-packagingworkshop.* To ensure that the Commission considers an electronic comment, you must file it on that web-based form. You also may visit *http://www.regulations.gov* to read this notice, and may file an electronic comment through that website. The Commission will consider all comments that *www.regulations.gov* forwards to it.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at *http://www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. To read our policy on how we handle the information you submit—including routine uses permitted by the Privacy Act—please review the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.shtm.*

FOR FURTHER INFORMATION CONTACT: Janice Frankle, Attorney, 202-326-2022, Laura Koss, Attorney, 202-326-2890, or Anne McCormick, Attorney, 202-326-3583, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission.

SUPPLEMENTARY INFORMATION:

I. Introduction

FTC staff is planning to conduct a one-day workshop on April 30, 2008, addressing environmental advertising claims regarding product packaging. The workshop will explore ''green'' packaging claims, consumer perception of these claims, and substantiation issues. The workshop is one component of the Commission's regulatory review of the Guides for the Use of Environmental Marketing Claims (''Green Guides'' or ''Guides''), 16 CFR Part 260, which the FTC announced on November 26, 2007.[2]

This notice addresses several issues related to the upcoming workshop; provides background on the Green Guides and the Green Guides regulatory review; briefly discusses consumer protection issues raised by green packaging claims used in today's marketplace; and provides a short description of possible issues for discussion at the workshop as well as questions for comment.

II. Background Information

This **Federal Register** Notice is part of the FTC's standard regulatory review of the Green Guides. The following section provides background information regarding the Green Guides and the Commission's Green Guides regulatory review process.

A. The Green Guides

The Commission issued the Green Guides to help marketers avoid making environmental claims that are unfair or deceptive under Section 5 of the FTC Act, 15 U.S.C. § 45.[3] Industry guides, such as these, are administrative interpretations of the law. Therefore, they do not have the force and effect of law and are not independently enforceable. The Commission can take action under the FTC Act, however, if a business makes environmental marketing claims inconsistent with the Guides. In any such enforcement action, the Commission must prove that the act or practice at issue is unfair or deceptive.

The Green Guides outline general principles that apply to all environmental marketing claims and provide guidance regarding specific claims. For all claims, the Guides advise that: qualifications and disclosures be sufficiently clear and prominent to prevent deception; marketers indicate whether their claims apply to the product, the package, or a component of either; claims not overstate an environmental attribute or benefit, expressly or by implication; and

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

[2] The **Federal Register** Notice announcing this review is at 72 FR 66091 (Nov. 27, 2007), and can be found at *http://www.ftc.gov/os/2007/11/P954501ggfrn.pdf.* The Commission reviews all of its rules and guides periodically. These reviews seek information about the costs and benefits of the Commission's existing rules and guides and their regulatory and economic impact. The information obtained during these reviews assists the Commission in identifying rules and guides that warrant modification or rescission.

[3] The Commission issued the Green Guides in 1992 (57 FR 36363) and subsequently revised them in 1996 (61 FR 53311), and in 1998 (63 FR 24240). The current Green Guides are available at *http://www.ftc.gov/bcp/grnrule/guides980427.htm.*

marketers present comparative claims in a manner that makes the basis for the comparison sufficiently clear to avoid consumer deception.

The Guides then specifically address: general environmental benefit claims, such as ''environmentally friendly''; degradable, biodegradable, and photodegradable claims; compostable claims; recyclable claims; recycled content claims; source reduction claims; refillable claims; and ozone safe/ozone friendly claims. For each, the Guides explain how reasonable consumers are likely to interpret them. The Guides also describe the basic elements necessary to substantiate claims within each category and present options for qualifying specific claims to avoid deception.[4] The illustrative examples provide ''safe harbors'' for marketers who seek certainty about how to make environmental claims, but do not represent the only permissible approaches to qualifying a claim that would otherwise be consistent with the Guides.

B. Green Guides Regulatory Review

On November 27, 2007, the FTC published a **Federal Register** Notice commencing the decennial regulatory review of the FTC's Green Guides. The Notice solicited public comments in response to questions about the Guides' costs, benefits, and effectiveness and also posed claim-specific questions. The Notice announced that the FTC would be hosting public meetings to facilitate public dialogue on issues relating to the Green Guides review. The Commission will review and consider information gathered at these meetings, in addition to the public comments, in formulating its final determination.

On January 8, 2008, the Commission conducted its first public meeting relating to the Green Guides Review—a workshop on Carbon Offsets and Renewable Energy Certificates. The meeting announced through this **Federal Register** Notice, entitled ''The Green Guides and Packaging,'' will be the second public meeting planned as part of the comprehensive review of the Green Guides. A public meeting aimed at green claims related to packaging will enable participants and the Commission to focus in-depth on an area in which a wide range of green claims are prevalent.

[4] The Guides do not, however, establish standards for environmental performance or prescribe testing protocols.

III. Green Packaging Claims and Consumer Protection Issues

Since the Commission last revised the Green Guides in 1998, there has been a marked increase in environmental claims, including ''green'' claims concerning product packaging. Sellers and marketers, for example, frequently use terms addressed in the Green Guides, such as ''recyclable,'' ''biodegradable,'' ''degradable,'' ''compostable,'' or ''refillable,'' to claim their packaging is green. Sellers and marketers also are using new green claims not presently addressed in the Green Guides to emphasize the reduced environmental impact of their packaging, including such terms as ''sustainable'' and ''renewable.'' For example, some marketers now claim to adhere to a ''cradle-to-cradle'' philosophy, indicating that their product and its packaging are specifically designed to be easily and continuously recyclable.[5] Such claims, which concern the entire, and potentially repetitive life cycle of product packaging, raise several consumer perception and substantiation issues. Likewise, in recent years there has been a proliferation of environmental seals and third-party certifications purporting to verify the positive environmental impact of product packaging. The criteria for and meaning of these seals and certifications also raise consumer protection challenges.

Additionally, in recent years, marketers increasingly are using ''bio-based plastics''[6] in packaging, resulting in new green packaging claims. For example, some marketers now claim that bio-based plastic bottles are ''commercially compostable.'' Proper disposal of these bottles and other new packaging materials may require new or less accessible recycling, composting, or disposal facilities. As a result, such claims raise potential consumer perception and substantiation issues.

IV. Issues and Questions for Discussion at the Workshop

Some possible topics for discussion at the workshop are: 1) trends in packaging and the resultant environmental packaging claims; 2) packaging terms currently covered by the Green Guides, including ''recyclable,'' ''recycled content,'' ''source reduction,'' ''degradable'' (including ''biodegradable'' and ''photodegradable''), ''compostable,'' and ''refillable'' and whether consumer perception of these terms have changed; 3) new green packaging claims not currently addressed in the Guides, including ''sustainable,'' ''renewable,'' and ''bio-based''; 4) claims based on third-party certification and consumer perception of these claims; 5) the impact of changes in science and technology, including the use of new packaging materials and the use of new recycling, composting, and disposal techniques, on environmental packaging claims; 6) the state of substantiation for environmental packaging claims; and 7) the need for additional or updated FTC guidance in these areas.

In addition to considering these possible topics, the Commission invites written comments on any or all of the following questions regarding environmental packaging claims. The Commission requests that responses to these questions be as specific as possible, including a reference to the question being answered, and reference to empirical data or other evidence wherever available and appropriate.

A. Recyclable

(1) How effective have the Guides been in preventing consumer deception and providing business guidance with respect to ''recyclable'' claims about packaging? Please provide any evidence that supports your answer.

(2) Has there been a change in consumer perception about ''recyclable'' packaging claims (*e.g.*, ''Please recycle'' and the three-chasing-arrows symbol) since the Guides were last revised?

(a) If so, please describe this change and provide any evidence that supports your answer.

(b) Should the Guides be revised to address any such change? If so, how?

(3) Has consumers' access to recycling facilities (*e.g.*, curbside and drop-off facilities) for packaging changed since the Guides were last reviewed?

(a) If so, how, and how does this change affect consumers' perception of what they can and cannot recycle? Please provide any evidence that supports your answers.

(b) Should the Guides be revised to address any such change? If so, how?

(4) Have the types of packaging capable of being recycled changed since the Guides were last reviewed?

(a) If so, how, and how do these changes, if any, affect consumers' perception of what they can recycle?

[5] ''Cradle-to-cradle,'' a term coined by authors William McDonough and Michael Braungart in their 2002 book entitled *Cradle to Cradle: Remaking the Way We Make Things*, is commonly used to indicate that a product has been designed from inception to be easily and continuously recyclable, thereby never entering the waste stream.

[6] Bio-based plastics are derived from plant sources (such as corn, potato starch, or sugar cane) rather than petroleum sources.

Please provide any evidence that supports your answers.

(b) Should the Guides be revised to address any such changes? If so, how?

(5) Are there ''recyclable'' claims in the marketplace concerning packaging that are misleading? If so, please describe these claims and provide any evidence that supports your answer.

(6) What recyclability disclosures are businesses currently making about packaging?

(a) Are current recyclability disclosures adequate to apprise consumers of the criteria for the recycling of packaging, the appropriate methods of recycling, and/or the availability of appropriate recycling facilities? Please provide any evidence that supports your answer.

(b) Are current recyclability disclosures adequate for consumers to understand whether the product or the package, or both, are recyclable? Please provide any evidence that supports your answer.

(7) Should the current recyclability disclosures in the Guides be revised? If so, how?

(8) To the extent not addressed in your previous answers, please explain whether and how the Guides should be revised to prevent consumer deception, provide business guidance, and/or reduce costs the Guides impose on businesses, particularly small businesses, with respect to ''recyclable'' claims about packaging. Please provide any evidence that supports your answer.

B. Recycled Content

(1) How effective have the Guides been in preventing consumer deception and providing business guidance with respect to ''recycled content'' claims about packaging? Please provide any evidence that supports your answer.

(2) Has there been a change in consumer perception about ''recycled content'' packaging claims (*e.g.*, the three-chasing-arrows symbol) since the Guides were revised?

(a) If so, please describe this change and provide any evidence that supports your answer.

(b) Should the Guides be revised to address any such change? If so, how?

(3) Do consumers make distinctions between ''pre-consumer'' recycled content (*i.e.*, materials recovered or otherwise diverted from the solid waste stream during the manufacturing process) and ''post-consumer'' recycled content (*i.e.*, materials recovered or otherwise diverted from the solid waste stream after consumer use) in packaging? Please provide any evidence that supports your answer.

(4) Have technological changes affected what consumers consider ''pre-consumer'' and ''post-consumer''?

(a) If so, please describe these changes and provide any evidence that supports your answer.

(b) Should the Guides be revised to address any such changes? If so, how?

(5) Are there ''recycled content'' claims in the marketplace concerning packaging that are misleading? If so, please describe these claims and provide any evidence that supports your answer.

(6) To the extent not addressed in your previous answers, please explain whether and how the Guides should be revised to prevent consumer deception, provide business guidance, and/or reduce costs the Guides impose on businesses, particularly small businesses, with respect to ''recycled content'' claims about packaging. Please provide any evidence that supports your answer.

C. Degradable, Biodegradable, Photodegradable, and Compostable

(1) How effective have the Guides been in preventing consumer deception and providing business guidance with respect to ''degradable,'' ''biodegradable,'' ''photodegradable,'' or ''compostable'' claims about packaging? Please provide any evidence that supports your answer.

(2) Has there been a change in consumer perception of these claims since the Guides were revised?

(a) If so, please describe this change and provide any evidence that supports your answer.

(b) Should the Guides be revised to address any such change? If so, how?

(3) How do consumers perceive ''degradable,'' ''biodegradable,'' ''photodegradable,'' or ''compostable'' claims with respect to packaging that consumers throw in the garbage (*e.g.*, packaging ultimately disposed of in a landfill)? Please provide any evidence that supports your answer.

(4) The Guides provide that an unqualified claim that a package is ''compostable'' should be substantiated by evidence that all the materials in the package will break down into, or otherwise become part of, usable compost (*e.g.*, soil-conditioning material, mulch) in a safe and timely manner in an appropriate composting program or facility, or in a home compost pile or device. Should the Guides be revised to provide more specificity regarding the time frame for composting?

(a) If so, why, and what should the time frame be? Please provide any evidence that supports your answer.

(b) If not, why not? Please provide any evidence that supports your answer.

(5) Has consumers' access to municipal or institutional composting facilities changed since the Guides were last reviewed?

(a) If so, how, and how does any such change affect consumers' perception of what packaging they can and cannot compost? Please provide any evidence that supports your answer.

(b) Should the Guides be revised to address any such change? If so, how?

(6) Are there ''degradable,'' ''biodegradable,'' ''photodegradable,'' or ''compostable'' claims in the marketplace concerning packaging that are misleading? If so, please describe these claims and provide any evidence that supports your answer.

(7) To the extent not addressed in your previous answers, please explain whether and how the Guides should be revised to prevent consumer deception, provide business guidance, and/or reduce costs the Guides impose on businesses, particularly small businesses, with respect to ''degradable,'' ''biodegradable,'' ''photodegradable,'' or ''compostable'' claims about packaging. Please provide any evidence that supports your answer.

D. Source Reduction

(1) How effective have the Guides been in preventing consumer deception and providing business guidance with respect to ''source reduction'' claims about packaging? Please provide any evidence that supports your answer.

(2) Has there been a change in consumer perception of these claims since the Guides were revised?

(a) If so, please describe this change and provide any evidence that supports your answer.

(b) Should the Guides be revised to address any such change? If so, how?

(3) Are there ''source reduction'' claims in the marketplace concerning packaging that are misleading? If so, please describe these claims and provide any evidence that supports your answer.

(4) To the extent not addressed in your previous answers, please explain whether and how the Guides should be revised to prevent consumer deception, provide business guidance, and/or reduce costs the Guides impose on businesses, particularly small businesses, with respect to ''source reduction'' claims about packaging. Please provide any evidence that supports your answer.

E. Refillable

(1) How effective have the Guides been in preventing consumer deception and

providing business guidance with respect to ''refillable'' claims about packaging? Please provide any evidence that supports your answer.

(2) Has there been a change in consumer perception of these claims since the Guides were revised?

(a) If so, please describe this change and provide any evidence that supports your answer.

(b) Should the Guides be revised to address any such change? If so, how?

(3) Are there ''refillable'' claims in the marketplace concerning packaging that are misleading? If so, please describe these claims and provide any evidence that supports your answer.

(4) To the extent not addressed in your previous answers, please explain whether and how the Guides should be revised to prevent consumer deception, provide business guidance, and/or reduce costs the Guides impose on businesses, particularly small businesses, with respect to ''refillable'' claims about packaging. Please provide any evidence that supports your answer.

F. Ozone Safe and Ozone Friendly

(1) How effective have the Guides been in preventing consumer deception and providing business guidance with respect to ''ozone safe'' or ''ozone friendly'' claims about packaging? Please provide any evidence that supports your answer.

(2) Has there been a change in consumer perception of these claims since the Guides were revised?

(a) If so, please describe this change and provide any evidence that supports your answer.

(b) Should the Guides be revised to address any such change? If so, how?

(3) Are there ''ozone safe'' or ''ozone friendly'' claims in the marketplace concerning packaging that are misleading? If so, please describe these claims and provide any evidence that supports your answer.

(4) To the extent not addressed in your previous answers, please explain whether and how the Guides should be revised to prevent consumer deception, provide business guidance, and/or reduce costs the Guides impose on businesses, particularly small businesses, with respect to ''ozone safe'' or ''ozone friendly'' claims about packaging. Please provide any evidence that supports your answer.

G. Claims Currently Not Addressed by the Green Guides

(1) Should the Guides be revised to include guidance regarding ''bio-based'' packaging claims? If so, why, and what guidance should be provided? If not, why not?

(a) What evidence supports making your proposed revision(s)? Please provide this evidence.

(b) What evidence is available concerning consumer understanding of the term ''bio-based''? Please provide this evidence.

(c) What evidence constitutes a reasonable basis to support a ''bio-based'' claim? Please provide this evidence.

(2) Should the Guides be revised to include guidance regarding life cycle or ''cradle-to-cradle'' packaging claims?

(a) If so, why, and what guidance should be provided? If not, why not? Please provide any evidence that supports your answer.

(b) What evidence is available concerning consumer understanding of life cycle analyses or the term ''cradle-to-cradle''? Please provide this evidence.

(c) Is there an appropriate scientific methodology to evaluate life cycle or ''cradle-to-cradle'' packaging claims? If so, please provide any evidence that supports your answer.

(3) Are there other environmental claims concerning packaging not currently addressed by the Guides, and if so what are they? Please provide any evidence that supports your answer.

(a) Should the Guides be revised to include guidance regarding these claims? If so, why, and what guidance should be provided? If not, why not?

(b) What evidence is available concerning consumer understanding of these claim(s)? Please provide this evidence.

(c) What evidence constitutes a reasonable basis to support these claim(s)? Please provide this evidence.

H. Third-Party Certifications and Seals

(1) What evidence is available concerning consumer understanding of third-party certifications and seals, labels, or symbols on packaging? Please provide this evidence.

(2) Why are marketers using these third-party certifications and seals, labels, or symbols on packaging? Please provide any evidence that supports your answer.

(3) What criteria are third-party certifiers using to substantiate claims made with third-party certification, seals, labels, or symbols on packaging? Are those criteria appropriate? Please provide any evidence that supports your answers.

(4) Should the Guides be revised to include additional guidance regarding these claims? If so, how?

By direction of the Commission.

Donald S. Clark

Secretary

[FR Doc. E8–3972 Filed 2–29–08: 8:45 am]

BILLING CODE 6750–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 93

[EPA–HQ–OAR–2006–0669; FRL–8536–1]

RIN–2060–AH93

Revisions to the General Conformity Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing and corrected docket number.

SUMMARY: The EPA is announcing a public hearing to be held on March 14, 2008 for the proposed rule on ''Revision to the General Conformity Regulations.'' This rulemaking action was published in the **Federal Register** on January 8, 2008 and proposes to revise EPA's regulations relating to the Clean Air Act (CAA) requirements that Federal Actions conform to the appropriate State, Tribal or Federal implementation plan for attaining clean air (''general conformity''). The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed changes. EPA is also correcting the docket number published in the January 8, 2008 proposed rulemaking. In the January 8, 2008 Revisions to the General Conformity Regulations: Proposed Rule, there was an error made in citing the docket number. The appropriate docket number for the January 8, 2008 proposed rulemaking is EPA–HQ–OAR–2006–0669. Please submit all comments to docket number EPA–HQ–OAR–2006–0669 when commenting on the January 8, 2008 proposed rule.

DATES: The public hearing will convene at 9 a.m. on March 14, 2008, and continue until 1 hour after the last registered speaker has spoken. People wishing to present oral testimony must pre-register by 5 p.m. on March 11, 2008. For updates and additional information on the public hearing, please check EPA's Web site for this rulemaking at *http://www.epa.gov.oar/gencomform/*.

ADDRESSES: The public hearing will be held at U.S. Environmental Protection Agency, East Building, Room 1153, 1200 Pennsylvania Ave., Washington, DC 20004. Because this hearing is being

held at U.S. government facilities, everyone planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used inside the classroom and outside of the building and demonstrations will not be allowed on Federal property for security reasons.

FOR FURTHER INFORMATION CONTACT: If you would like to speak at the public hearing or have questions concerning the public hearing, please contact Ms. Pamela Long, U.S. Environmental Protection Agency, OAQPS, Air Quality Planning Division (C504–03), Research Triangle Park, NC 27711, telephone (919) 541–0641, fax number (919) 541–5509, e-mail address *long.pam@epa.gov*.

Questions concerning the January 8, 2008, proposed rule should be addressed to Mr. Tom Coda, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, (C504–03), Research Triangle Park, NC 27711, telephone number (919) 541–3307, e-mail at *coda.tom@epa.gov*.

SUPPLEMENTARY INFORMATION: The January 8, 2008, proposed rule proposes to revise its regulations relating to the Clean Air Act (CAA) requirement that Federal actions conform to the appropriate State, Tribal or Federal implementation plan for attaining clean air (''general conformity''). EPA has only revised the General Conformity Regulations once since they were promulgated in 1993 to include *de minimis* emission levels for fine particulate matter and its precursors (July 17, 2006). Over this period, States, EPA and other Federal agencies have gained experience with the implementation of the existing regulations and have identified several issues with their implementation. In addition, in 2004, EPA issued regulations to implement the revised ozone standard and in 2007, issued regulations to implement the new fine particulate matter standard. These regulations affect the timing and process for general conformity determinations. State and other air quality agencies are in the process of developing revised plans to attain the new standards and the proposed revisions to the General Conformity Regulations will be helpful to the State, Tribe, and local agencies as well as the Federal agencies in developing and commenting on the proposed SIP revisions. This proposed rule revision provides for a streamline process for Federal agencies and States and Tribes to collaborate and ensure Federal activities are incorporated in these State implementation plans. Where that is not possible, it provides an efficient and effective process for Federal agencies to ensure their actions do not cause or contribute to a violation of the national ambient air quality standards (NAAQS) or interfere with the purpose of a State, Tribal or Federal implementation plan to attain or maintain the NAAQS.

Public hearing: The proposal for which EPA is holding the public hearing was published in the **Federal Register** on January 8, 2008, (73 FR 1402) and is available at: *http://www.epa.gov/oar/genconform/regs.htm*. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the supplemental rule proposal. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Written comments on the proposed rule were requested to be postmarked by March 10, 2008, which is the closing date for the comment period, as specified in the proposal for the rule. However, the record will remain open until April 14, 2008, to allow 30 days after the public hearing for submittal of additional information.

Commenters should notify Ms. Long if they will need specific equipment, or if there are other special needs related to providing comments at the hearing. The EPA will provide equipment for commenters to show overhead slides or make computerized slide presentations if we receive special requests in advance. Oral testimony will be limited to 5 minutes for each commenter. The EPA encourages commenters to provide EPA with a copy of their oral testimony electronically (via e-mail or CD) or in hard copy form.

The hearing schedule, including lists of speakers, will be posted on EPA's Web site *http://www.epa.gov/oar/genconform/regs.htm*. Verbatim transcripts of the hearing and written statements will be included in the docket for the rulemaking.

How Can I Get Copies of This Document and Other Related Information?

The EPA has established the official public docket for the supplemental proposed rule entitled ''Revisions to the General Conformity'' under Docket ID No. EPA–HQ–OAR–2006–0669. In the January 8, 2008, 73 FR 1402, Revisions to the General Conformity Regulations: Proposed Rule, there was an error made in citing the docket number. The appropriate docket number for the January 8, 2008 proposed rulemaking is EPA–HQ–OAR–2006–0669. Please submit all comments to docket number EPA–HQ–OAR–2006–0669 when commenting on the January 8, 2008 proposed rule.

As stated previously, the proposed rule was published in the **Federal Register** on January 8, 2008 (73 FR 1402) and is available at *http://www.epa.gov/oar/genconform/regs.htm*.

Dated: February 22, 2008.

Jenny N. Edmonds,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. E8–4031 Filed 2–29–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071017599–7600–01]

RIN 0648–AW16

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2008 Georges Bank Cod Hook Sector Operations Plan and Agreement and Allocation of Georges Bank Cod Total Allowable Catch

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

ACTION: Proposed rule; request for comments.

SUMMARY: The Georges Bank (GB) Cod Hook Sector (Hook Sector) has submitted an Operations Plan and Sector Contract entitled, ''Georges Bank Cod Hook Sector Fishing Year 2008–2009 Operations Plan and Agreement'' (together referred to as the Sector Agreement), and an Environmental Assessment (EA), and has requested an allocation of GB cod, consistent with the Northeast (NE) Multispecies Fishery

Management Plan (FMP). This rule proposes to modify the eligibility criteria for membership in both the Hook Sector and the GB Cod Fixed Gear Sector (Fixed Gear Sector). This proposed rule provides interested parties an opportunity to comment on the proposed Hook Gear Sector Agreement prior to final approval or disapproval of the Hook Sector Operations Plan and allocation of GB cod Total Allowable Catch (TAC) to the Hook Sector for the 2008 fishing year (FY).

DATES: Written comments must be received on or before March 18, 2008.

ADDRESSES: You may submit comments, identified by 0648–AW16, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-rulemaking portal: *http://www.regulations.gov*.
- Mail: Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on the U.S./Canada TACs.''
- Fax: (978) 281–9135.

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

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

Copies of the Sector Agreement and the EA are available from the NE Regional Office at the mailing address specified above.

FOR FURTHER INFORMATION CONTACT: Thomas Warren, Fishery Policy Analyst, phone (978) 281–9347, fax (978) 281–9135, e-mail *Thomas.Warren@NOAA.gov*.

SUPPLEMENTARY INFORMATION: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has made a preliminary determination that the Hook Sector Agreement, which contains the Sector Contract and Operations Plan, is consistent with the goals of the FMP and other applicable law and is in compliance with the regulations governing the development and operation of a sector as specified under § 648.87. The final rule implementing Amendment 13 (69 FR 22906, April 27, 2004) specified a process for the formation of sectors within the NE multispecies fishery and the allocation of TAC (or days-at-sea (DAS)) for a specific groundfish species, implemented restrictions that apply to all sectors, authorized the Hook Sector, established the GB Cod Hook Sector Area (Sector Area), and specified a formula for the allocation of GB cod TAC to the Hook Sector.

The principal Amendment 13 regulations applying to the Hook Sector specify that: (1) All vessels with a valid limited access NE multispecies DAS permit are eligible to participate in the Hook Sector, provided they have documented landings, through valid dealer reports submitted to NMFS, of GB cod during FY 1996 through 2001 when fishing with hook gear (i.e., jigs, demersel longline, or handgear); (2) membership in the Hook Sector is voluntary, and each member is required to remain in the Hook Sector for the entire fishing year and cannot fish outside the NE multispecies DAS program during the fishing year, unless certain conditions are met; (3) vessels fishing in the Hook Sector (participating vessels) are confined to fishing in the Hook Sector Area, which is that portion of the GB cod stock area north of 39° 00′ N. lat. and east of 79° 40′ W. long; and (4) participating vessels are required to comply with all pertinent Federal fishing regulations, unless specifically exempted by a Letter of Authorization issued by the Regional Administrator, and the provisions of an approved Operations Plan.

While Amendment 13 authorized the Hook Sector, in order for GB cod to be allocated to the Hook Sector and the Hook Sector authorized to fish, the Hook Sector must submit an Operations Plan and Sector Contract to the Regional Administrator annually for approval. The Operations Plan and Sector Contract must contain certain elements, including a contract signed by all Hook Sector participants and a plan containing the management rules that the Hook Sector participants agree to abide by in order to avoid exceeding the allocated TAC. An additional analysis of the impacts of the Hook Sector's proposed operations may also be required in order to comply with the National Environmental Policy Act. Further, the public must be provided an opportunity to comment on the proposed Operations Plan and Sector Contract. The regulations require that, upon completion of the public comment period, the Regional Administrator will make a determination regarding approval of the Sector Contract and Operations Plan. If approved by the Regional Administrator, participating vessels would be authorized to fish under the terms of the Operations Plan and Sector Contract.

The Hook Sector was authorized to fish in FYs 2004, 2005, 2006, and 2007, and, based upon the GB cod landings history of its members, was allocated 12.60, 11.70, 10.03, and 8.02 percent, respectively, of the annual GB cod TAC.

On September 28, 2007, the Hook Sector submitted a FY 2008 Operations Plan and Sector Agreement and an Environmental Assessment (EA) to NMFS. The proposed 2008 Hook Sector Agreement and Operations Plan contains the same elements and proposed exemptions as the 2007 Hook Sector Agreement. The Hook Sector Agreement would be overseen by a Board of Directors and a Hook Sector Manager. The Hook Sector Agreement specifies, in accordance with Amendment 13, that the Hook Sector's GB cod TAC would be based upon the number of Hook Sector members and their historic landings of GB cod. The GB cod TAC is a ''hard'' TAC, meaning that, once the TAC is reached, Hook Sector vessels could not fish under a DAS, possess or land GB cod or other regulated species managed under the FMP (regulated species), or use gear capable of catching groundfish (unless fishing under charter/party or recreational regulations). Should the hard TAC be exceeded, the Hook Sector's allocation would be reduced by the overharvest in the following year.

The proposed 2008 Operations Plan proposes the same exemptions, as in 2007, from the following restrictions of the FMP: The GB cod trip limit; the GB and Southern New England (SNE) limit on the number of hooks fished; the GB Seasonal Closure Area; the DAS Leasing Program vessel size restrictions; Differential DAS in the Gulf of Maine Differential DAS Area and in the SNE Differential DAS Area (those portions of the differential areas which overlap the Hook Sector Area); and the Western U.S./Canada Area 72–hr observer program notification. Justification for the proposed exemptions and analysis of the potential impacts of the Operations Plan are contained in the EA. A summary of the Initial Regulatory Flexibility Analysis (IRFA) is in the Classification section of this proposed rule.

Nineteen prospective Hook Sector members signed the 2008 Hook Sector Contract. The GB cod TAC calculation is based upon the historic cod landings of the participating Hook Sector vessels,

regardless of gear used. The allocation percentage is calculated by dividing the sum of total landings of GB cod landed by prospective Hook Sector members in FY 1996 through 2001, by the sum of the total accumulated landings of GB cod landed by all NE multispecies vessels for the same time period. Based upon the 19 prospective Hook Sector members (and their associated GB cod history), the Hook Sector's share of the overall U.S. portion of the GB cod TAC would be 6.01 percent, or 1,354,393 lb (614 mt) (6.01 percent times the fishery-wide GB cod target TAC of 22,535,656 lb (10,222 mt)). If prospective members of the Hook Sector decide to not participate in the Hook Sector after the publication of this document and prior to a final decision by the Regional Administrator, the total number of participants in the Hook Sector and the Hook Sector TAC would be reduced from the numbers stated above.

The Hook Sector Agreement contains procedures for the enforcement of the Hook Sector rules and a schedule of penalties, and provides the authority to the Hook Sector Manager to issue stop fishing orders to members of the Hook Sector. Participating vessels would be required to land fish only in designated landing ports and would be required to provide the Sector Manager with a copy of the Vessel Trip Report (VTR) within 48 hr of offloading. Dealers purchasing fish from participating vessels would be required to provide the Hook Sector Manager with a copy of the dealer report on a weekly basis. On a monthly basis, the Hook Sector Manager would transmit to NMFS a copy of the VTRs and the aggregate catch information from these reports. After 90 percent of the Hook Sector's allocation has been harvested, the Hook Sector Manager would be required to provide NMFS with aggregate reports on a weekly basis. A total of 1/12 of the Hook Sector's GB cod TAC, minus a reserve, would be allocated to each month of the fishing year. GB cod quota that is not landed during a given month would be rolled over into the following month. Once the aggregate monthly quota of GB cod is reached, for the remainder of the month, participating vessels could not fish under a NE multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated NE multispecies. Once the annual TAC of GB cod is reached, Hook Sector members could not fish under a NE multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated NE multispecies for the rest of the fishing year. The harvest rules would not preclude vessels from fishing under the charter/party or recreational regulations, provided the vessel fishes under the applicable charter/party and recreational rules on separate trips. For each fishing trip, participating vessels would be required to fish under the NE multispecies DAS program to account for any incidental groundfish species that they may catch while fishing for GB cod. In addition, participating vessels would be required to call the Hook Sector Manager prior to leaving port. All legal-sized cod caught would be retained and landed and counted against the Hook Sector's aggregate allocation. Participating vessels would not be allowed to fish with or have on board gear other than jigs, non-automated demersal longline, or handgear. NE multispecies DAS used by participating vessels while conducting fishery research under an Exempted Fishing Permit during the FY 2008 would be deducted from that Hook Sector member's individual DAS allocation. Similarly, all GB cod landed by a participating vessel while conducting research would count toward the Hook Sector's allocation of GB cod TAC. Participating vessels would be exempt from the GB Seasonal Closure Area during May.

The EA prepared for the Hook Sector operations concludes that the biological impacts of the Hook Sector will be positive because the hard TAC and the use of DAS will provide two means of restricting both the landings and effort of the Hook Sector. Implementation of the Hook Sector would have a positive impact on essential fish habitat (EFH) and bycatch by allowing a maximum number of hook vessels to remain active in the hook fishery, rather than converting to (or leasing DAS to) other gear types that have greater impacts on EFH. The analysis of economic impacts of the Hook Sector concludes that Hook Sector members would realize higher economic returns if the Hook Sector were implemented. The EA asserts that fishing in accordance with the Hook Sector Agreement rules enables more efficient harvesting of GB cod with hook gear than would be possible if the vessels were fishing in accordance with the common pool (non-Sector) rules. The social benefits of the Hook Sector would accrue to Hook Sector members, as well as the Chatham/Harwichport, MA, community, which is highly dependent upon groundfish revenues. The EA concludes that the self-governing nature of the Hook Sector and the development of rules by the Hook Sector enables stewardship of the cod resource by Hook Sector members. The cumulative impacts of the Hook Sector are expected to be positive due to a positive biological impact, neutral impact on habitat, and a positive social and economic impact. In contrast, the cumulative impact of the no action alternative is estimated to be neutral, with negative social and economic impacts.

Should the Regional Administrator approve the Hook Sector Agreement as proposed, a Letter of Authorization would be issued to each member of the Hook Sector exempting them, conditional upon their compliance with the Hook Sector Agreement, from the GB cod possession restrictions, the GB Seasonal Closure Area, the Western U.S./Canada Area 72–hr observer notification requirement, the DAS Leasing Program vessel size restrictions, differential DAS, and the limits on the number of hooks requirements as specified in §§ 648.86(b)(2), 648.81(g), 648.85(a)(3)(ii)(C), 648.82(k)(4)(ix), 648.82 (e)(2), 648.80(a)(4)(v), and 648.80(b)(2)(v), respectively.

NMFS also proposes to modify the regulations that define eligibility criteria for membership in the Hook Sector and the Fixed Gear Sector, in order to be consistent with the Council intent. The eligibility criteria for membership in the Hook Sector and Fixed Gear Sector were implemented by Amendment 13 and Framework Adjustment 42 (69 FR 22906, April 27, 2004; and 71 FR 62156, October 23, 2006, respectively). Of the several eligibility criteria for both these sectors in the implementing regulations, a criterion requiring documented landings of GB cod was not explicitly included as a criterion in the Council documents that proposed formation of the sectors. The implications of this eligibility criterion (requiring landings history of GB cod) were not apparent at the time of implementation, but became apparent during the evaluation of sector Operations Plans for FY 2008. Because the proposed roster for the Fixed Gear Sector for 2008 contains vessels that did not land GB cod during the period 1996 to 2001, the current regulations would prevent such vessels without landings from joining a sector.

During the formation of the Hook Sector and Fixed Gear Sector, it was assumed that only vessels with GB cod landings would be interested in joining the sector, and therefore the landings criterion was not perceived as exclusionary. However, NMFS evaluated the pertinent information regarding the development of this regulation and concluded that this eligibility criterion does not reflect Council intent. Based on this evaluation, NMFS is proposing a

correction to the current regulations by eliminating the eligibility requirement (for landings) because it precludes vessels without GB cod landings history from joining either sector, and is more restrictive than the Council intent.

Classification

This proposed rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

This proposed rule does not contain policies with federalism or ''takings'' implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). Below is a summary of the IRFA, which describes the economic impacts this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule and in the EA prepared for this action. The Small Business Administration (SBA) size standard for small commercial fishing entities is $ 4 million in gross sales. All permitted and participating vessels in the groundfish fishery, including prospective Hook Sector members, are considered to be small entities because gross sales by any one entity (vessel) do not exceed this threshold, and, therefore there is no disproportionate impact between large and small entities. The number of prospective participants in the Hook Sector is 19 (or less), substantially less than the total number of active vessels in the groundfish fishery. These 19 vessels would be subject to the regulatory exemptions and operational restrictions proposed for the Hook Sector for FY 2008.

Economic Impacts of the Proposed Action

The proposed alternative would allocate a GB cod TAC of 614 mt to the Hook Sector. Once the GB cod TAC is harvested, participating vessels would not be allowed to fish under a DAS, possess or land GB cod, or other regulated species managed under the FMP, or use gear capable of catching groundfish (unless fishing under recreational or party/charter regulations). Vessels intending to fish in the Hook Sector during FY 2008 may not fish for NE multispecies under a NE multispecies DAS during FY 2008 until the Hook Sector Operations Plan is approved. Hook Sector vessels may only fish with jigs, non-automated demersel longline, or handgear. Under the proposed Operations Plan, members would be exempt from several restrictions of the FMP described in the preamble to this proposed rule and in the EA.

The proposed alternative would positively impact the members of the Hook Sector 19 (or fewer) vessels that have voluntarily joined the Hook Sector, who are relatively dependant upon groundfish revenue compared to other participants in the groundfish fishery. The proposed alternative would indirectly benefit the communities of Chatham and Harwichport, MA, and to a lesser extent other Cape Cod communities involved in the groundfish fishery. During FY 2006, members of the Hook Sector made 359 fishing trips, landed 179,616 lb (81,472 kg) of cod and 258,544 lb (117,274 kg) of haddock, and generated approximately $ 269,424, and $ 310,253 in revenue from those species, respectively (assuming a dock-side price of $ 1.50 and $1.20 per lb, respectively). Hook Sector members also landed various other species, which contributed additionally to their revenue. In general, the operation of the Hook Sector would continue to mitigate the negative economic impacts that result from the current suite of regulations that apply to the groundfish fishery (most recently Framework Adjustment 42; October 23, 2006; 71 FR 62156). The Hook Sector, by fishing under rules that are designed to meet their needs (as well as the conservation requirements of the FMP), is afforded a larger degree of flexibility and efficiency, which result in economic gains. For example, Hook Sector members are able to plan their fishing activity and income in advance with more certainty due to the fact that there is a cod TAC, which is apportioned to each month of the year. They are able to maximize their efficiency (revenue per trip) due to the exemption from trip limits and hook numbers. For some vessel owners in the Hook Sector, participation in the Hook Sector enables their businesses to remain economically viable.

Modification of the eligibility criteria for the Hook Sector and the Fixed Gear Sector would allow vessels without a history of landing GB cod the opportunity to participate in a sector and to therefore take advantage of the associated sector efficiencies and financial benefits. The number of vessels that this modification would impact is likely very small.

Economic Impacts of Alternatives to the Proposed Action

Under the No Action alternative, all Hook Sector members would remain in the common pool of vessels and fish under all the rules implemented by Amendment 13 and subsequent framework adjustments. Under the regulatory scenario of the No Action alternative, Hook Sector members would likely face increased economic uncertainty, a loss of efficiency, and revenue loss. Because cod usually represents a high proportion of total fishing income for hookgear vessels, revenues for Hook Sector members are sensitive to regulations that impact how and when they can fish for cod, such as trip limits and hook gear restrictions. Hook Sector members would be unnecessarily impacted by regulations designed to affect the catch of species that hook gear catches very little of (e.g., yellowtail flounder, because hook gear is more selective than other gear types). For example, under the No Action alternative, Hook Sector members would be affected by the differential DAS counting requirement, one of the objectives of which is to protect yellowtail flounder.

If no action is taken to modify the sector eligibility criteria, vessels without a history of landing GB cod would not have an opportunity to participate in a sector and take advantage of the associated sector efficiencies and financial benefits. The number of vessels affected however, is likely very small.

No other alternatives beyond the No Action were considered as part of this proposed action. The RFA requires each IRFA to include a description of significant alternatives that accomplish the objectives of applicable statues (in this case, sector provisions) and minimize any significant economic impact to small entities. The objectives of sector management, as originally developed and implemented under Amendment 13 to the NE Multispecies FMP, are to provide opportunities for like-minded vessel operators to govern themselves so that they can operate in a more effective and efficient manner. The GB Cod Hook Sector developed the proposed operations plan after consultation with prospective members. Prospective members then signed a binding sector contract to abide by the measures specified in the proposed operations plan. As described above, the proposed operations plan minimizes economic impacts to participating vessels by allowing them to operate more efficiently. Accordingly, the proposed operations plan reflects the management measures preferred by vessels participating in the GB Cod Hook Sector during FY 2008 and represents all of the significant alternatives that accomplish the objectives of sector provisions and

minimize economic impacts to small entities, as required by the RFA. Therefore, in conjunction with the NEPA requirement to consider a reasonable range of alternatives, no other alternatives were considered as part of this proposed action.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Action

This proposed rule contains no collection-of-information requirement subject to the Paperwork Reduction Act (PRA).

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on proposed TAC allocations and plans of operation of sectors.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and record keeping requirements.

Dated: February 26, 2008.

Samuel D. Rauch III,

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

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.87, paragraphs (d)(1)(ii) and (d)(2)(i) are revised to read as follows:

§ 648.87 Sector allocation.

* * * * *

(d) * * *

(1) * * *

(ii) *Eligibility.* All vessels issued a valid limited access NE multispecies DAS permit are eligible to participate in the GB Cod Hook Sector.

* * * * *

(2) * * *

(i) *Eligibility.* All vessels issued a valid limited access NE multispecies DAS permit are eligible to participate in the GB Cod Fixed Gear Sector.

* * * * *

[FR Doc. E8–4039 Filed 2–29–08; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 73, No. 42
Monday, March 3, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 27, 2008.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal Plant and Health Inspection Service

Title: Virus-Serum-Toxin Act and Regulations in 9 CFR, Subchapter E, Parts 101–124.

OMB Control Number: 0579–0013.

Summary of Collection: The Virus-Serum-Toxin Act (37 Stat. 832–833, 21 U.S.C. 151–159) gives the United States Department of Agriculture, the Animal and Plant Health Inspection Service (APHIS) the authority to promulgate regulations designed to prevent the importation, preparation, sale, or shipment of harmful veterinary biological products. A veterinary biological product is defined as all viruses, serums, toxins, and analogous products of natural or synthetic origin. In order to effectively implement the licensing, production, labeling, importation, and other requirements, APHIS employs a number of information gathering tools such as establishment license applications, product license applications, product permit applications, product and test report forms and field study summaries.

Need and Use of the Information: APHIS uses the information collected as a primary basis for the approval or acceptance of issuing licenses or permits to ensure veterinary biological products that are used in the United States are pure, safe, potent, and effective. Also, APHIS uses the information to monitor the serials for purity, safety, potency and efficacy that are produced by licensed manufacturers prior to their release for marketing. Failing to collect this information would severely cripple APHIS' ability to prevent harmful veterinary biologics from being distributed in the United States.

Description of Respondents: Business or other for profit; State, Local or Tribal Government.

Number of Respondents: 500.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 80,937.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E8–4014 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0019]

Notice of Request for Extension of Approval of an Information Collection; Importation of Used Farm Equipment From Regions Affected With Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of used farm equipment into the United States from regions affected with foot-and-mouth disease.

DATES: We will consider all comments that we receive on or before May 2, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0019* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0019, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0019.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

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

FOR FURTHER INFORMATION CONTACT: For information on regulations for the importation of used farm equipment from regions affected with foot-and-mouth disease, contact Dr. Jim Davis, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737; (301) 734–6479. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS* Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Importation of Used Farm Equipment From Regions Affected With Foot-and-Mouth Disease.

OMB Number: 0579–0195.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service of the United States Department of Agriculture is authorized, among other things, to prohibit or restrict the importation of animals, animal products, and other articles into the United States to prevent the introduction of animal diseases and pests. These regulations are contained in 9 CFR parts 92 through 98.

In part 94, § 94.1 prohibits the importation of used farm equipment into the United States from regions in which foot-and-mouth disease (FMD) or rinderpest exists, unless the equipment has been steam-cleaned prior to export to the United States so that it is free of exposed dirt and other particulate matter. Such equipment must be accompanied to the United States by an original certificate, signed by an authorized official of the national animal health service of the exporting region, stating that the farm equipment, after its last use and prior to export, was steam-cleaned free of all exposed dirt and other particulate matter.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the information collection, 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 information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.20 hours per response.

Respondents: Exporters of used farm equipment in FMD-affected regions, and national animal health service officials in FMD-affected regions.

Estimated annual number of respondents: 1,000.

Estimated annual number of responses per respondent: 10.

Estimated annual number of responses: 10,000.

Estimated total annual burden on respondents: 2,000 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 26th day of February 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–4024 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0013]

Determination of Pest-Free Areas Within the States of Ceará and Rio Grande do Norte, Brazil; Request for Comments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have received a request from the Government of Brazil to recognize 7 municipalities in the State of Ceará and 13 municipalities in the State of Rio Grande do Norte as pest-free areas for the South American cucurbit fly. After reviewing the documentation submitted in support of that request, the Administrator has determined that those municipalities meet the criteria in our regulations for recognition as pest-free areas. We are making that determination, as well as an evaluation document we have prepared in connection with this action, available for review and comment.

DATES: We will consider all comments we receive on or before May 2, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0013* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0013, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0013.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

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

FOR FURTHER INFORMATION CONTACT: Mr. Juan A. Roman, Import Specialist, Commodity Import Analysis and Operations, Plant Health Programs, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 734–8758.

SUPPLEMENTARY INFORMATION: Under the regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56 through 319.56–47, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56–4 of the regulations contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. One of the designated phytosanitary measures is that the fruits or vegetables are imported from a pest-free area in the country of origin that meets the requirements of § 319.56–5 for freedom from that pest and are accompanied by a phytosanitary certificate stating that the fruits or vegetables originated in a pest-free area in the country of origin.

Under the regulations in § 319.56–5, APHIS requires that determinations of pest-free areas be made in accordance with the criteria for establishing freedom from pests found in International Standard for Phytosanitary Measures (ISPM) No. 4, ''Requirements for the establishment of pest-free areas.'' The international standard was established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization and is incorporated by reference in our regulations in 7 CFR 300.5. In addition, APHIS must also approve the survey protocol used to determine and maintain pest-free status, as well as protocols for actions to be performed upon detection of a pest. Pest-free areas are subject to audit by APHIS to verify their status.

APHIS has received a request from the Government of Brazil to recognize additional areas of that country as being free of *Anastrepha grandis,* the South American cucurbit fly. (APHIS currently recognizes two municipalities in the State of Rio Grande do Norte as free of *Anastrepha grandis.*) Specifically, the Government of Brazil asked that we recognize the municipalities of Aracati, Icapuí, Itaiçaba, Jaguaruana, Limoeiro do Norte, Quixerê, and Russas in the State of Ceará and the municipalities of Açu, Afonso Bezerra, Alto do Rodrigues, Areia Branca, Baraúna, Camaubais, Grossos, Ipanguaçu, Mossoró, Porto do Mangue, Serra do Mel, Tibau, and Upanema in the State of Rio Grande do Norte as areas that are free of *Anastrepha grandis.*

In accordance with our regulations and the criteria set out in ISPM No. 4, we have reviewed and approved the survey protocols and other information provided by Brazil relative to its system to establish freedom, phytosanitary measures to maintain freedom, and system for the verification of the maintenance of freedom. Because this action concerns the expansion of a currently recognized pest-free area in Brazil from which melons are authorized for importation into the United States, our review of the information presented by Brazil in support of its request is examined in a commodity import evaluation document (CIED) titled ''Expansion of Pest-free Areas for the Importation of Melon from Brazil.''

The CEID may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the CIED by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Therefore, in accordance with § 319.56–5(c), we are announcing the Administrator's determination that the municipalities of Aracati, Icapuí, Itaiçaba, Jaguaruana, Limoeiro do Norte, Quixerê, and Russas in the State of Ceará and the municipalities of Açu, Afonso Bezerra, Alto do Rodrigues, Areia Branca, Baraúna, Camaubais, Grossos, Ipanguaçu, Mossoró, Porto do Mangue, Serra do Mel, Tibau, Upanema in the State of Rio Grande do Norte meet the criteria of § 319.56–5(a) and (b) with respect to freedom from *Anastrepha grandis.* After reviewing the comments we receive on this notice, we will announce our decision regarding the status of those municipalities with respect to their freedom from *Anastrepha grandis.* If the Administrator's determination remains unchanged, we will add those municipalities to the list of pest-free areas.

Done in Washington, DC, this 26th day of February 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–4054 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Farm Service Agency

Information Collection: Report of Acreage, Noninsured Crop Disaster Assistance Program

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commodity Credit Corporation (CCC) and the Farm Service Agency (FSA) are seeking comments from all interested individuals and organizations on an extension with revision of a currently approved information collection associated with the report of acreage for the Noninsured Crop Disaster Assistance Program (NAP). This information collection is needed to administer the program.

DATES: Comments on this notice must be received on or before May 2, 2008 to be assured consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: We invite you to submit comments on this Notice. In your comments, include volume, date and page of this issue of the **Federal Register**. You may submit comments by any of the following methods:

Mail: USDA Farm Service Agency, ATTN: Jantrice Chappell, Agriculture Program Specialist, CPS, Farm Programs, Production Emergencies and Compliance Division, 1400 Independence Avenue, SW., STOP 0517, Washington, DC 20250–0523.

E-mail: Send comment to: *jantrice.chappell@wdc.usda.gov.*

Fax: (202) 720–4941.

Comments also should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jantrice Chappell, Agriculture Program Specialist, (202) 720–3637 and *jantrice.chappell@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Report of Acreage for the Noninsured Crop Disaster Assistance Program (NAP).

OMB Control Number: 0560–0004.

Expiration Date: 09/30/2008.

Type of Request: Extension with revision.

Abstract: NAP provides financial assistance to producers who have suffered a production loss of an eligible crop or were prevented from planting an eligible crop as a result of natural disasters. Eligible crops are commercial crops or other agricultural commodities for which catastrophic risk protection under 7 U.S.C. 1508(b) is not available and that are produced for food or fiber and includes floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, seed crops, aquaculture (including species, type, variety, etc.), practices, intended uses, planting patterns, and predominant species of forage vegetation (including intended method of harvest, i.e. mechanically

harvested or grazed); dates crops were planted or planting was completed (including age of perennial crops); number of acres of each planting of the eligible crop in which the producer has a share in the administrative county; number of acres intended but prevented from being planted; zero acres planted when the crop for which a NAP application for coverage was filed, is not planted; and shares and identities of all producers sharing in the crop at the time a NAP application for coverage was filed. Finally, the information collected includes the FSA farm serial number or location of commodities not necessarily associated with an FSA farm serial number such as colonies of bees for honey production (including the number of colonies belonging to the unit); ponds and waterbeds for production of aquaculture; ornamental nursery (including the size and origin, i.e. container or field grown, of plants belonging to the unit); mushroom facilities; turfgrass sod (including the average number of square yards per acre and all unharvested acres); and trees for maple sap production (including number of eligible trees, average size and age of producing trees, and total number of taps placed or anticipated for the tapping season). NAP operates under the regulations at 7 CFR part 1437.

The revision is to correct the average time to complete the form that increases the total number of burden hours in this information collection.

Respondents: Producers.

Estimated of Respondent Burden: Public reporting burden for this collection of information is estimated to average 45 minutes (.75 hour) per response. The average travel time, which is included in the total burden, is estimated to be 1 hour per respondent.

Estimated Annual Number of Respondents: 291,500.

Estimated Annual Number of Forms per person: 1.5.

Estimate of Total Annual Burden: 619,438.

Comments Are Invited on:

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

(2) The accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses received in response to this notice, including names and addresses, when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Signed in Washington, DC, on February 26, 2008.

Teresa C. Lasseter,

Administrator, Farm Service Agency.

[FR Doc. E8–4015 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2008–0005]

Codex Alimentarius Commission: Meeting of the Codex Committee on Contaminants in Foods

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services (HHS), are sponsoring a public meeting on March 5, 2008. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States positions that will be discussed at the 2nd Session of the Codex Committee on Contaminants in Foods (CCCF) of the Codex Alimentarius Commission (Codex), which will be held in The Hague, The Netherlands, from March 31–April 4, 2008.

The Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 2nd Session of the CCCF and to address items that will be on the agenda.

DATES: The public meeting is scheduled for Wednesday, March 5, 2008, from 1 to 3 p.m.

ADDRESSES: The public meeting will be held in the Harvey Wiley Federal Building Auditorium, FDA, Center for Food Safety and Applied Nutrition (CFSAN), 5100 Paint Branch Parkway, College Park, MD 20740. Codex documents related to the 2nd Session of the CCCF are accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp.*

The U.S. Delegate to the CCCF, Dr. Nega Beru, invites interested U.S. parties to submit their comments electronically to the following e-mail address: *henry.kim@fda.hhs.gov.*

Registration: Register electronically to the same e-mail address above. Early registration is encouraged because it will expedite entry into the building and its parking area. If you require parking, please include the vehicle make and tag number, if known, when you register. Because the meeting will be held in a Federal building, you should also bring photo identification and plan for adequate time to pass through security screening systems.

FOR FURTHER INFORMATION ABOUT THE 2ND SESSION OF THE CCCF CONTACT: Dr. Henry Kim, Office of Food Safety, CFSAN, FDA, 5100 Paint Branch Parkway (HFS–317), College Park, MD 20740, Phone: (301) 436–2023, Fax: (301) 436–2651, e-mail: *henry.kim@fda.hhs.gov.*

FOR FURTHER INFORMATION ABOUT THE PUBLIC MEETING CONTACT: Edith Kennard, Staff Officer, U.S. Codex Office, Food Safety and Inspection Service (FSIS), Room 4861, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, Phone: (202) 720–5261, Fax: (202) 720–3157, e-mail: *edith.kennard@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission (Codex) was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in trade.

The CCCF was established by the Commission in 2006 as a separate Committee to establish or endorse maximum levels for contaminants and naturally occurring toxicants in food and feed; to prepare priority lists of contaminants and naturally occurring toxicants for risk assessment by the Joint FAO/WHO Expert Committee on Food Additives (JECFA); to consider methods of analysis and sampling for determination of contaminants and naturally occurring toxicants in food and feed; to consider and elaborate

standards or codes of practice for related subjects; and to consider other matters assigned to it by the Commission in relation to contaminants and naturally occurring toxicants in food and feed. The Committee is hosted by The Netherlands.

Issues to be Discussed at the Public Meeting

The following items on the agenda for the 2nd Session of the CCCF will be discussed during the public meeting:

- Matters Referred to the Committee from other Codex Bodies
- Matters of Interest arising from FAO and WHO
- Matters of Interest of the 68th JECFA
- Codex General Standard for Contaminants and Toxins in Foods (GSCTF)—Proposed Draft Revision to the Preamble
- Draft Maximum Levels for 3–MCPD in Liquid Condiments Containing Acid-HVP (Excluding Naturally Fermented Soy Sauce)
- Draft Code of Practice for the Reduction of Chloropropanols during the Production of Acid-Hydrolyzed Vegetable Proteins (HVPs) and Products that Contain Acid-HVPs
- Proposed Draft Code of Practice for the Reduction of Acrylamide in Food
- Proposed Draft Code of Practice for the Reduction of Contamination of Food with Polycyclic Aromatic Hydrocarbons (PAH) from Smoking and Direct Drying
- Draft Maximum Level for Ochratoxin A in Wheat, Barley and Rye
- Draft Maximum Levels for Total Aflatoxins in Almonds, Hazelnuts and Pistachios that are ''For Further Processing'' and ''Ready-to-Eat''
- Proposed Draft Sampling Plan for Aflatoxin Contamination in Almonds, Brazil Nuts, Hazelnuts and Pistachios
- Discussion Paper on Maximum Levels for Total Aflatoxins in ''Ready-to-Eat'' Almonds, Hazelnuts and Pistachios
- Discussion Paper on Aflatoxin Contamination in Brazil Nuts
- Proposed Draft Code of Practice for the Prevention and Reduction of Aflatoxin Contamination in Dried Figs
- Discussion Papers on Ochratoxin A in Coffee and Cocoa
- Priority List of Contaminants and Naturally Occurring Toxicants Proposed for Evaluation by JECFA

Each item listed above will be fully described in documents distributed, or to be distributed, by the Secretariat prior to the March 31–April 4, 2008, meeting in The Hague. Members of the public may access copies of these documents at *http://www.codexalimentarius.net/current.asp.*

Public Meeting

At the March 5, 2008, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to, Dr. Henry Kim, at *henry.kim@fda.hhs.gov.* Written comments should state that they relate to activities of the 2nd Session of the CCCF.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2008_Notices_Index/.* FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on: February 27, 2008.

Paulo Almeida,

Acting U.S. Manager for Codex Alimentarius.

[FR Doc. E8–4056 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2008–0006]

Codex Alimentarius Commission: Meeting of the Codex Committee on Food Additives

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services, are sponsoring a public meeting on March 12, 2008. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States positions that will be discussed at the 40th Session of the Codex Committee on Food Additives (CCFA) of the Codex Alimentarius Commission (Codex), which will be held in Beijing, China, on April 21–25, 2008. The Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 40th Session of the CCFA and to address items on the agenda.

DATES: The public meeting is scheduled for Wednesday, March 12, 2008, from 1 p.m. to 4 p.m.

ADDRESSES: The public meeting will be held in the auditorium (Room 1A003), Harvey W. Wiley Federal Building, FDA, Center for Food Safety and Applied Nutrition (CFSAN), 5100 Paint Branch Highway, College Park MD 20740. Documents related to the 40th Session of the CCFA are accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp.*

The U.S. Delegate to the CCFA, Dr. Dennis Keefe, invites interested U.S. parties to submit their comments electronically to the following e-mail address: *ccfa@fda.hhs.gov.*

Registration

Attendees may register electronically to the same e-mail address above by March 10, 2008. Early registration is encouraged because it will expedite entry into the building and its parking area. If you require parking, please include the vehicle make and tag number, if known, when you register. Because the meeting will be held in a Federal building, you should also bring

photo identification and plan for adequate time to pass through security screening systems.

FOR FURTHER INFORMATION ABOUT THE 40TH SESSION OF THE CCFA CONTACT: Dennis Keefe, Office of Food Additive Safety (HFS–205), CFSAN, FDA, 5100 Paint Branch Parkway, College Park, MD 20740. Phone: (301) 436–1284, Fax: (301) 436–2972, e-mail: *dennis.keefe@fda.hhs.gov.*

FOR FURTHER INFORMATION ABOUT THE PUBLIC MEETING CONTACT: Doreen Chen-Moulec, International Issues Analyst, U.S. Codex Office, Food Safety and Inspection Service (FSIS), Room 4865, South Building, 1400 Independence Ave, SW., Washington, DC 20250. Phone: (202) 720–4063, Fax: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission (Codex) was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in trade.

The CCFA was formed in 2006 from the division of the Codex Committee on Food Additives and Contaminants. It was established to set or endorse maximum levels for individual food additives; prepare priority lists of food additives for risk assessment by the Joint FAO and WHO Expert Committee on Food Additives (JECFA); assign functional classes to individual food additives; recommend specifications of identity and purity for food additives for adoption by the Commission; consider methods of analysis for the determination of additives in food; and consider and elaborate standards or codes for related subjects, including the labeling of food additives when sold as such. The Committee is hosted by the People's Republic of China.

Issues To Be Discussed at the Public Meeting

The following items on the agenda for the 40th Session of the CCFA will be discussed during the public meeting:

- Matters Referred to the Committee from the Codex Alimentarius Commission and other Codex Bodies
- Matters of Interest arising from the FAO, WHO, and the JECFA
- Endorsement or Revision of Maximum Levels for Food Additives and Processing Aids in Codex Standards
- Consideration of the Codex General Standard for Food Additives (GSFA)
- Proposed Draft Revision of the Food Category System of the GSFA
- Proposed Draft Guidelines for the Use of Flavorings
- Discussion Paper on Guidelines and Principles for the Use of Processing Aids
- International Numbering System (INS) for Food Additives
- Specifications for the Identity and Purity of Food Additives
- Priority List of Food Additives Proposed for Evaluation by the JECFA

Each item listed above will be fully described in documents distributed, or to be distributed, by the Secretariat prior to the April 21–25, 2008, meeting in Beijing, China. Members of the public may access these documents from *http://www.codexalimentarius.net/current.asp.*

Public Meeting

At the March 12, 2008, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be sent electronically to the U.S. Delegate for the CCFA, Dr. Dennis Keefe at *dennis.keefe@fda.hhs.gov.* Written comments should state that they relate to activities of the 40th Session of the CCFA.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2008_Notices_Index/.* FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on: February 27, 2008.

Paulo Almeida,

Acting U.S. Manager for Codex Alimentarius.

[FR Doc. E8–4060 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designation for the Owensboro (KY), Bloomington (IL), Iowa Falls (IA), Casa Grande (AZ), Fargo (ND), Grand Forks (ND), Plainview (TX), and Amarillo (TX) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: We are announcing designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (USGSA): J.W. Barton Grain Inspection Service, Inc. (Barton); Central Illinois Grain Inspection, Inc. (Central Illinois); Central Iowa Grain Inspection Service, Inc. (Central Iowa); Farwell Commodity and Grain Services, Inc. (Farwell Southwest); North Dakota Grain Inspection Service, Inc. (North Dakota); Northern Plains Grain Inspection Service, Inc. (Northern Plains); and Plainview Grain Inspection and Weighing Service, Inc. (Plainview). We are also announcing the amendment of designated geographic areas for California Agri Inspection Company, Ltd. (California Agri) and Enid Grain Inspection Company, Inc. (Enid).

DATES: Effective April 1, 2008.

ADDRESSES: USDA, GIPSA, Karen Guagliardo, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Karen Guagliardo at 202–720–7312, e-mail *Karen.W.Guagliardo@usda.gov.*

Read Applications: All applications will be available for public inspection at the office above during regular business hours (7 CFR 1.27(b)).

SUPPLEMENTARY INFORMATION: In the September 4, 2007, **Federal Register** (72 FR 50654), we requested applications for designation to provide official services in the geographic areas assigned to the official agencies named above. GIPSA also asked for applicants in the north central Texas region as Amarillo Grain Exchange, Inc. (Amarillo), requested that GIPSA amend their designation by removing 19 counties from their assigned geographic area. Applications were due by October 4, 2007.

Barton, Central Illinois, Central Iowa, North Dakota, Northern Plains and Plainview were the sole applicants for designation to provide official services in the entire area currently assigned to them, so GIPSA did not ask for additional comments on them.

Farwell Southwest applied for part of the area currently assigned to them; Maricopa, Pinal, Santa Cruz, and Yuma Counties, Arizona. California Agri Inspection Company, Ltd., a currently designated official agency, applied for designation in specific counties designated to Farwell Southwest. California Agri provides service in these California counties through an agreement with Farwell Southwest: Merced, Madera, Fresno, Kings, Tulare, Inyo, San Luis Obispo, Kern, Orange, Los Angeles, Ventura, Santa Barbara, and San Bernardino.

Plainview and Enid, both currently designated official agencies, applied for designation in specific counties designated to Amarillo. Plainview applied for designation in Cottle, Hardeman, King, Knox, Baylor, Archer, Stonewall, Haskell, Throckmorton, Fisher, Jones, Shackelford, Nolan, Taylor, Foard, and Callahan counties, Texas. Enid applied for designation in Clay, Wichita, and Wilbarger counties, Texas.

In the December 3, 2007 **Federal Register** (72 FR 67884), we requested comments on the applications for designation to provide official services in the geographic areas assigned to Amarillo and Farwell Southwest. Comments were due by January 2, 2008.

GIPSA received no comments.

We evaluated all available information regarding the designation criteria in Section 7(f)(l) of USGSA (7 U.S.C. 79(f)) and determined that Barton, California Agri, Central Illinois, Central Iowa, Enid, Farwell Southwest, North Dakota, Northern Plains, and Plainview, are able to provide official services in the geographic areas specified in the September 4, 2007, **Federal Register**, for which they applied. These designation actions to provide official services are effective April 1, 2008, and terminate March 31, 2011, for Barton, Central Illinois, Central Iowa, Farwell Southwest, North Dakota, Northern Plains and Plainview. For California Agri and Enid, the designation to provide official services runs concurrently with their present designations. Interested persons may obtain official services by calling the telephone numbers listed below.

Official agency	Headquarters location and telephone	Designation start–end
Barton	Owensboro, KY, 270–683–0616	4/1/2008–3/31/2011
	Additional Location: Clarksville, IN	
Central Illinois	Bloomington, IL, 309–827–7121	4/1/2008–3/31/2011
	Additional Location: Pekin, IL	
Central Iowa	Iowa Falls, IA, 641–648–3467	4/1/2008–3/31/2011
	Additional Location: Des Moines, IA	
Farwell Southwest	Casa Grande, AZ, 520–421–1027	4/1/2008–3/31/2011
	Additional Location: Brawley, CA	
North Dakota	Fargo, ND, 701–293–7420	4/1/2008–3/31/2011
	Additional Locations: Ayr, Casselton, Enderlin, Hillsboro, Taylor, and Valley City, ND; and Cahokia, Teutopolis, and Wayne City, IL.	
Northern Plains	Grand Forks, ND, 701–772–2414	4/1/2008–3/31/2011
	Additional Location: Devil's Lake, ND	
Plainview	Plainview, TX, 806–293–1364	4/1/2008–3/31/2011
California Agri	West Sacramento, CA, 916–374–9700	1/1/2007–12/31/2009
	Additional Locations: Corcoran and Stockton, CA	
Enid	Enid, OK, 580–233–1121	4/1/2007–3/31/2010
	Additional Location: Catoosa, OK	

Section 7(f)(1) of the USGSA, authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)(1)).

Section 7(g)(1) of USGSA provides that designations of official agencies will terminate not later than three years and may be renewed according to the criteria and procedures prescribed in Section 7(f) of USGSA.

Authority: 7 U.S.C. 71–87k.

James E. Link,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E8–3978 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in Aberdeen (SD), Decatur (IL), Hastings (NE), Fulton (IL), Missouri, and South Carolina Areas, and Request for Comments on the Official Agencies Serving These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end on September 30, 2008. We are asking persons interested in providing official

services in the areas served by these agencies to submit an application for designation. We are also asking for comments on the quality of services provided by these currently designated agencies: Aberdeen Grain Inspection, Inc. (Aberdeen); Decatur Grain Inspection, Inc. (Decatur); Hastings Grain Inspection, Inc. (Hastings); John R. McCrea Agency, Inc. (McCrea); Missouri Department of Agriculture (Missouri); and South Carolina Department of Agriculture (South Carolina).

DATES: Applications and comments must be received on or before April 2, 2008.

ADDRESSES: We invite you to submit applications and comments on this notice. You may submit applications and comments by any of the following methods:

- To apply for designation, go to FGIS online, Web page *https://fgis.gipsa.usda.gov/default_home_FGIS.aspx.* Select *Delegations/Designations and Export Registrations (DDR).* You need e-authentication and a customer number prior to applying.
- Hand Delivery or Courier: Deliver to Karen Guagliardo, Review Branch Chief, Compliance Division, GIPSA, USDA, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250.
- Fax: Send by facsimile transmission to (202) 690–2755, attention: Karen Guagliardo.
- E-mail: Send via electronic mail to *Karen.W.Guagliardo@usda.gov.*
- Mail: Send hardcopy to Karen Guagliardo, Review Branch Chief, Compliance Division, GIPSA, USDA, STOP 3604, 1400 Independence Avenue, SW., Washington, DC 20250–3604.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments and reading any comments posted online.

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Karen Guagliardo at 202–720–7312, e-mail *Karen.W.Guagliardo@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 7(f)(1) of the United States Grain Standards Act, as amended (USGSA or Act), authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)(1)).

Section 7(g)(1) of USGSA provides that designations of official agencies will terminate not later than three years and may be renewed according to the criteria and procedures prescribed in section 7(f) of USGSA.

Current Designations Being Announced for Renewal

Official agency	Main office	Designation start	Designation end
Aberdeen	Aberdeen, SD	10/01/2008	09/30/2011
Decatur	Decatur, IL	10/01/2008	09/30/2011
Hastings	Hastings, NE	10/01/2008	09/30/2011
McCrea	Fulton, IL	10/01/2008	09/30/2011
Missouri	Jefferson City, MO	10/01/2008	09/30/2011
South Carolina	Columbia, SC	10/01/2008	09/30/2011

Aberdeen

Pursuant to section 7(f)(2) of the Act, the following geographic area, in the States of North Dakota and South Dakota, is assigned to Aberdeen.

Bounded on the North by U.S. Route 12 east to State Route 22; State Route 22 north to the Burlington-Northern (BN) line; the Burlington-Northern (BN) line east to State Route 21; State Route 21 east to State Route 49; State Route 49 south to the North Dakota-South Dakota State line; the North Dakota-South Dakota State line east to U.S. Route 83; U.S. Route 83 north to State Route 13; State Route 13 east and north to McIntosh County; the northern McIntosh County line east to Dickey County; the northern Dickey County line east to U.S. Route 281; U.S. Route 281 south to the North Dakota-South Dakota State line; the North Dakota-South Dakota State line east;

Bounded on the East by the eastern South Dakota State line (the Big Sioux River) to A54B;

Bounded on the South by A54B west to State Route 11; State Route 11 north to State Route 44 (U.S. 18); State Route 44 west to the Missouri River; the Missouri River south-southeast to the South Dakota State line; the southern South Dakota State line west; and

Bounded on the West by the western South Dakota State line north; the western North Dakota State line north to U.S. Route 12.

Decatur

Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Illinois, is assigned to Decatur.

Bounded on the North by the northern and eastern DeWitt County lines; the eastern Macon County line south to Interstate 72; Interstate 72 northeast to the eastern Piatt County line;

Bounded on the East by the eastern Piatt, Moultrie, and Shelby County lines;

Bounded on the South by the southern Shelby County line; a straight line running along the southern Montgomery County line west to State Route 16 to a point approximately one mile northeast of Irving; and

Bounded on the West by a straight line from this point northeast to Stonington on State Route 48; a straight line from Stonington northwest to Elkhart on Interstate 55; a straight line from Elkhart northeast to the west side of Beason on State Route 10; State Route 10 east to DeWitt County; the western DeWitt County line.

Decatur's assigned geographic area does not include the following grain elevators inside Decatur's area which have been and will continue to be serviced by the following official agency: Champaign-Danville Grain Inspection Departments, Inc.: Okaw Cooperative, Cadwell, Moultrie County; ADM (three elevators), Farmer City, DeWitt County; and Topflight Grain Company, Monticello, Piatt County.

Hastings

Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Nebraska, is assigned to Hastings.

Bounded on the North by the northern Nebraska State line from the western Sioux County line east to the eastern Knox County line;

Bounded on the East by the eastern and southern Knox County lines; the eastern Antelope County line; the northern Madison County line east to U.S. Route 81; U.S. Route 81 south to the southern Madison County line; the southern Madison County line; the eastern Boone, Nance, and Merrick County lines; the Platte River southwest;

the eastern Hamilton County line; the northern and eastern Fillmore County lines; the southern Fillmore County line west to U.S. Route 81; U.S. Route 81 south to State Highway 8; State Highway 8 west to the County Road 1 mile west of U.S. Route 81; the County Road south to southern Nebraska State line;

Bounded on the South by the southern Nebraska State line, from the County Road 1 mile west of U.S. Route 81, west to the western Dundy County line; and

Bounded on the West by the western Dundy, Chase, Perkins, and Keith County lines; the southern and western Garden County lines; the southern Morrill County line west to U.S. Route 385; U.S. Route 385 north to the southern Box Butte County line; the southern and western Sioux County lines north to the northern Nebraska State line.

The following grain elevators, located outside of the above contiguous geographic area, are part of this geographic area assignment: Farmers Coop, and Big Springs Elevator, both in Big Springs, Deuel County (located inside Kansas Grain Inspection Service, Inc.'s area); and Huskers Cooperative Grain Company, Columbus, Platte County (located inside Fremont Grain Inspection Department, Inc.'s, area).

McCrea

Pursuant to section 7(f)(2) of the Act, the following geographic area, in the States of Illinois and Iowa, is assigned to McCrea.

Carroll and Whiteside Counties, Illinois.

Clinton and Jackson Counties, Iowa.

Missouri

Pursuant to section 7(f)(2) of the Act, the following geographic area, the entire State of Missouri, is assigned to Missouri.

South Carolina

Pursuant to section 7(f)(2) of the Act, the following geographic area, the entire State of South Carolina, except those export port locations within the State, is assigned to South Carolina.

Opportunity for Designation

Interested persons, including Aberdeen, Decatur, Hastings, McCrea, Missouri, and South Carolina, may apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of USGSA (7 U.S.C. 79(f)(2)), and 9 CFR 800.196(d) regulations. Designation in the specified geographic areas is for the period beginning October 1, 2008, and ending September 30, 2011. To apply for designation, contact the Compliance Division at the address listed above for forms and information, or obtain applications at the GIPSA Web site, *http://www.gipsa.usda.gov.*

Request for Comments

We are also publishing this notice to provide interested persons the opportunity to present comments on the quality of services provided by the Aberdeen, Decatur, Hastings, McCrea, Missouri, and South Carolina official agencies. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data for support or objection to the designation of the applicants. Submit all comments to the Compliance Division at the above address or at *http://www.regulations.gov.*

In determining which applicant will be designated, we will consider applications, comments, and other available information.

Authority: 7 U.S.C. 71–87k.

James E. Link,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E8–3980 Filed 2–29–08; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

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

ACTION: Notice of Upcoming Sunset Reviews.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended, the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce. 14th Street & Constitution Ave., NW, Washington, DC 20230; telephone (202) 482–1391.

Upcoming Sunset Reviews for April 2008

There are no Sunset Reviews scheduled for initiation in April 2008.

For information on the Department's procedures for the conduct of sunset reviews, *See* 19 CFR 351.218. This notice is not required by statute but is published as a service to the international trading community. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3, ''Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders;'' Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin''). The Notice of Initiation of Five-year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Dated: February 22, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–4058 Filed 2–29–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with section 351.213(2004) of the Department of Commerce (the Department) regulations, that the Department conduct an

administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than the last day of March 2008,[1] interested parties may request an administrative review of the following orders, findings, or suspended investigations, with anniversary dates in March for the following periods:

	Period
Antidumping Duty Proceeding	
BRAZIL: Certain Hot-Rolled Carbon Steel Flat Products, A–351–828	3/1/07–2/29/08
Orange Juice, A–351–840	3/1/07–2/29/08
CANADA: Iron Construction Castings, A–122–503	3/1/07–2/29/08
FRANCE: Brass Sheet & Strip, A–427–602	3/1/07–2/29/08
Stainless Steel Bar, A–427–820	3/1/07–3/6/07
GERMANY: Brass Sheet & Strip, A–428–602	3/1/07–2/29/08
Stainless Steel Bar, A–428–830	3/1/07–3/6/07
INDIA: Sulfanilic Acid, A–533–806	3/1/07–2/29/08
ITALY: Brass Sheet & Strip, A–475–601	3/1/07–2/29/08
Stainless Steel Bar, A–475–829	3/1/07–3/6/07
JAPAN: Stainless Steel Butt-Weld Pipe Fittings, A–588–702	3/1/07–2/29/08
REPUBLIC OF KOREA: Stainless Steel Bar, A–580–847	3/1/07–3/6/07
RUSSIA: Silicon Metal, A–821–817	3/1/07–2/29/08
SPAIN: Stainless Steel Bar, A–469–805	3/1/07–2/29/08
TAIWAN: Light-Walled Welded Rectangular Carbon Steel Tubing, A–583–803	3/1/07–2/29/08
THAILAND: Circular Welded Carbon Steel Pipes & Tubes, A–549–502	3/1/07–2/29/08
THE PEOPLE'S REPUBLIC OF CHINA: Chloropicrin, A–570–002	3/1/07–2/29/08
Glycine, A–570–836	3/1/07–2/29/08
Tissue Paper Products, A–570–894	3/1/07–2/29/08
UNITED KINGDOM: Stainless Steel Bar, A–412–822	3/1/07–3/6/07
Countervailing Duty Proceeding	
INDIA: Sulfanilic Acid, C–533–807	1/1/07–12/31/07
IRAN: In-Shell Pistachio Nuts, C–507–501	1/1/07–12/31/07
ITALY: Stainless Steel Bar, C–475–830	1/1/07–3/7/07
TURKEY: Welded Carbon Steel Pipes and Tubes, C–489–502	1/1/07–12/31/07
Suspension Agreement	
None.	

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding, an antidumping or countervailing duty order, or a suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration Web site at *http://ia.ita.doc.gov.*

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Duty Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of March 2008. If the

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

Department does not receive, by the last day of March 2008, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct U.S. Customs and Border Protection to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption, and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: February 27, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–4061 Filed 2–29–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Frozen Fish Fillets from Vietnam: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review

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

EFFECTIVE DATE: March 3, 2008.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3207.

SUPPLEMENTARY INFORMATION:

Background

On September 25, 2007, the Department of Commerce (''Department'') initiated an antidumping duty administrative review on frozen fish fillets from Vietnam. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 72 FR 54428 (September 25, 2007). The Department initiated this review with respect to 32 companies. The period of review is August 1, 2006 through July 31, 2007. The preliminary results of this administrative review are currently due no later than May 2, 2008. On October 17, 2007, Vinh Quang Fisheries Corporation withdrew its request for review. On December 19, 2007, Vinh Hoan Company Limited and Vinh Hoan Corporation withdrew their requests for review. On December 20, 2007, Petitioners withdrew its request for review with respect to twenty–seven companies, including Vinh Quang Fisheries Corporation, Vinh Hoan Company Limited, and Vinh Hoan Corporation.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit because the Department requires additional time to analyze the supplemental questionnaire responses, issue additional supplemental questionnaires, as well as to evaluate what would be the most appropriate surrogate values to use during the period of review. Therefore, the Department is extending the time limit for completion of the preliminary results by 120 days. The preliminary results will now be due no later than September 2, 2008, which is the first business day after the 120-day extension. The final results continue to be due 120 days after the publication of the preliminary results.

Partial Rescission of Review

The applicable regulation, 19 CFR 351.213(d)(1), states that if a party that requested an administrative review withdraws the request within 90 days of the publication of the notice of initiation of the requested review, the Secretary will rescind the review. Petitioners withdrew their review request with respect to twenty seven exporters of subject merchandise within the 90-day deadline, in accordance with 19 CFR 351.213(d)(1). Also, within the 90-day deadline respondents Vinh Quang Fisheries Corporation, Vinh Hoan Company Limited, and Vinh Hoan Corporation withdrew their respective requests for review. Requests for review from An Giang Fisheries Import and Export Joint Stock Company (aka Agifish or AnGiang Fisheries Import and Export) and Anvifish Co., Ltd., were not withdrawn by respondents.

Therefore, we are partially rescinding this review of the antidumping duty order on frozen fish fillets from Vietnam with respect to the following twenty five companies, because all requesting parities for these companies timely withdrew the requests for review: An Giang Agriculture and Food Import Export Company (aka Afiex, A. Seafood, Afiex Seafood, or An Giang Afiex Company); Basa Co., Ltd.; Can Tho Agricultural and Animal Products Import Export Company (aka Cataco); Cantho Seafood Export (aka CASEAFOOD); Can Tho Animal Fishery Products Processing Export Enterprise (aka Cafatex); Cantho Import Export Seafood Joint Stock Company (aka CASEAMEX); CL–Fish Co., Ltd. (aka Cuu Long Fish Company); Da Nang Seaproducts Import–Export Corporation (aka Da Nang or Seaprodex Danang); Duyen Hai Foodstuffs Processing Factory (aka COSEAFEX); East Sea Seafoods Joint Venture Co., Ltd.; Gepimex 404 Company; Hai Nam Co., Ltd.; Hai Vuong Co., Ltd.; Hoan An Fishery Co., Ltd.; Hung Vuong Co., Ltd.; Kim Anh Co., Ltd.; Mekongfish Company (aka Mekonimex or Mekong Fisheries Joint Stock Company); Nam Viet Company Limited (aka NAVICO); Ngoc Thai Company, Ltd.; Southern Fishery Industries Company, Ltd. (aka South Vina); Viet Hai Seafood Company Limited (aka Vietnam Fish–One Co., Ltd.); Vinh Hoan Corporation; Vinh Hoan Company, Ltd.; Vinh Long Import–Export Company (aka Imex Cuu Long); and, Vinh Quang Fisheries Corporation. The following seven companies remain in this administrative review: An Giang Fisheries Import and Export Joint Stock Company (aka Agifish or AnGiang Fisheries Import and Export); Anvifish Co., Ltd., An Xuyen Company Ltd., QVD Food Company, Ltd., QVD Dong Thap Food Co., Ltd., Thuan Hung Co., Ltd. (aka THUFICO), and Lian Heng Trading Co., Ltd.

Assessment

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. For those companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash

deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(I). The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of this notice.

Notification of Interested Parties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(3)(A), 777(I), 751, and 777(I) of the Act and 19 CFR 351.213(d)(4).

Dated: February 22, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–4052 Filed 2–29–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-year (''Sunset'') Reviews

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating a five-year review (''Sunset Review'') of the antidumping duty order listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of Institution of Five-year Review which covers the same order.

EFFECTIVE DATE: March 3, 2008.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the Initiation of Review(s) section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3 - *Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998).

Initiation of Reviews

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty order:

DOC Case No.	ITC Case No.	Country	Product	Department Contact
A–570–875	731–TA–990	PRC	Non–Malleable Cast Iron Pipe Fittings	Juanita Chen (202) 482–1904

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's sunset Internet Web site at the following address: ''http://ia.ita.doc.gov/sunset/.'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required from Interested Parties

Domestic interested parties (defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in these Sunset Reviews must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the orders without further review.

See 19 CFR 351.218(d)(1)(iii).

For sunset reviews of countervailing duty orders, parties wishing the Department to consider arguments that countervailable subsidy programs have been terminated must include with their substantive responses information and documentation addressing whether the changes to the program were (1) limited to an individual firm or firms and (2)

effected by an official act of the government. Further, a party claiming program termination is expected to document that there are no residual benefits under the program and that substitute programs have not been introduced. *Cf.* 19 CFR 351.526(b) and (d). If a party maintains that any of the subsidies countervailed by the Department were not conferred pursuant to a subsidy program, that party should nevertheless address the applicability of the factors set forth in 19 CFR 351.526(b) and (d). Similarly, parties wishing the Department to consider whether a company's change in ownership has extinguished the benefit from prior non–recurring, allocable, subsidies must include with their substantive responses information and documentation supporting their claim that all or almost all of the company's shares or assets were sold in an arm's length transaction, at a price representing fair market value, as described in the *Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act*, 68 FR 37125 (June 23, 2003) (''*Modification Notice*''). *See Modification Notice* for a discussion of the types of information and documentation the Department requires.

If we receive an order–specific notice of intent to participate from a domestic interested party, the Department's regulations provide that all parties wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order–specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: February 22, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–4055 Filed 2–29–08; 8:45 am]

BILLING CODE 3510–DS–S

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

International Trade Administration

Exporters' Textile Advisory Committee; Notice of Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held on Tuesday, April 23, 2008. The meeting will be from 1:00-4:00 p.m. at the Trade Information Center, Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Ave., N.W., Washington, D.C. 20004, Training Room ''C''.

The Committee provides advice and guidance to Department officials on the identification and surmounting of barriers to the expansion of textile exports, and on methods of encouraging textile firms to participate in export expansion.

The Committee functions solely as an advisory body in accordance with the provisions of the Federal Advisory Committee Act.

The meeting will be open to the public with a limited number of seats available. For further information contact Larry Brill at (202) 482-1856. Minutes of all ETAC meetings are posted at otexa.ita.doc.gov.

Dated: February 26, 2008.

Janet E. Heinzen,

Acting Chairman, Committee for Implementation of Textile Agreements.

[FR Doc. E8–4049 Filed 2–29–08; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

International Trade Administration

Exporters' Textile Advisory Committee; Notice of Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held on May 8, 2008 from 10:00AM- 1:00 PM at the U.S Department of Commerce, U.S. Export Assistance Center, 444 S. Flower St. 34th Floor, Los Angeles, CA 90071.

The Committee provides advice and guidance to Department officials on the identification and surmounting of barriers to the expansion of textile exports, and on methods of encouraging textile firms to participate in export expansion.

The Committee functions solely as an advisory body in accordance with the provisions of the Federal Advisory Committee Act.

The meeting will be open to the public with a limited number of seats available. For further information contact Larry Brill at (202) 482-1856. Minutes of all ETAC meetings are posted at otexa.ita.doc.gov.

Dated: February 26, 2008.

Janet E. Heinzen,

Acting Chairman, Committee for Implementation of Textile Agreements.

[FR Doc. E8–4053 Filed 2–29–08; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–850]

Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (over 4½ Inches) from Japan: Notice of Rescission of Antidumping Duty Administrative Review

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

SUMMARY: On July 26, 2007, the U.S. Department of Commerce (the Department) published a notice of initiation of an administrative review of the antidumping duty order on carbon and alloy seamless standard, line, and pressure pipe (over 4½ inches) from Japan. The review covers four manufacturers/exporters: JFE Steel Corporation; Nippon Steel Corporation; NKK Tubes; and Sumitomo Metal Industries, Ltd. The period of review (POR) is June 1, 2006, through May 31, 2007. Following the receipt of a certification of no shipments from all four respondents, we notified the domestic interested party of the Department's intent to rescind this review and provided an opportunity to comment on the rescission. We received no comments. Therefore, we are rescinding this administrative review.

EFFECTIVE DATE: March 3, 2008.

FOR FURTHER INFORMATION CONTACT: Salim Bhabhrawala, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1784.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2007, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on carbon and alloy seamless standard, line, and pressure pipe (over 4½ inches) from Japan for the period June 1, 2006, through May 31, 2007. *See Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 30542 (June 1, 2007). On June 29, 2007, United States Steel Corporation (U.S. Steel), a domestic producer of the subject merchandise, made a timely request that the Department conduct an administrative review of JFE Steel Corporation, Nippon Steel Corporation, NKK Tubes, and Sumitomo Metal Industries, Ltd. On July 26, 2007, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 41057 (July 26, 2007). On August 10, 2007, the Department issued its antidumping duty questionnaire to JFE Steel Corporation, Nippon Steel Corporation, NKK Tubes, and Sumitomo Metal Industries, Ltd. On August 27, 2007, Nippon Steel Corporation submitted a letter to the Department, certifying that the company made no shipments or entries for consumption in the United States of the subject merchandise during the POR. On August 28, 2007, JFE Steel Corporation submitted a letter to the Department, certifying that the company made no shipments or entries for consumption in the United States of the subject merchandise during the POR. On August 31, 2007, both NKK Tubes, and Sumitomo Metal Industries, Ltd. submitted letters to the Department, certifying that the companies made no shipments or entries for consumption in the United States of the subject merchandise during the POR.

Scope of the Order

The products covered by this review are large diameter seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes produced, or equivalent, to the American Society for Testing and Materials (ASTM) A–53, ASTM A–106, ASTM A–333, ASTM A- 334, ASTM A–589, ASTM A–795, and the American Petroleum Institute (API) 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this review also includes all other products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification, with the exception of the exclusions discussed below. Specifically included within the scope of this review are seamless pipes greater than 4.5 inches (114.3 mm) up to and including 16 inches (406.4 mm) in outside diameter, regardless of wall–thickness, manufacturing process (hot finished or cold–drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The seamless pipes subject to this review are currently classifiable under the subheadings 7304.10.10.30, 7304.10.10.45, 7304.10.10.60, 7304.10.50.50, 7304.19.10.30, 7304.19.10.45, 7304.19.10.60, 7304.19.50.50, 7304.31.60.10, 7304.31.60.50, 7304.39.00.04, 7304.39.00.06, 7304.39.00.08, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.51.50.15, 7304.51.50.45, 7304.51.50.60, 7304.59.20.30, 7304.59.20.55, 7304.59.20.60, 7304.59.20.70, 7304.59.60.00, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, and 7304.59.80.70 of the Harmonized Tariff Schedule of the United States (HTSUS).

Specifications, Characteristics, and Uses: Large diameter seamless pipe is used primarily for line applications such as oil, gas, or water pipeline, or utility distribution systems. Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A–106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM A–335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A–106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A-106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A–333 or ASTM A–334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification. Seamless water well pipe (ASTM A–589) and seamless galvanized pipe for fire protection uses (ASTM A–795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A- 53, API 5L–B, and API 5L–X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple or quadruple certified pipes in large diameters is for use as oil and gas distribution lines for commercial applications. A more minor application for large diameter seamless pipes is for use in pressure piping systems by refineries, petrochemical plants, and chemical plants, as well as in power generation plants and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A–106 pipes may be used in some boiler applications.

The scope of this review includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, with the exception of the exclusions discussed below, whether or not also certified to a non–covered specification. Standard, line, and pressure

applications and the above–listed specifications are defining characteristics of the scope of this review. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A- 53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, and API 5L specifications shall be covered if used in a standard, line, or pressure application, with the exception of the specific exclusions discussed below.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A–106 applications. These specifications generally include ASTM A–161, ASTM A–192, ASTM A–210, ASTM A–252, ASTM A–501, ASTM A–523, ASTM A–524, and ASTM A–618. When such pipes are used in a standard, line, or pressure pipe application, such products are covered by the scope of this review.

Specifically excluded from the scope of this review are:

A. Boiler tubing and mechanical tubing, if such products are not produced to ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, and API 5L specifications and are not used in standard, line, or pressure pipe applications.

B. Finished and unfinished oil country tubular goods (OCTG), if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications.

C. Products produced to the A–335 specification unless they are used in an application that would normally utilize ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, and API 5L specifications.

D. Line and riser pipe for deepwater application, i.e., line and riser pipe that is (1) used in a deepwater application, which means for use in water depths of 1,500 feet or more; (2) intended for use in and is actually used for a specific deepwater project; (3) rated for a specified minimum yield strength of not less than 60,000 psi; and (4) not identified or certified through the use of a monogram, stencil, or otherwise marked with an API specification (*e.g.*, ''API 5L'').

With regard to the excluded products listed above, the Department will not instruct Customs to require end–use certification until such time as petitioner or other interested parties provide to the Department a reasonable basis to believe or suspect that the products are being utilized in a covered application. If such information is provided, we will require end–use certification only for the product(s) (or specification(s)) for which evidence is provided that such products are being used in a covered application as described above. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to the A–335 specification is being used in an A–106 application, we will require end–use certifications for imports of that specification. Normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

Rescission of the Administrative Review

As noted above, all four respondents submitted letters to the Department indicating that they did not make any shipments or entries of subject merchandise to the United States during the POR. In response to the Department's query to U.S. Customs and Border Protection (CBP), CBP data showed a small quantity of subject merchandise manufactured by one or more of the respondent companies was entered for consumption into the United States during the POR from a third country. On November 8, 2007, the Department placed on the record of this review copies of the entry documents in question. On the basis of these documents, the Department concluded that there is no evidence on the record that the respondents in question were involved with the 2007 entries of the subject merchandise into the United States. Specifically, although JFE Steel Corporation, Nippon Steel Corporation, NKK Tubes, and Sumitomo Metal Industries, Ltd. did not have any sales or exports of subject merchandise to the United States during the POR, subject merchandise produced by one or more of these companies entered the United States during the POR under their antidumping case number, without their knowledge by way of intermediaries. *See* Memorandum to the File, from Salim Bhabhrawala, Case Analyst, ''Department Intent to Rescind Review,'' January 16, 2008 (*Intent to Rescind Memo*). Thus, the Department found that the respondents' claims of no shipments or entries for consumption to be substantiated. On January 16, 2008, the Department notified interested parties of its intent to rescind this administrative review and gave parties until January 28, 2008 to provide comments. No comments were received. *See Intent to Rescind Memo*.

Based upon the certifications and the evidence on the record, we are satisfied that no respondent had shipments of subject merchandise to the United States during the POR. Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. Therefore, the Department is rescinding this review in accordance with 19 CFR 351.213(d)(3).

The Department will instruct CBP 15 days after the publication of this notice to liquidate such entries at the ''All Others'' rate in effect on the date of the entry. See 19 CFR 351.212(c); *see also Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

We are issuing and publishing this notice in accordance with sections 751(a)(1) 777 (i) of the Act and 19 CFR 351.213(d)(4).

Dated: February 25, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–4063 Filed 2–29–08; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture from the People's Republic of China: Extension of Time Limit for the Preliminary Results of New Shipper Reviews

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

EFFECTIVE DATE: March 3, 2008.

FOR FURTHER INFORMATION CONTACT: Hua Lu, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and

Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6478.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 2007, the Department initiated new shipper reviews of Dongguan Bon Ten Furniture Co., Ltd. (''Bon Ten'') and Dongguan Mu Si Furniture Co., Ltd. (''Mu Si'') covering the period January 1, 2007, through July 31, 2007. *See Wooden Bedroom Furniture From the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews*, 72 FR 52083 (September 12, 2007). The preliminary results of the new shipper reviews are currently due no later than February 27, 2008.

Statutory Time Limits

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the ''Act''), provides that the Department will issue the preliminary results of a new shipper review of an antidumping duty order within 180 days after the day on which the review was initiated. *See also* 19 CFR 351.214 (i)(1). The Act further provides that the Department may extend that 180-day period to 300 days if it determines that the case is extraordinarily complicated. *See* 19 CFR 351.214 (i)(2).

Extension of Time Limit of Preliminary Results

The Department determines that these new shipper reviews involve complicated methodological issues and the examination of importer information. Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2), the Department is extending the time limit for these preliminary results by 90 days, until no later than May 27, 2008. The final results continue to be due 90 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B)(iv) and 777(i) of the Act.

Dated: February 21, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–4037 Filed 2–29–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeals by Weaver's Cove, LLC and Mill River Pipeline, LLC

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (Commerce).

ACTION: Notice of stay—closure of administrative appeals decision record.

SUMMARY: This announcement provides notice that the Secretary of Commerce has stayed, for a period of 60 days, closure of the decision record in administrative appeals filed by Weaver's Cove, LLC and Mill River Pipeline, LLC (Weaver's Cove and Mill River Consistency Appeals).

DATES: The decision record for the Weaver's Cove and Mill River Consistency Appeals will now close on May 5, 2008.

ADDRESSES: Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Brett Grosko, Attorney-Advisor, Office of the General Counsel, via e-mail at *gcos.inquiries@noaa.gov,* or at (301) 713–7384.

SUPPLEMENTARY INFORMATION: In August 2007, Weaver's Cove, LLC and Mill River Pipeline, LLC (Weaver's Cove and Mill River, or Appellants) filed appeals with the Secretary of Commerce (Secretary) pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA). The appeal was taken from an objection by the Commonwealth of Massachusetts (Commonwealth), relating to Weaver's Cove's and Mill River's proposal to construct and operate a liquefied natural gas terminal in Fall River, Massachusetts, and two associated pipeline laterals that would transport gas from the terminal to the interstate pipeline grid.

Under the CZMA, the Secretary must close the decision record in an appeal 160 days after the notice of appeal is published in the **Federal Register**. 16 U.S.C. 1465. However, the CZMA authorizes the Secretary to stay closing the decision record for up to 60 days when the Secretary determines it necessary to receive, on an expedited basis, any supplemental information specifically requested by the Secretary to complete a consistency review or any clarifying information submitted by a party to the proceeding related to information in the consolidated record compiled by the lead Federal permitting agency. 16 U.S.C. 1465(b)(3).

After reviewing the Weaver's Cove and Mill River Consistency Appeals' decision record developed to date, the Secretary has decided to solicit supplemental and clarifying information. In order to allow receipt of this information, the Secretary hereby stays closure of the decision record, currently scheduled to occur on March 4, 2008, until May 5, 2008.

Additional information about the Weaver's Cove and Mill River Consistency Appeals and the CZMA appeals process is available from the Department of Commerce CZMA appeals Web site *http://www.ogc.doc.gov/czma.htm.*

Dated: February 26, 2008.

Jeffrey S. Dillen,

Deputy Assistant General Counsel for Ocean Services.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance.]

[FR Doc. E8–3951 Filed 2–29–08; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2008–OS–0015]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated

collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 2, 2008.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, 3330 Defense Pentagon, Washington, DC 20301–3330.

Title; Associated Form; and OMB Number: Department of Defense Application for Priority rating for Production or Construction Equipment, DD Form 691, OMB Number 0704–0055.

Needs and Uses: Executive Order 12919 delegates to DoD authority to require certain contracts and orders relating to approved Defense Programs to be accepted and performed on a preferential basis. This program helps contractors acquire industrial equipment in a timely manner, thereby facilitating development and support of weapons systems and other important Defense Programs.

Affected Public: Business or Other for-Profit; Non-Profit Institutions; Federal Government.

Annual Burden Hours: 610.

Number of Respondents: 610.

Responses Per Respondent: 1.

Average Burden Per Response: 1 hour.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This information is used so the authority to use a priority rating in ordering a needed item can be granted. This is done to assure timely availability of production or construction equipment to meet current Defense requirements in peacetime and in case of national emergency. Without this information DoD would not be able to assess a contractor's stated requirement to obtain equipment needed for fulfillment of contractual obligations. Submission of this information is voluntary.

Dated: February 25, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–3995 Filed 2–29–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Logistics Agency announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 2, 2008.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Logistics Agency Headquarters, ATTN: Mr. Mark Vincent, DI, 8725 John J. Kingman Rd., Ft. Belvoir, VA 22060–6221, or call (703) 767–2507.

Title; Associated Form; and OMB Number: End-Use Certificate, DLA Form 1822, OMB No. 0704–0382.

Needs and Uses: All individuals wishing to acquire government property identified as Munitions List Items (MLI) or Commerce Control List Item (CCLI) must complete this form each time they enter into a transaction. It is used to clear recipients to ensure their eligibility to conduct business with the government. That they are not debarred bidders; Specially Designated Nationals (SDN) or Blocked Persons; have not violated U.S. export laws; will not divert the property to denied/sanctioned countries, unauthorized destinations or sell to debarred/Bidder Experience List firms or individuals. The EUC informs the recipients that when this property is to be exported, they must comply with the International Traffic in Arms Regulation (ITAR), 22 CFR 120 et seq.; Export Administration Regulations (EAR), 15 CFR 730 et seq.; Office of Foreign Asset Controls (OFAC), 31 CFR 500 et seq.; and the United States Customs Service rules and regulations.

Affected Public: Individuals; businesses or other for profit; not-for-profit institutions.

Annual Burden Hours: 13,200.

Number of Respondents: 40,000.

Responses Per Respondent: 1.

Average Burden Per Response: 0.33 hours (20 minutes).

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are individuals/businesses who receive defense property identified as Munitions List Items and Commerce Control List Items through: Purchase, exchange/trade, or donation. They are checked to determine if they are responsible, not debarred bidders, Specially Designated Nationals or Blocked Persons, or have not violated U.S. export laws.

The form is available on the DOD DEMIL/TSC web page, Defense Reutilization and Marketing Service sales catalogs and web page, Defense Contract Management Agency offices, FormFlow and ProForm.

Dated: February 25, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–3996 Filed 2–29–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2008–DARS–0014]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by April 2, 2008.

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 251, Use of Government Sources by Contractors, and related clauses in DFARS 252.251; OMB Control Number 0704–0252.

Type of Request: Extension.

Number of Respondents: 3,500.

Responses Per Respondent: 3.

Annual Responses: 10,500.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 5,250.

Needs And Uses: This information collection requirement facilitates contractor use of Government supply sources. Contractors must provide certain information to the Government to verify their authorization to purchase from Government supply sources or to use Interagency Fleet Management System vehicles and related services.

Affected Public: Business or other for-profit and not-for-profit institutions.

Frequency: On Occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Susan Jennifer Haggerty.

Written comments and recommendations on the proposed information collection should be sent to Ms. Haggerty at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: February 25, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–4000 Filed 2–29–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2007–OS–0031]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by April 2, 2008.

Title, Form, and OMB Number: Post Election Survey of Overseas Citizens and Post-Election Survey of Local Election Officials; OMB Number 0704–0125.

Type of Request: Revision.

Number of Respondents: 2,167.

Responses Per Respondent: 1.

Annual Responses: 2,167.

Average Burden Per Response: .31 hours.

Annual Burden Hours: 672.

Needs and Uses: The information collection requirement is necessary to meet a requirement of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986 [42 U.S.C. 1973ff]. UOCAVA requires a report to the President and Congress on the effectiveness of assistance under the Act, a statistical analysis of voter participation, and a description of State-Federal cooperation.

Affected Public: Individuals or households; state, local, or tribal government.

Frequency: Quadrennially.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Sharon Mar.

Written comments and recommendations on the proposed information collection should be sent to Ms. Mar at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. Comments may be e-mail to Ms. Mar at *Sharon_Mar@omb.eop.gov.*

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: February 25, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–4001 Filed 2–29–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Charter Amendment of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Charter Amendment of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.85, the Department of Defense gives notice that it is amending the charter for the Western Hemisphere Institute for Security Operations Board

of Visitors (hereafter referred to as the Board).

The Board is a non-discretionary federal advisory committee established by 10 U.S.C. 2166(e) to provide the Secretary of Defense through the Secretary of the Army, independent advice and recommendations on matters pertaining to the operations and management of the Western Hemisphere Institute for Security Operations (hereafter referred to as the Institute). Section 956 of Public Law 110–181 (National Defense Authorization Act for Fiscal Year 2008) amended the Board's membership provisions of 10 U.S.C. 2166(e)(1) to include the commanders of the combatant commands having geographic responsibility for the Western Hemisphere. All other provisions of 10 U.S.C. 2166(e) remained unchanged.

Pursuant to 10 U.S.C. 2166(e), the Board shall:

1. Inquire into the curriculum instruction, physical equipment, fiscal affairs, and academic methods of the Institute, other matters relating to the Institute that the Board decides to consider, and any other matter that the Secretary of Defense determines appropriate;

2. Review the curriculum to determine whether it adheres to U.S. doctrine, complies with applicable U.S. laws and regulations, and is consistent with U.S. policy goals towards the Western Hemisphere; and

3. Determine whether the Institute emphasizes human rights to include the rule of law, due process, civilian control of the military, and the role of the military in a democratic society.

Pursuant to 10 U.S.C. 2166(e)(1), the Board shall be composed of thirteen members:

1. Two members of the Senate (the Chair and Ranking Member of the Armed Services Committee or their designees);

2. Two Members of the House of Representatives (the Chair and Ranking Member of the Armed Services Committee or their designees);

3. One person designated by the Secretary of State; the senior military officer responsible for training and education in the U.S. Army (or designee); the commanders of the combatant commands having geographic responsibility for the Western Hemisphere (or designee); and

4. Six persons designated by the Secretary of Defense including, to the extent practicable, persons from academia, religious institutions, and human rights communities.

Board Members appointed by the Secretary of Defense, who are not federal officers or employees, shall serve as Special Government Employees under the authority of 5 U.S.C. 3109. Board Members shall be appointed for a two-year term, and may be extended for an additional term of two years. With the exception of travel and per diem for official travel, they shall serve without compensation.

The Board 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 Board, and shall report all their recommendations and advice to the Board for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Board nor can they report directly to the Department of Defense or any federal officers or employees who are not Board Members.

SUPPLEMENTARY INFORMATION: The Board shall meet at the call of the Board's Designated Federal Officer, in consultation with the Board'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 Western Hemisphere Institute for Security Operations Board of Visitors membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Western Hemisphere Institute for Security Operations Board of Visitors.

All written statements shall be submitted to the Designated Federal Officer for the Western Hemisphere Institute for Security Operations Board of Visitors, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Western Hemisphere Institute for Security Operations Board of Visitors' 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 Western Hemisphere Institute for Security Operations Board of Visitors. 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: Contact Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703–601–2554, extension 128.

Dated: February 26, 2008.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. E8–3997 Filed 2–29–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[USDF–2008–0005]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice To Add a System of Records.

SUMMARY: The Department of the Air Force is proposing to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on April 2, 2008, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Officer, Office of Warfighting Integration and Chief Information Officer, SAF/XCISI, 1800 Air Force Pentagon, Suite 220, Washington, DC 20330–1800.

FOR FURTHER INFORMATION CONTACT: Ms. Novell Hill at (703) 696–6518.

SUPPLEMENTARY INFORMATION: The Department of the Air Force notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on February 11, 2008, to the House Committee on Government Oversight and Reform, the Senate

Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 26, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 ARPC M

SYSTEM NAME:

Air Reserve Personnel Center (ARPC) Case Management System.

SYSTEM LOCATION:

Air Reserve Personnel Center (ARPC), 6760 East Irvington Place, Denver, CO 80280–6900.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air National Guard, Air Force Reserve, retired active duty Air Force and retired Air Force Reserve members and dependents, internal employees, and members of the general public.

CATERGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number (SSN), address, case issue number, and/or account registration number, customer service account and case files including requests submitted by the applicant; intra-agency and interagency correspondence concerning cases; correspondence from and to the applicant; additional supporting documentation that the applicant submits; and military personnel data system extracts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 803, Department of the Air Force; 10 U.S.C. 10204, Personnel Records; and E.O. 9397 (SSN).

PURPOSE(S):

Documents are collected and maintained to assist members in requesting and obtaining various personnel and other forms of official ARPC support, tracking personnel transactions, to provide a record of those requests, and used as a management tool.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records or information contained therein may specifically be disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(3).

The ''Blanket Routine Uses'' published at the beginning of the Air Force's compilation of the systems of records notices apply to this system.

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Individual's name, Social Security Number (SSN), case issue number, and/or account registration number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by standard Air Force access authentication procedures and by network system security software.

RETENTION AND DISPOSAL:

Disposition is pending until National Archives and Record Administration approves proposed disposition schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel Data Systems, HQ ARPC/DPD, 6760 East Irvington Place, Denver, CO 80280–6900.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to Air Reserve Personnel Center, Freedom of Information Act (FOIA) Manager, HQ ARPC/SCX, 6760 East Irvington Place, Denver, CO 80280–6500.

The request should contain the full name of the individual, military grade, Social Security Number (SSN) and must be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should submit written requests to Air Reserve Personnel Center, Freedom of Information Act (FOIA) Manager, HQ ARPC/SCX, 6760 East Irvington Place, Denver, CO 80280–6500.

The request should contain the full name of the individual, military grade, Social Security Number (SSN) and be signed.

CONTESTING RECORD PROCDEDURES:

The Air Force rules for accessing records and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR part 806b; or may be obtained from the system.

RECORD SOURCE CATERGORIES:

Air National Guard, Air Force Reserve, and Air Force retirees who request personnel services or assistance; Air Force Personnel Center, the Defense Finance and Accounting Service; the National Personnel Records Center; other activities of the Department of Defense; and correspondence from other cognizant persons or parties.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 08–915 Filed 2–29–08; 8:45am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[USAF–2008–0004]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force.

ACTION: Notice To Add a System of Records.

SUMMARY: The Department of the Air Force is proposing to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on April 2, 2008 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Officer, Office of Warfighting Integration and Chief Information Officer, SAF/XCISI, 1800 Air Force Pentagon, Suite 220, Washington, DC 20330–1800.

FOR FURTHER INFORMATION CONTACT: Ms. Novell Hill at (703) 696–6518.

SUPPLEMENTARY INFORMATION: The Department of the Air Force notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on February 11, 2008, to the House Committee on Government Oversight and Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 26, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F033 USSC A

SYSTEM NAME:

Information Technology and Control Records.

SYSTEM LOCATION:

Headquarters United States Strategic Command (USSTRATCOM), Command Information Assurance (IA) Branch (J672), 901 SAC Boulevard, Offutt Air Force Base, NE 68113–6600.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military, civilian employees, contractor personnel, and individuals (to include foreign nationals) requiring access to Department of Defense information and information systems.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains documents relating to requests for, and grants access to Department of Defense information and information systems, authorizes individuals to perform duties as a privileged user and/or Information Assurance manager, and/or authorizes individuals to bring Portable Electronic Devices (PEDs) into the Command. Records may contain the individual's name; partial Social Security Number (last four-digits); electronic mail address; work telephone numbers; office symbol; contractor/employee status; computer logon address, user identification codes; types of access/permissions required; verification of need-to-know; dates of mandatory information assurance awareness training; types of duties performed; commercial certifications held; and/or security clearance data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 302, Delegation of Authority; 10 U.S.C. 133, Under Secretary of Defense for Acquisition and Technology; 10 U.S.C. 2224, Defense Information Assurance Program; 18 U.S.C. 1029 and 1030, Fraud and Related Activity in Connection with Access Devices and Computers; 44 U.S.C. 3536, National Security Systems; E.O. 10450 Security Requirements for Government Employees, as amended; Department of Department Instruction (DODI)8500.2, Information Assurance (IA) Implementation, 6 February 2003; Chairman Joint Chiefs of Staff Manual (CJCSM) 6510.01, Defense-In-Depth: Information Assurance (IA) And Computer Network Defense (CND), 25 March 03; Department of Defense Directive (DODD) 8570.1, Information Assurance Training, Certification, and Workforce Management, 15 August 2004; and E.O. 9397 (SSN).

PURPOSE(S):

To control and track access to Department of Defense-controlled information and information systems and/or to authorize use of Portable Electronic Devices (PEDs) within the Command. Records may also be used by law enforcement officials to identify the occurrence of and assist in the prevention of computer misuse and/or crime. Statistical data, with all personal identifiers removed, may be used by management for system efficiency, workload calculations, or reporting purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records, or information contained herein, may be specifically disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The Department of Defense 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Individual's name, Social Security Number (SSN), assigned user identification (I.D.) code, and/or system identification designator.

SAFEGUARDS:

The Command Information Assurance Manager, Headquarters United States Strategic Command (USSTRATCOM/J672), has full access to the information system file. Records are stored and kept in an area cleared for open storage of classified material. Paper records (completed forms) are kept in file cabinets located in a secure area and building under armed guard control and patrols 24-hours per day. Electronic records are stored on computer systems employing software programs and a Computer Network Defense Service Provider that monitor network traffic to identify unauthorized attempts to upload or change information. Access to computer systems is password and/or Public Key Infrastructure controlled. The building is under armed guard control, video camera monitoring, and patrols 24-hours per day.

RETENTION AND DISPOSAL:

Records are retained as long as the individual has access to USSTRATCOM information systems, and/or no longer needed for administrative, legal, audit, or other operational purposes. Records relating to contractor access are destroyed 3 years after contract completion or deletion. Paper records are disposed of using a Government-approved shredder; computer records are sanitized in accordance with Department of Defense remanence security policies.

SYSTEM MANAGER AND ADDRESS:

Chief, Information Assurance Branch, Headquarters United States Strategic Command (USSTRATCOM/J672), 901 SAC Blvd, Offutt AFB NE 68113–6600.

NOTIFICATION PROCEDURE:

Individuals seeking access to information about themselves contained in this system should address written inquiries to Chief, Information Assurance Branch, USSTRATCOM/J672, 901 SAC Blvd, Offutt AFB NE 68113–6600.

Inquiries should contain the individual's full name, mailing address, and bear the signature of the requester.

Individuals may visit the Information Assurance Branch (USSTRATCOM/J672), 901 SAC Blvd, Offutt AFB NE 68113–6600, to view their record(s). The system manager will assist these individuals.

RECORD ACCESS PROCEDURES:

An individual seeking to determine whether information about themselves is contained in this system should address written inquiries to Chief, Information Assurance Branch, USSTRATCOM/J672, 901 SAC Blvd, Offutt AFB NE 68113–6600.

Inquiries should contain the individual's full name, mailing address, and bear the signature of the requester.

Individuals may visit the Information Assurance Branch (USSTRATCOM/J672), 901 SAC Blvd, Offutt AFB NE 68113–6600, to view their record(s). The system manager will assist these individuals.

CONTESTING RECORDS PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332, Privacy Act Program; 32 CFR

Part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Contents of the records are obtained from the individual about whom the record pertains, from supervisors of personnel, the individual's Information Assurance Officer or Manager, and/or security manager.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

[FR Doc. E8–4048 Filed 2–29–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[No. USN–2007–0048]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by April 2, 2008.

Title, Form, and OMB Number: Mental Health Issues Among Deployed Personnel: Longitudinal Assessment of the Resilience of Deployed Sailors and Marines—Follow-up; OMB Control Number 0703–TBD.

Type of Request: New.

Number of Respondents: 3,700.

Responses Per Respondent: 1.

Annual Responses: 3,700.

Average Burden Per Response: 1 hour.

Annual Burden Hours: 3,700.

Needs and Uses: The proposed study builds on an existing study assessing the prevalence of mental health outcomes among Sailors and Marines transitioning from the Service, and identifying predictors of and changes in mental health and resilience over time. DoD regulations stipulate that all military personnel must receive pre-separation counseling no less than 90 days before leaving active duty. Enlisted Sailors and Marines attending Transition Assistance Program (TAP) workshops were invited to participate in the current research. As part of the baseline component, TAP enrollees were surveyed at 12 installations (8 Navy and 4 Marine Corps) during the Summer—Fall 2007 time frame until the target sample size (N = 6000; 3000 in each Service) was obtained. Those respondents with high combat exposure will be assessed through a follow-on survey 6 months after separation from Military service, when participants have transitioned into civilian life.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Officer for DoD Health, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **FEDERAL REGISTER** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: February 25, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–4002 Filed 2–29–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 2, 2008.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of

the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: February 25, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: New.

Title: College Access Challenge Grant Program (CACGP) Application.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 58.

Burden Hours: 2,320.

Abstract: The U.S. Department of Education is collecting this information to ensure that States slated to receive CACGP funding are capable of implementing quality grant projects and complying with statutory and regulatory requirements. The CACGP statute requires States to submit an application containing a description of the capacity to administer grant activities and services, a plan for using grant funds to meet the requirements and special efforts to benefit underrepresented students, the non-federal share, and the structure the state has in place to administer activities and services.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3548. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E8–3832 Filed 2–29–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity; Notice of Members

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education.

What Is the Purpose of This Notice?

The purpose of this notice is to list the members of the National Advisory Committee on Institutional Quality and Integrity (the Committee) and to give the public the opportunity to nominate candidates for the positions to be vacated by those members whose terms will expire on September 30, 2008. This notice is required under section 114(c) of the Higher Education Act (HEA), as amended.

What Is the Role of the Committee?

The Committee is established under section 114 of the HEA, as amended, and is composed of 15 members appointed by the Secretary of Education from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including representatives of all sectors and type of institutions of higher education.

The Committee meets at least twice a year and provides recommendations to the Secretary of Education pertaining to:

- The establishment and enforcement of criteria for recognition of accrediting agencies or associations under Subpart 2 of Part H of Title IV, HEA.
- The recognition of specific accrediting agencies or associations.
- The preparation and publication of the list of nationally recognized accrediting agencies and associations.

As the Committee deems necessary or on request, the Committee also advises the Secretary about:

- The eligibility and certification process for institutions of higher education under Title IV, HEA.
- The development of standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies in order to establish the interim eligibility of those institutions to participate in Federally funded programs.
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions.
- Any other advisory functions relating to accreditation and institutional eligibility that the Secretary may prescribe.

What Are the Terms of Office for Committee Members?

The term of office of each member is three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed is appointed for the remainder of the term. A member may be appointed, at the Secretary's discretion, to serve more than one term.

Who Are the Current Members of the Committee?

The current members of the Committee are:

Members With Terms Expiring 9/30/08

- Dr. Karen A. Bowyer, President, Dyersburg State Community College, Tennessee
- Dr. Arthur Keiser, Chancellor, Keiser Collegiate System, Florida
- Dr. Geri H. Malandra, Interim Executive Vice Chancellor for Academic Affairs, Vice Chancellor for Strategic Management, University of Texas System
- Dr. George A. Pruitt, President, Thomas A. Edison State College, New Jersey

Members With Terms Expiring 9/30/09

- Dr. Carol D'Amico, President and Chief Executive Officer, Conexus Indiana
- Mr. Patrick M. Callan, President, National Center for Public Policy/Higher Education
- Mr. William P. Glasgow, CEO American Way Education, Texas
- Ms. Anne D. Neal, President, American Council of Trustees and Alumni, Washington, DC
- Ms. Crystal Rimoczy, Student Member, Boston College, Massachusetts
- Mr. H. James Towey, President, Saint Vincent College, Pennsylvania
- Honorable Pamela P. Willeford, Former Chair, Texas Higher Education Coordinating Board; Former Ambassador, Switzerland
- Dr. George Wright, President, Prairie View A & M University, Texas

Members With Terms Expiring 9/30/10

- Dr. Lawrence J. DeNardis, President Emeritus, University of New Haven, Connecticut
- Ms. Andrea Fischer-Newman, Chair, Board of Regents, University of Michigan; Senior Vice President of Government Affairs, Northwest Airlines, Washington, DC
- Dr. Craig D. Swenson, President, Argosy University, Chicago, Illinois

How Do I Nominate an Individual for Appointment as a Committee Member?

If you would like to nominate an individual for appointment to the Committee, send the following information to the Committee's Executive Director:

- A copy of the nominee's resume; and
- a cover letter that provides your reason(s) for nominating the individual and contact information for the nominee (name, title, business address, and business phone and fax numbers).

The information must be sent by May 1, 2008 to the following address: Melissa Lewis, Executive Director, National Advisory Committee on Institutional Quality and Integrity, U.S. Department of Education, Room 7127, MS 7592, 1990 K Street, NW., Washington, DC 20006.

How Can I Get Additional Information?

If you have any specific questions about the nomination process or general questions about the National Advisory Committee, please contact Ms. Melissa Lewis, the Committee's Executive Director, telephone: (202) 219–7009, fax: (202) 219–7008, e-mail: *Melissa.Lewis@ed.gov* between 9 a.m. and 5 p.m., Monday through Friday.

Authority: 20 U.S.C. 1011c.

Dated: February 14, 2008.

Diane Auer Jones,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. E8–4010 Filed 2–29–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Recognition of Accrediting Agencies, State Agencies for the Approval of Public Postsecondary Vocational Education, and State Agencies for the Approval of Nurse Education

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education (The Advisory Committee).

What Is the Purpose of This Notice?

The purpose of this notice is to invite written comments on accrediting agencies and State approval agencies whose applications to the Secretary for renewed recognition, requests for an expansion of the scope of recognition, or reports will be reviewed at the Advisory Committee meeting to be held Spring 2008, in Washington, DC.

Where Should I Submit My Comments?

Please submit your written comments by mail, fax, or e-mail no later than April 2, 2008 to Ms. Robin Greathouse, Accreditation and State Liaison. You may contact her at the U.S. Department of Education, Room 7126, MS 8509, 1990 K Street, NW., Washington, DC 20006, telephone: (202) 219–7011, fax: (202) 219–7005, or e-mail: *Robin.Greathouse@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339.

What is the Role of the Advisory Committee?

The Advisory Committee is established under Section 114 of the HEA, as amended, and is composed of 15 members appointed by the Secretary of Education from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including representatives of all sectors and type of institutions of higher education.

The Advisory Committee meets at least twice a year and provides recommendations to the Secretary of Education pertaining to:

- The establishment and enforcement of criteria for recognition of accrediting agencies or associations under Subpart 2 of Part H of Title IV, HEA.
- The recognition of specific accrediting agencies or associations.
- The preparation and publication of the list of nationally recognized accrediting agencies and associations.

As the Advisory Committee deems necessary or on request, the Advisory Committee also advises the Secretary about:

- The eligibility and certification process for institutions of higher education under Title IV, HEA.
- The development of standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies in order to establish the interim eligibility of those institutions to participate in Federally funded programs.
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions.
- Any other advisory functions relating to accreditation and institutional eligibility that the Secretary may prescribe.

Will This Be My Only Opportunity to Submit Written Comments?

Yes, this notice announces the only opportunity you will have to submit written comments. However, a subsequent **Federal Register** notice will announce the meeting and invite individuals and/or groups to submit requests to make oral presentations before the Advisory Committee on the agencies that the Advisory Committee will review. That notice, however, does not offer a second opportunity to submit written comments.

What Happens to the Comments That I Submit?

We will review your comments, in response to this notice, as part of our evaluation of the agencies' compliance with Section 496 of the Higher Education Act of 1965, as amended, and the Secretary's Criteria for Recognition of Accrediting Agencies and State Approval Agencies. The Criteria are regulations found in 34 CFR Part 602 (for accrediting agencies) and in 34 CFR part 603 (for State approval agencies) and are found at the following site: *http://www.ed.gov/admins/finaid/accred/index.html.*

We will also include your comments with the staff analyses we present to the Advisory Committee at its Spring 2008 meeting. Therefore, in order for us to give full consideration to your comments, it is important that we receive them by April 2, 2008. In all instances, your comments about agencies seeking continued recognition and/or an expansion of an agency's scope of recognition must relate to the Criteria for Recognition. In addition, your comments for any agency whose interim report is scheduled for review must relate to the issues raised and the Criteria for Recognition cited in the Secretary's letter that requested the interim report.

What Happens to Comments Received After the Deadline?

We will review any comments received after the deadline. If such comments, upon investigation, reveal that the accrediting agency or State approval agency is not acting in accordance with the Criteria for Recognition, we will take action either before or after the meeting, as appropriate.

What Agencies Will the Advisory Committee Review at the Meeting?

The Secretary of Education recognizes accrediting agencies and State approval agencies for public postsecondary vocational education and nurse education if the Secretary determines

that they meet the Criteria for Recognition. Recognition means that the Secretary considers the agency to be a reliable authority as to the quality of education offered by institutions or programs it accredits that are encompassed within the scope of recognition she grants to the agency.

The following agencies will be reviewed during the Spring 2008 meeting of the Advisory Committee:

Nationally Recognized Accrediting Agencies

Petitions for an Expansion of the Scope of Recognition

1. National League for Nursing Accrediting Commission (Current scope of recognition: The accreditation in the United States of programs in practical nursing, and diploma, associate, baccalaureate and higher degree nurse education programs.) (Requested scope of recognition: The accreditation in the United States of programs in practical nursing, and diploma, associate, baccalaureate and higher degree nurse education programs, including those offered via distance education.)

Petitions for Renewal of Recognition

1. *American Bar Association, Council of the Section of Legal Education and Admissions to the Bar (Current and requested scope of recognition:* The accreditation throughout the United States of programs in legal education that lead to the first professional degree in law, as well as freestanding law schools offering such programs. This recognition also extends to the Accreditation Committee of the Section of Legal Education (Accreditation Committee) for decisions involving continued accreditation (referred to by the agency as ''approval'') of law schools.)

2. *American Board of Funeral Service Education, Committee on Accreditation (Current and requested scope of recognition:* The accreditation of institutions and programs within the United States awarding diplomas, associate degrees and bachelor's degrees in funeral service or mortuary science, including accreditation of distance learning courses and programs offered by these programs and institutions.)

3. *American Speech-Language-Hearing Association, Council on Academic Accreditation in Audiology and Speech-Language Pathology (Current and requested scope of recognition:* The accreditation and pre-accreditation (Accreditation Candidate) throughout the United States of education programs in audiology and speech-language pathology leading to the first professional or clinical degree at the master's or doctoral level, and the accreditation of these programs offered via distance education.)

4. *Council on Naturopathic Medical Education (Current and requested scope of recognition:* The accreditation and pre-accreditation throughout the United States of graduate-level, four-year naturopathic medical education programs leading to the Doctor of Naturopathic Medicine (N.M.D.) or Doctor of Naturopathy (N.D.)

5. *Montessori Accreditation Council for Teacher Education, Commission on Accreditation (Current and requested scope of recognition:* The accreditation of Montessori teacher education institutions and programs throughout the United States.)

6. *National Accrediting Commission of Cosmetology Arts and Sciences (Current and requested scope of recognition:* The accreditation throughout the United States of postsecondary schools and departments of cosmetology arts and sciences and massage therapy.)

Interim Reports (An interim report is a follow-up report on an accrediting agency's compliance with specific criteria for recognition.)

1. Association for Clinical Pastoral Education, Inc., Accreditation Commission.
2. Southern Association of Colleges and Schools, Commission on Colleges.
3. Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.

State Agency Recognized for the Approval of Public Postsecondary Vocational Education

Interim Reports

1. Middle States Commission on Secondary Schools.
2. Pennsylvania State Board of Vocational Education.

State Agencies Recognized for the Approval of Nurse Education

Petitions for Renewal of Recognition

1. Montana State Board of Nursing.
2. North Dakota Board of Nursing.

Where Can I Inspect Petitions and Third-Party Comments Before and After the Meeting?

All petitions and those third-party comments received in advance of the meeting will be available for public inspection at the U.S. Department of Education, Room 7126, MS 8509, 1990 K Street, NW., Washington, DC 20006, telephone (202) 219–7011 between the hours of 8 a.m. and 3 p.m., Monday through Friday, until May 16, 2008. They will be available again after the Spring 2008 Advisory Committee meeting. An appointment must be made in advance of such inspection.

How May I Obtain Electronic Access to This Document?

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/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/index.html.*

Authority: 5 U.S.C. Appendix 2.

Dated: February 14, 2008.

Diane Auer Jones,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. E8–4011 Filed 2–29–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. PP–335]

Application for Presidential Permit; Loring BioEnergy, LLC

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Loring BioEnergy, LLC, (LBE) has applied for a Presidential permit to construct, operate, maintain, and connect an electric transmission line across the United States border with Canada.

DATES: Comments, protests, or requests to intervene must be submitted on or before April 2, 2008.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Dr. Jerry Pell, Office of Electricity Delivery and Energy Reliability (OE–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Dr. Jerry Pell (Program Office) at 202–586–3362 or via electronic mail at *Jerry.Pell@hq.doe.gov*, or Michael T.

Skinker (Program Attorney) at 202–586–2793.

SUPPLEMENTARY INFORMATION: The construction, operation, maintenance, and connection of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038.

On February 4, 2008, LBE, a Maine limited liability corporation, filed an application with the Office of Electricity Delivery and Energy Reliability of the Department of Energy (DOE) for a Presidential permit. LBE proposes to construct and operate a single-circuit 138-kilovolt (138-kV) electric transmission line from Limestone, Maine, to the border between the United States and Canada. The proposed transmission line is referred to in the application as a 138-kV AC Generator Lead. The proposed transmission facilities would extend from a new cogeneration facility to be constructed by LBE at the Loring Commerce Centre near Limestone, Maine (the site of the former Loring Air Force Base), located approximately five and one-half miles west of the U.S.-Canada border, cross the U.S.-Canada border, and extend approximately three and one-half miles east to connect to the New Brunswick electrical grid in Grand Falls Parish, New Brunswick, Canada. New Brunswick Power, an agency of the Province of New Brunswick, Canada, will construct the Canadian portion of the transmission facilities.

Since the restructuring of the electric industry began, resulting in the introduction of different types of competitive entities into the marketplace, DOE has consistently expressed its policy that cross-border trade in electric energy should be subject to the same principles of comparable open access and non-discrimination that apply to transmission in interstate commerce. DOE has stated that policy in export authorizations granted to entities requesting authority to export over international transmission facilities. Specifically, DOE expects transmitting utilities owning border facilities to provide access across the border in accordance with the principles of comparable open access and non-discrimination contained in the Federal Power Act and articulated in Federal Energy Regulatory Commission (FERC) Order No. 888 (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; FERC Stats. & Regs. ¶31,036 (1996)), as amended. In furtherance of this policy, DOE invites comments on whether it would be appropriate to condition any Presidential permit issued in this proceeding on compliance with these open access principles.

Procedural Matters: Any person desiring to become a party to this proceeding or to be heard by filing comments on or protests to this application should file a petition to intervene, comment, or protest at the address provided above in accordance with §§ 385.211 or 385.214 of FERC's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Additional copies of such petitions to intervene, comments, or protests should also be filed directly with Hayes Gahagan, Vice President, Loring BioEnergy, LLC, 154 Development Drive, Suite G, Loring Commerce Centre, Limestone, ME 04750–6173.

Before a Presidential permit may be issued or amended, DOE must determine that the proposed action is in the public interest. In making that determination, DOE considers the environmental impacts of the proposed project pursuant to the National Environmental Policy Act of 1969, determines the project's impact on electric reliability by ascertaining whether the proposed project would adversely affect the operation of the U.S. electric power supply system under normal and contingency conditions, and any other factors that DOE may also consider relevant to the public interest. Also, DOE must obtain the concurrence of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above. In addition, the application may be reviewed or downloaded electronically at *http://www.oe.energy.gov/permitting/electricity_imports_exports.htm*. Upon reaching the Electricity Import/Exports page, select ''Pending Proceedings.''

Issued in Washington, DC, on February 26, 2008.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E8–3993 Filed 2–29–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy

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

ACTION: Notice.

SUMMARY: In this notice, the Department of Energy (DOE) is forecasting the representative average unit costs of five residential energy sources for the year 2008 pursuant to the Energy Policy and Conservation Act. The five sources are electricity, natural gas, No. 2 heating oil, propane, and kerosene.

DATES: *Effective Date:* The representative average unit costs of energy contained in this notice will become effective April 2, 2008 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT:

Mohammed Khan, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–7892, *Mohammed.Khan@ee.doe.gov.*

Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–7432, *Francine.pinto@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act (Act) (42 U.S.C. 6291–6309) requires that DOE prescribe test procedures for the determination of the estimated annual operating costs or other measures of energy consumption for certain consumer products specified in the Act. (42 U.S.C. 6293) These test procedures are found in Title 10 of the Code of Federal Regulations (CFR) part 430, subpart B.

Section 323(b) of the Act requires that the estimated annual operating costs of a covered product be calculated from measurements of energy use in a representative average use cycle or period of use and from representative average unit costs of the energy needed to operate such product during such cycle. (42 U.S.C. 6293(b)) The section further requires that DOE provide information to manufacturers regarding the representative average unit costs of energy. (42 U.S.C. 6293(b)(4)) This cost information should be used by manufacturers to meet their obligations under section 323(c) of the Act. Most

notably, these costs are used to comply with Federal Trade Commission (FTC) requirements for labeling. Manufacturers are required to use the revised DOE representative average unit costs when the FTC publishes new ranges of comparability for specific covered products, 16 CFR part 305. Interested parties can also find information covering the FTC labeling requirements at *http://www.ftc.gov/appliances.*

DOE last published representative average unit costs of residential energy for use in the Energy Conservation Program for Consumer Products Other Than Automobiles on March 21, 2007 (72 FR 13268). Effective April 2, 2008, the cost figures published on March 21, 2007, will be superseded by the cost figures set forth in this notice.

DOE's Energy Information Administration (EIA) has developed the 2008 representative average unit after-tax costs found in this notice. The representative average unit after-tax costs for electricity, natural gas, No. 2 heating oil, and propane are based on simulations used to produce the January, 2008, EIA *Short-Term Energy Outlook.* (EIA releases the *Outlook* monthly.) The representative average unit after-tax cost for kerosene is derived from its price relative to that of heating oil, based on the 2002–2006 averages for these two fuels. The source for these price data is the December 2007 *Monthly Energy Review* DOE/EIA–0035(2007/12). The *Short-Term Energy Outlook* and the *Monthly Energy Review* are available on the EIA Web site at *http://www.eia.doe.gov.* For more information on the two sources, contact the National Energy Information Center, Forrestal Building, EI–30, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8800, e-mail: *infoctr@eia.doe.gov.*

The 2008 representative average unit costs under section 323(b)(4) of the Act are set forth in Table 1, and will become effective April 2, 2008. They will remain in effect until further notice.

Issued in Washington, DC, on February 19, 2008.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (2008)

Type of energy	Per million Btu[1]	In commonly used terms	As required by test procedure
Electricity	$31.65	10.80/kWh[2, 3]	$.1080/kWh.
Natural Gas	13.28	$1.328/therm[4] or $13.65/MCF[5, 6]	.00001328/Btu.
No. 2 Heating Oil	23.00	$3.19/gallon[7]	.00002300/Btu.
Propane	26.50	$2.42/gallon[8]	.00002650/Btu.
Kerosene	27.41	$3.70/gallon[9]	.00002741/Btu.

Sources: U.S. Energy Information Administration, *Short-Term Energy Outlook* (January 2008) and *Monthly Energy Review* (December 2007)
[1] Btu stands for British thermal units.
[2] kWh stands for kilowatt hour.
[3] kWh = 3,412 Btu.
[4] 1 therm = 100,000 Btu. Natural gas prices include taxes.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,028 Btu.
[7] For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.
[8] For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,333 Btu.
[9] For the purposes of this table, one gallon of kerosene has an energy equivalence of 135,000 Btu.

[FR Doc. E8–3992 Filed 2–29–08; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

February 25, 2008.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC06–78–002; EC07–37–002.

Applicants: Entegra Power Group LLC, Gila River Power, L.P., Union Power Partners, L.P., EPG LLC, Entegra TC LLC.

Description: Application for order extending blanket authorizations and amending reporting requirements for certain future transfers and acquisitions of equity interests etc re Entrega Power Group LLC et al.

Filed Date: 02/12/2008.

Accession Number: 20080221–0041.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 04, 2008.

Docket Numbers: EC08–42–000.

Applicants: Puget Sound Energy, Inc.

Description: Application for authorization to acquire an existing generation facility re Puget Sound Energy Inc.

Filed Date: 02/07/2008.

Accession Number: 20080212–0108.

Comment Date: 5 p.m. Eastern Time on Thursday, February 28, 2008.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG08–39–000.

Applicants: Providence Heights Wind, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Providence Heights Wind, LLC.

Filed Date: 02/20/2008.

Accession Number: 20080220–5030.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 12, 2008.

Docket Numbers: EG08–40–000.

Applicants: Ocotillo Windpower, LP.

Description: Notice of Self-Certification of Ocotillo Windpower, LP as an Exempt Wholesale Generator.

Filed Date: 02/21/2008.

Accession Number: 20080221–5024.

Comment Date: 5 p.m. Eastern Time on Thursday, March 13, 2008.

Docket Numbers: EG08–41–000.

Applicants: Goat Wind, LP.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Goat Wind, LP.

Filed Date: 02/21/2008.

Accession Number: 20080221–5038.

Comment Date: 5 p.m. Eastern Time on Thursday, March 13, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER08–389–001.

Applicants: San Diego Gas & Electric Company.

Description: Waiver of 30 day notice period in SDG&E's Transmission Owner Tariff.

Filed Date: 02/25/2008.

Accession Number: 20080225–5028.

Comment Date: 5 p.m. Eastern Time on Monday, March 17, 2008.

Docket Numbers: ER08–582–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection LLC submits a notice of cancellation of an interconnection service agreement for an interconnection project that has been withdrawn from the PJM generation interconnection queue.
Filed Date: 02/20/2008.
Accession Number: 20080222–0113.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 12, 2008.

Docket Numbers: ER08–583–000.
Applicants: American Electric Power Service Corp.
Description: AEP Operating Companies requests acceptance of the Second Revised Interconnection and Local Delivery Service Agreement with the City of Olive Hill, KT et al.
Filed Date: 02/20/2008.
Accession Number: 20080222–0114.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 12, 2008.

Docket Numbers: ER08–584–000; ER02–298–004.
Applicants: Thompson River Co-Gen, LLC.
Description: Thompson River Power LLC informs the Commission that it has succeeded to the market-based rate tariff of Thompson River Co-Gen, LLC and submits non-material change in status etc.
Filed Date: 02/21/2008.
Accession Number: 20080225–0187.
Comment Date: 5 p.m. Eastern Time on Thursday, March 13, 2008.

Docket Numbers: ER08–585–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corporation submits revisions to it Grid Management Charge rate formula.
Filed Date: 02/20/2008.
Accession Number: 20080225–0087.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 12, 2008.

Docket Numbers: ER08–586–000.
Applicants: Consolidated Edison Company of New York.
Description: Consolidated Edison Company of New York Inc submits a Revised and Restated Interconnection Agreement by and between Con Edison, KIAC Partners and the Port Authority of New York and New Jersy, dated as of 1/7/08.
Filed Date: 02/21/2008.
Accession Number: 20080225–0058.
Comment Date: 5 p.m. Eastern Time on Thursday, March 13, 2008.

Docket Numbers: ER08–587–000.
Applicants: Northeast Utilities Service Company.
Description: Connecticut Light and Power Company submits executed Preliminary Design Services Agreement, Schedule 22 of its Transmission, Markets and Services Tariff FERC Electric 3.
Filed Date: 02/21/2008.
Accession Number: 20080222–0152.
Comment Date: 5 p.m. Eastern Time on Thursday, March 13, 2008.

Docket Numbers: ER08–588–000.
Applicants: Northeast Utilities Service Company.
Description: The Connecticut Light and Power Company submits the executed Design, Engineering, & Permitting Agreement with Waterbury Generation, LLC.
Filed Date: 02/21/2008.
Accession Number: 20080222–0153.
Comment Date: 5 p.m. Eastern Time on Thursday, March 13, 2008.

Docket Numbers: ER08–589–000.
Applicants: Midwest Generation Energy Services, LLC.
Description: Notice of Succession of Midwest Generation Energy Services, LLC informing of name change to Edison Mission Solutions, LLC effective 1/24/08.
Filed Date: 02/22/2008.
Accession Number: 20080222–5055.
Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR07–16–002.
Applicants: North American Electric Reliability Corp.
Description: Request of North American Electric Reliability Corporation for Approval of Amendment to 2008.
Filed Date: 02/15/2008.
Accession Number: 20080215–5036.
Comment Date: 5 p.m. Eastern Time on Monday, March 17, 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 docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. E8–3983 Filed 2–29–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8536–2; Docket ID No. EPA–HQ–ORD–2008–0048]

Draft Toxicological Review of 2-Hexanone: In Support of the Summary Information in the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: EPA is announcing the public review and comment period for the external review draft document titled, ''Toxicological Review of 2-Hexanone: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' (NCEA–S–2764). The EPA intends to consider comments and recommendations from the public and an expert panel meeting, which will be

scheduled at a later date and announced in the **Federal Register**, when EPA finalizes the draft document. The public comment period will provide opportunities for all interested parties to comment on the document. EPA intends to forward public comments, submitted in accordance with this notice, to the external peer-review panel prior to the workshop for their consideration.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

The draft document is available via the Internet on NCEA's home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea.* When finalizing the draft document, EPA intends to consider any public comments that EPA receives in accordance with this notice.

DATES: The public comment period begins February 28, 2008, and ends April 28, 2008. Technical comments should be in writing and must be received by EPA by April 28, 2008. EPA intends to submit comments from the public received by this date to the external peer-review panel.

ADDRESSES: The draft Toxicological Review of 2-Hexanone: In Support of Summary Information on the Integrated Risk Information System (IRIS) is available via the Internet on the National Center for Environmental Assessment's (NCEA) home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from NCEA's Technical Information Staff; telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title.

Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.*

If you have questions about the draft document, contact Amanda Persad, IRIS Staff, National Center for Environmental Assessment, 109 T.W. Alexander Dr., Research Triangle Park, NC, 27709; telephone: 919–541–9781; facsimile: 919–541–1818; or e-mail: *persad.amanda@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary of Information About the Integrated Risk Information System (IRIS)

IRIS is a database that contains potential adverse human health effects information that may result from chronic (or lifetime) exposure to specific chemical substances found in the environment. The database (available on the Internet at *http://www.epa.gov/iris*) contains qualitative and quantitative health effects information for more than 540 chemical substances that may be used to support the first two steps (hazard identification and dose-response evaluation) of a risk assessment process. When supported by available data, the database provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic health effects, and oral slope factors and inhalation unit risks for carcinogenic effects. Combined with specific exposure information, government and private entities can use IRIS data to help characterize public health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

II. How To Submit Technical Comments to the Docket at *http://www.regulations.gov*

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2008–0048 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ORD.Docket@epa.gov.*
- *Fax:* 202–566–1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by e-mail or hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA-HQ-ORD–2008–0048. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *http://www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket

materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: February 21, 2008.

Rebecca Clark,

Deputy Director, National Center for Environmental Assessment.

[FR Doc. E8–4051 Filed 2–29–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8527–2]

Recent Posting to the Applicability Determination Index (ADI) Database System of Agency Applicability Determinations, Alternative Monitoring Decisions, and Regulatory Interpretations Pertaining to Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants, and the Stratospheric Ozone Protection Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces applicability determinations, alternative monitoring decisions, and regulatory interpretations that EPA has made under the New Source Performance Standards (NSPS); the National Emission Standards for Hazardous Air Pollutants (NESHAP); and the Stratospheric Ozone Protection Program.

FOR FURTHER INFORMATION CONTACT: An electronic copy of each complete document posted on the Applicability Determination Index (ADI) database system is available on the Internet through the Office of Enforcement and Compliance Assurance (OECA) Web site at: *http://www.epa.gov/compliance/monitoring/programs/caa/adi.html.* The document may be located by control number, date, author, subpart, or subject search. For questions about the ADI or this notice, contact Maria Malave at EPA by phone at: (202) 564–7027, or by e-mail at: *malave.maria@epa.gov.* For technical questions about the individual applicability determinations or monitoring decisions, refer to the contact person identified in the individual documents, or in the absence of a contact person, refer to the author of the document.

SUPPLEMENTARY INFORMATION:

Background: The General Provisions to the NSPS in 40 CFR part 60 and the NESHAP in 40 CFR part 61 provide that a source owner or operator may request a determination of whether certain intended actions constitute the commencement of construction, reconstruction, or modification. EPA's written responses to these inquiries are broadly termed applicability determinations. See 40 CFR 60.5 and 61.06. Although the part 63 NESHAP and section 111(d) of the Clean Air Act regulations contain no specific regulatory provision providing that sources may request applicability determinations, EPA does respond to written inquiries regarding applicability for the part 63 and section 111(d) programs. The NSPS and NESHAP also allow sources to seek permission to use monitoring or recordkeeping which is different from the promulgated requirements. See 40 CFR 60.13(i), 61.14(g), 63.8(b)(1), 63.8(f), and 63.10(f). EPA's written responses to these inquiries are broadly termed alternative monitoring decisions. Furthermore, EPA responds to written inquiries about the broad range of NSPS and NESHAP regulatory requirements as they pertain to a whole source category. These inquiries may pertain, for example, to the type of sources to which the regulation applies, or to the testing, monitoring, recordkeeping or reporting requirements contained in the regulation. EPA's written responses to these inquiries are broadly termed regulatory interpretations.

EPA currently compiles EPA-issued NSPS and NESHAP applicability determinations, alternative monitoring decisions, and regulatory interpretations, and posts them on the Applicability Determination Index (ADI) on a quarterly basis. In addition, the ADI contains EPA-issued responses to requests pursuant to the stratospheric ozone regulations, contained in 40 CFR part 82. The ADI is an electronic index on the Internet with over one thousand EPA letters and memoranda pertaining to the applicability, monitoring, recordkeeping, and reporting requirements of the NSPS and NESHAP. The letters and memoranda may be searched by control number, date, office of issuance, subpart, citation, control number or by string word searches.

Today's notice comprises a summary of 51 such documents added to the ADI on November 2, 2007. The subject, author, recipient, date and header of each letter and memorandum are listed in this notice, as well as a brief abstract of the letter or memorandum. Complete copies of these documents may be obtained from the ADI through the OECA Web site at: *http://www.epa.gov/compliance/monitoring/programs/caa/adi.html.*

Summary of Headers and Abstracts

The following table identifies the database control number for each document posted on the ADI database system on November 2, 2007; the applicable category; the subpart(s) of 40 CFR part 60, 61, or 63 (as applicable) covered by the document; and the title of the document, which provides a brief description of the subject matter.

We have also included an abstract of each document identified with its control number after the table. These abstracts are provided solely to alert the public to possible items of interest and are not intended as substitutes for the full text of the documents. This notice does not change the status of any document with respect to whether it is ''of nationwide scope or effect'' for purposes of section 307(b)(1) of the Clean Air Act. Neither does it purport to make any document that was previously non-binding into a binding document.

ADI DETERMINATIONS UPLOADED ON NOVEMBER 2, 2007

Control No.	Category	Subpart(s)	Title
A070001	Asbestos	M	Aluminum Sheds and Fruit Stands.
A070002	Asbestos	M	Residential Homes Demolished for Highway Expansion.
A070003	Asbestos	M	260 Linear Feet Regulatory Threshold.
A070004	Asbestos	M	Recycling Pipelines.
A070005	Asbestos	M	Asbestos-Containing Waste Material.
A070006	Asbestos	M	Rounding Reported Values.
M070001	MACT	A, DDDDD	Alternative Monitoring for Gaseous Fuel Fired Sources.
M070002	MACT	DDDDD	Multi-Cyclone Collectors.
M070003	MACT	RRR	Alternative Calibration for Thermocouple.

ADI DETERMINATIONS UPLOADED ON NOVEMBER 2, 2007—Continued

Control No.	Category	Subpart(s)	Title
M070004	MACT	RRR	Secondary Aluminum Production.
M070005	MACT	DDDD, DDDDD	Alternative Monitoring for CO.
M070006	MACT	DDDD, DDDDD	Integrated Heat Energy Systems.
M070007	MACT	UUUU	Alternative Monitoring for Biofilter Effluent Conductivity.
M070008	MACT	DDDDD	Averaging Time and Performance Testing.
M070009	MACT	DDDDD	De Minimis Fuels and HBCA Operation.
M070010	MACT	T	Airless/Airtight Degreasers.
M070011	MACT	HH	Volatile Hazardous Air Pollutants Content Determination.
M070012	MACT	OOOO	Solvent-Based Fabric Finishing.
M070013	MACT	MMMM, QQQQ	Coating Wooden Window Components.
M070014	MACT	II	Large Yacht Repainting and Repair.
M070015	MACT	GG	Aerospace Solvent Use.
Z070001	NESHAP	M	Debris Management and Disposal.
700001	NSPS	NNN, RRR	Testing, Monitoring and Recordkeeping for VOC Emissions.
700002	NSPS	VV	By-Product Chemical Mixture.
700003	NSPS	Db, Dc	Wood Gasification Systems.
700004	NSPS	UUU	Titanium Dioxide Spray Dryers.
700005	NSPS	MM	Performance Test Waiver Request.
700006	NSPS	Appendix B	RATA Extension and Alternative Monitoring.
700007	NSPS	Appendix B	RATA Extension and Alternative Monitoring.
700008	NSPS	VV	Alternative Monitoring for Leak Detection.
700009	NSPS	NNN	Alternative Flow Monitoring.
700010	NSPS	DD	Applicability of NSPS Subpart DD to Malted and Unmalted Processes.
700011	NSPS	A, Db	Delay of Continuous Opacity Monitoring System.
700012	NSPS	GG	Initial Performance Test Waiver Request.
700013	NSPS	GG	Natural Gas Demonstration.
700014	NSPS	Db	Fuel Usage Monitoring Requirement.
700015	NSPS	GG	Custom Fuel Monitoring Schedule.
700016	NSPS	Dc	Change of Nozzle Tip to Accommodate Residual Fuel.
700017	NSPS	III	Notification of Exemption for Commercial and Industrial Solid Waste Incinerators.
700018	NSPS	Dc	Alternative Fuel Monitoring.
700019	NSPS	Db, Dc	Idaho Supreme Potato Boilers.
700020	NSPS	A, GG	Custom Fuel Monitoring Schedule.
700021	NSPS	A, GG	Initial Performance Test Deadline Extension Request.
700022	NSPS	A, I	Alternative Test Method for Performance Evaluation.
700023	NSPS	Dc	Reduction in Fuel Use Recordkeeping.
700024	NSPS	Ec	Hospital/Medical/Infectious Waste Incineration.
700025	NSPS	Dc	Reduction in Fuel Use Recordkeeping and Alternative Fuel Monitoring.
700026	NSPS	Dc	Reduction in Fuel Use Recordkeeping.
700027	NSPS	Dc	Reduction in Fuel Use Recordkeeping.
700028	NSPS	Dc	Relocated Boiler.
700063	NSPS	NNN, RRR	Production of Biodiesel and Glycerin from Soybean Oil and Methane.

Abstract for [A070001]:

Q: Could EPA clarify to the Florida Department of Transportation if aluminum sheds and fruit stands are subject to the notification and inspection requirements under the asbestos NESHAP, 40 CFR part 61, subpart M?

A: EPA explains that prefabricated sheds and small structures that do not have utilities (water, electricity, and sewer) do not meet the definition of structures under the asbestos NESHAP regulations, and thus are not subject to the rule. If a structure meets the definition of structure in the asbestos NESHAP, which would include any structure acquired by the DOT, it must be inspected as required by § 61.145(a) of NESHAP subpart M.

Abstract for [A070002]:

Q: Could EPA clarify to the Air Pollution Control Program in Jefferson City, Missouri whether single family residences are subject to the Asbestos NESHAP, 40 CFR part 61, subpart M, if they are being demolished as part of a highway expansion?

A: EPA explains that a group of residential buildings under the control of the same owner or operator is considered an installation according to the definition of ''installation,'' and thus is covered by the asbestos NESHAP. As an example, several houses located on a highway right-of-way that are all demolished as part of the same highway project would be considered an ''installation,'' even when the houses are not proximate to each other. In this example, the houses are under the control of the same owner or operator, that is, the highway agency responsible for the highway project.

Abstract for [A070003]:

Q: Could EPA clarify to the City of Newport News, Virginia, whether the regulatory threshold of 260 linear feet applies to other materials, other than pipes, such as caulking or roof flashing, under NESHAP, 40 CFR part 61, subpart M?

A: EPA explains that the regulatory threshold of 260 linear feet is applicable only to pipes under 40 CFR part 61, subpart M. Other materials, such as caulking or roof flashing, would be subject to the 160 square foot standard. It is acknowledged that using the square foot requirement may reduce the chance of these materials triggering the regulated threshold.

Abstract for [A070004]:

Q1: Are pipelines at the South West Pipe Services facility in Texas subject to 40 CFR part 61, subpart M?

A1: Yes. EPA finds that the pipeline is considered a facility component being renovated, and is subject to the asbestos NESHAP.

Q2: If the pipeline renovation, containing more than one percent

asbestos and more than 260 linear feet, is made friable (i.e., crumbled, pulverized, or reduced to powder) subjecting the project to the regulations under 40 CFR part 61, subpart M, who is considered the owner/operator?

A2: EPA finds that the owner/operator can be the owner of the pipeline, the contractor removing the pipe from the ground, and the company that purchases the pipe to recycle the steel pipe, based on the definition of owner or operator in the Asbestos NESHAP. Therefore, all entities involved in a pipeline renovation operation, which is subject to the requirements of the asbestos NESHAP, would have to comply with the asbestos NESHAP standards.

Q3: If the pipeline renovation is not subject to the regulations under 40 CFR part 61, subpart M, and the pipe is sold to a third party, which by its work practice causes the pipe to become friable, is the pipe now regulated under the asbestos NESHAP?

A3: Yes. EPA finds that the asbestos-impregnated tar or asbestos paper coating use on pipelines is considered Category II asbestos-containing material. When it was removed as nonregulated, there is the expectation the coating would remain nonfriable and disposed in an approved landfill. Selling the pipe to a third party, who then causes the coating to become friable, defeats the purpose of the rule. Once the third party causes 260 linear feet of pipe coating to become friable the job is now regulated and all applicable regulations apply under the asbestos NESHAP.

Q4: Are there guidelines for recycling of old pipelines under 40 CFR part 61, subpart M?

A4: No. EPA explains that there are no guidelines for recycling. However, the recycling operation may be subject to the asbestos NESHAP regulations if it causes the pipeline to become friable.

Abstract for [A070005]:

Q1: Could EPA clarify to the Iowa Department of Natural Resources at what point asbestos-containing material (ACM) becomes asbestos-containing waste material (ACWM) subject to the provisions of under 40 CFR 61.150?

A1: EPA explains that ACM becomes ACWM once the asbestos-containing material is removed from a facility component or, as part of a larger facility component, a portion of the facility component is removed. The asbestos-containing material must meet one of the three regulated thresholds, i.e., the 260 linear feet threshold on pipes, the 160 square feet threshold on other facility components, or the 35 cubic feet threshold where the length or area could not be measured previously for the asbestos-containing material to become asbestos-containing waste material, as specified under the asbestos NESHAP.

Q2: Does 40 CFR 61.150(a) provide a choice between the no visible emission standard and a control or waste treatment method?

A2: Yes. EPA explains that the subject rule provision allows the owner/operator the ability to choose between two compliance alternatives, i.e., the ''no visible emission'' standard or the control or waste treatment methods specified in 40 CFR 61.150(a).

Abstract for [A070006]:

Q: Could EPA clarify to the Saint Louis County Health Department in Missouri how best to interpret the following phrase in 40 CFR part 63, subpart E: ''the value reported should be rounded to the nearest percent'', in connection with point counting results to determine the percentage of asbestos as between 1.0 percent and 1.5 percent and defining Category I and Category II nonfriable asbestos-containing material (ACM)?

A: EPA explains that when a bulk sample is analyzed using Polarized Light Microscopy, and further quantified using the point counting method/formula in 40 CFR part 763, Subpart E, Appendix E, Section 1.7.2.4, sample results are allowed to be rounded to the nearest percent. EPA interprets the rounding of results using the formula in Section 1.7.2.4 as, if the sample result yields a=4, ''a'' being the number of asbestos counts, the result is 1 percent, which does not meet the regulatory threshold of greater than 1 percent. If the sample result yields a=5, the result is 1.25 percent asbestos, which may be rounded down to 1 percent, which is not greater than 1 percent and therefore not regulated. If the sample result yields a=6, the result is 1.5 percent asbestos, which would be rounded to 2 percent and therefore regulated.

Abstract for [M070001]:

Q1: Could EPA clarify to the International Paper Company whether the health-based compliance alternative (HBCA) includes the testing of natural gas fired sources under 40 CFR part 63, subpart DDDDD?

A1: EPA does not expect natural gas fired sources to emit regulated pollutants under Subpart DDDDD, and thus does not require that they be included in the HBCA.

Q2: May a source request the use of an alternative monitoring under the health-based compliance alternative (HBCA) under 40 CFR part 63, subpart DDDDD?

A2: Yes. EPA explains that a source may request alternative monitoring as allowed in the general provisions, under 40 CFR part 63, subpart A.

Abstract for [M070002]:

Q: Could EPA clarify to the American Forest and Paper Association whether multi-cyclone collectors on wood-fired boilers are considered ''inherent process equipment'' as defined in the Compliance Assurance Monitoring (CAM) rule, and thus not subject to 40 CFR part 63, subpart DDDDD as a ''control device''?

A: EPA cannot conclude categorically that multi-cyclones always qualify as ''inherent process equipment'' as defined in the CAM Rule in 40 CFR 64.1. However, there may be site-specific cases in which a multi-cyclone may serve as ''inherent process equipment'' rather than as a ''control device.'' Requests for site-specific determinations should be submitted in writing to the delegated agency responsible for implementing MACT subpart DDDDD.

Abstract for [M070003]:

Q: Does EPA approve an alternative to calibrating the thermocouple on an afterburner every six months for the City Wide Towing and Auto Wrecking facility in Springfield, Ohio, under 40 CFR part 63, subpart RRR?

A: Yes. EPA conditionally approves an alternative method under MACT subpart RRR where dual thermocouples are used so that both the data logger and the digital read out each has its own thermocouple to allow sufficient current for proper readings. Both thermocouples read the same temperature and report to their own piece of equipment. As part of the standard operating procedure, a second set of thermocouples must be kept on site to replace a malfunctioning unit immediately.

Abstract for [M070004]:

Q1: Could EPA clarify to Bacchus Environmental if a specific facility can process a charge ''mixture'' in excess of the performance test weight under 40 CFR part 63, subpart RRR, if the charge weight of purchased scrap in a charge ''mixture'' does not exceed the performance test charge weight when 100 percent purchased scrap was melted? And may the facility exceed this weight when processing 100 percent clean charge?

A1: EPA explains that the facility may exceed the performance test charge weight under MACT subpart RRR regulations as long as such exceedance does not result in the performance test no longer being representative of the facility operation that is likely to generate the highest emissions for the regulated pollutants.

Q2: If a facility demonstrates through performance tests that each individual

emission unit within the secondary aluminum production unit is in compliance with the applicable emission limits, are the 3-day, 24-hour rolling average emission calculations of dioxin/furan (D/F) required for this secondary aluminum processing unit under 40 CFR part 63, subpart RRR?

A2: EPA explains that a facility with a secondary aluminum processing unit (SAPU) that is meeting the requirements of § 63.1510(u) is not required to conduct the 3-day, 24 hour rolling average emission calculations of D/F in § 63.1510(t) under MACT subpart RRR regulations. As an alternate to § 63.1510(t), § 63.1510(u) requires, through performance tests, that each individual emission unit within the SAPU demonstrate compliance with the applicable emission limits

Abstract for [M070005]:

Q1: Is monitoring of firebox temperature in the Regenerative Thermal Oxidizer (RTO) units as required under 40 CFR part 63, subpart DDDD, § 63.2269(b), a comparable alternative to carbon oxide (CO) monitoring required under the 40 CFR part 63, subpart DDDDD, § 63.7510(c), in order to ensure adequate destruction of organic hazardous air pollutants (HAPs) at the Norbord Texas Industries facility in Marion County, Texas?

A1: Yes. EPA approves the alternative monitoring plan request under the Boiler MACT to maintain the 3-hour block average firebox temperature of the RTO units at a level that is greater than or equal to the minimum firebox temperature established during the performance test as specifically required under the Plywood MACT, in §§ 63.2240(b) and 63.2262(k)).

Q2: Because Norbord Industries has not yet conducted the performance test required under 40 CFR part 63, subpart DDDD, may it utilize an interim set point of 1500 degrees Fahrenheit for the RTO firebox minimum temperature control until testing occurs?

A2: Yes. EPA finds that data collected as part of the Plywood MACT shows this temperature set point is acceptable in the interim for the RTO Units at Norbord's oriented strandboard (OSB) plant.

Abstract for [M070006]:

Q1: Is 40 CFR part 63, subpart DDDDD, ''the Boiler MACT,'' applicable to the Integrated Heat Energy System (IHES) at the Norbord Industries LLP Jefferson Oriented Strandboard (OSB) Plant located in Marrion, Texas, given that 40 CFR part 63, subpart DDDD, ''the Plywood MACT,'' already applies?

A1: Yes. EPA finds that the Teaford Furnace of the IHES is considered a process heater and an affected source under the Boiler MACT as defined in 40 CFR 63.7575. However, that portion of the combustion gases from the Teaford Furnace used to direct-fire the dryer unit is considered an affected source under the Plywood MACT, 40 CFR 63.2232(b), and is exempted from the Boiler MACT under 40 CFR 63.7491(l).

Abstract for [M070007]:

Q1: Does EPA approve the Viskase Companies request to monitor biofilter effluent conductivity as an alternative to effluent pH at two of its facilities located which are located in Loudon, Tennessee and Osceola, Arkansas under 40 CFR part 63, subpart UUU?

A1: Yes. EPA conditionally approves the monitoring request to establish and monitor an effluent conductivity operating limit for the biofilter units. The effluent conductivity operating limit must be based on a performance test and can be supplemented by engineering assessments and/or manufacturer's recommendations.

Q2: Could EPA clarify 40 CFR 63.505(c), which allows the owner or operator to supplement the parameter values measured during the performance test with engineering assessments and/or manufacturer's recommendations, for the Viskase Companies facility in Loudon, Tennessee?

A2: EPA explains that 40 CFR 63.505(c) does not allow control device operating parameters to be based solely on good engineering practice and the manufacturer's recommendations. It does allow facilities to supplement the parameter monitoring levels established during the performance test with engineering assessments and/or manufacturer's recommendations. This supplementary data may allow facilities to avoid performance testing over the entire range of expected parameter values. Operating limits must be established during a performance test and can then be supplemented by engineering assessments and/or manufacturer's recommendations. Facilities subject to 40 CFR part 63, subpart UUUU, must meet the performance testing requirements in 40 CFR 63.5535, as well as the requirements in 40 CFR 63.7 of the General Provisions (GP). Facilities must also meet the applicable notification requirements in the General Provisions, including the performance testing notification requirements in 40 CFR 63.9(e), as well as the notification of compliance status in 40 CFR 63.9(h).

Q3: Does EPA approve the Viskase Companies request that testing for closed vent systems be waived because the vent system is operated under negative pressure, under 40 CFR part 63, subpart UUUU?

A3: Yes. EPA conditionally approves the request to waive the closed vent system testing if the facility meets the requirements specified for negative pressure systems in other NESHAPs, (e.g., Pulp and Paper NESHAP) including an initial and annual demonstration of the negative pressure system using the procedures specified in the EPA response.

Abstract for [M070008]:

Q1: Could EPA clarify for the American Forest and Paper Association the averaging period for determining continuous compliance with the fuel operating limits under 40 CFR part 63, subpart DDDDD?

A1: EPA explains that there is no averaging period in MACT subpart DDDDD for determining continuous compliance with the fuel operating limit.

Q2: Does a stack test conducted under the health-based compliance alternative (HBCA) (Appendix A) qualify as a performance test as referred to in 40 CFR part 63, subpart DDDDD, § 63.7540(a)(1)?

A2: No. EPA explains that a stack test conducted under the HBCA does not qualify as a performance test under 40 CFR part 63, subpart DDDDD.

Q3: Is soot blowing required during a stack test under 40 CFR part 63, subpart DDDDD?

A3: Yes. EPA explains that soot blowing should be included during the stack test under 40 CFR part 63, subpart DDDDD.

Q4: Does EPA allow alternate pH calibration plans under 40 CFR part 63, subpart DDDDD?

A4: Yes. EPA explains that owners/operators may submit a request for an alternative pH schedule under MACT subpart DDDDD.

Abstract for [M070009]:

Q1: May a de minimis threshold be established to exclude small quantities of miscellaneous fuels (e.g., waste paper, oily rags, used oil, etc.) from the testing requirements under 40 CFR part 63, subpart DDDDD?

A1: No. EPA explains that MACT subpart DDDDD does not provide a de minimis threshold for small quantities of miscellaneous wastes.

Q2: What are the operating limits and monitoring requirements under 40 CFR part 63, subpart DDDDD, when the health-based compliance option is used, the manganese emission rate is determined by stack testing, and the total selected metals (TSM), not including manganese, was determined via fuel analysis?

A2: The operating limits and monitoring requirements for manganese under the health-based compliance alternative (HBCA) are site-specific, determined by the owner or operator, and incorporated into the Title V operating permit. The operating limits and monitoring requirements for the remaining TSM using the fuel analysis option are in 40 CFR part 63, subpart DDDDD, § 63.7521 and Table 6.

Abstract for [M070010]:

Q: Does 40 CFR part 63, subpart T, apply to ultrasonic airless/airtight degreasers manufactured by the Tiyoda-Serec Company's facility in Ventura County, California?

A: Yes. EPA finds that 40 CFR 63.461 defines a solvent cleaning machine as ''any device or piece of equipment that uses halogenated solvent liquid or vapor to remove soils from the surfaces of materials. Types of solvent cleaning machines include, but are not limited to, batch vapor, in-line cold, and batch cold solvent cleaning machines.'' Although airless/airtight ultrasonic cleaning machines are not specified in this definition, it is clear the definition does not exclude these types of machines.

Abstract for [M070011]:

Q: Does EPA agree with the Oklahoma Department of Environmental Quality alternative method for determining that the volatile hazardous air pollutants (VHAP) content of gas and liquid hydrocarbon process streams can be reasonably be expected never to exceed 10.0 percent by weight in accordance with NESHAP, Subpart HH, § 63.772(a)(1), for the ONEOK Hydrocarbon, L.P. (ONEOK) facility located in Medford, Oklahoma?

A: Yes. EPA explains that well documented data from online gas chromatograph analyzers that are maintained according to manufacturer's QA/QC recommendations, mass balance calculation methods, process stream knowledge (including MSDS information), and other ''good engineering judgment'' techniques can be used as methods for determining, under MACT subpart HH, that the VHAP content of gas liquid hydrocarbon streams can be reasonably expected never to exceed 10.0 percent by weight.

Abstract for [M070012]:

Q: Is solvent used to dilute textile finishing materials at two TSG, Incorporated (TSG) facilities, which are located in Pennsylvania and North Carolina, subject to the organic Hazardous Air Pollutants (HAP) emission limit for finishing operations, under 40 CFR part 63, subpart OOOO?

A: Yes. The solvent used to dilute textile finishing materials is subject to the NESHAP subpart OOOO. The solvent that TSG uses to dilute stain repellent finishes is a transfer agent that is added to the finish as an auxiliary to improve the finishing process, and thus is a finishing material. For this reason, the added solvent, together with the other finishing materials used by TSG, would be subject to the 0.0003 kg of organic HAP per kg of applied finishing materials emission limit established in Table 1 of NESHAP subpart OOOO.

Abstract for [M070013]:

Q1: Is the coating of wooden window components prior to assembly at the Pella facility in Pella, Iowa, subject to 40 CFR part 63, subpart QQQQ?

A1: Yes. EPA finds that adhesives are considered coatings under NESHAP subpart QQQQ. Adhesives serve the function of bonding window components to each other. Thus, applied adhesive is a functional layer, and its application in this context constitutes the finishing of a wood building product. Therefore, adhesives are subject to NESHAP subpart QQQQ requirements when applied to a wooden window component or to the window assembly.

Q2: Is the coating of aluminum window components with high performance architectural coatings prior to assembly at the Pella facility in Pella, Iowa, subject to 40 CFR part 63, subpart MMMM?

A2: Yes. EPA finds that 40 CFR 63.3881(a) establishes that the surface coating of metal components (''parts'') of industrial, household, and consumer products is subject to NESHAP subpart MMMM. Windows are considered industrial, household, or consumer products since these are part of the NESHAP subpart MMMM wood building products source category. Therefore, coating aluminum window components with high performance architectural coatings is subject to applicable NESHAP subpart MMMM requirements. Adhesives applied to aluminum window components and used to bond them to other wood, glass, or metal components, or to the window assembly, are also metal coatings, and therefore, are subject to NESHAP subpart MMMM.

Abstract for [M070014]:

Q: Is the repainting and repair, at the Atlantic Marine facility in Jacksonville, Florida, of yachts that exceed 20 meters in length and are not used for military or commercial operations, subject to 40 CFR part 63, subpart II?

A: No. EPA finds that repainting and repair services performed on yachts exceeding 20 meters in length are not subject to the requirements under NESHAP subpart II. EPA plans to propose revisions to NESHAP subpart II to address this issue.

Abstract for [M070015]:

Q: Are eight aerospace cleaning activities utilizing azeotropic blends as described by 3M, Incorporated, exempt from 40 CFR part 63, subpart GG? Could EPA clarify compliance options for 3M facilities using the azeotropes for cleaning activities that are not exempt from MACT, 40 CFR part 63, subpart GG? 3M manufactures segregated hydrofluoroether volatile organic compounds (VOCs) exempted by EPA, in an azeotropic blend with dichloroethylene (DCE), a non-exempt VOC.

A: EPA made the following findings for the eight activities presented by 3M, which are based on the facts provided in the hypothetical given by 3M, and presumed to be facts for each scenario. Thus this response is considered only a guidance, and is not a binding adjudication of liability for any source, and does not constitute final agency action. Facilities needing a site-specific determination of applicability should discuss the specifics of their operation(s) with the appropriate delegated authority on a case-by-case basis.

Activity 1: Cleaning of aircraft engine hydraulic fluid leaks is not exempt from MACT subpart GG requirements.

Activity 2: Cleaning parts for non-destructive testing is not exempt from MACT Subpart GG requirements.

Activity 3: Cleaning aircraft and helicopter wheel and brake assemblies is not exempt from MACT subpart GG requirements.

Activity 4: Cleaning of hydraulic fluid leaks is not exempt from MACT subpart GG requirements.

Activity 5: Cleaning during operation of electrical equipment may or may not be subject to MACT subpart GG requirements, as discussed below. Cleaning operations using nonflammable liquids on unshielded assembled aircraft electrical circuits on or within five feet of them, once electrical power is connected, are exempted from the hand-wipe cleaning requirements. Cleaning operations on unshielded electrical circuits that are performed prior to installation on an assembled aircraft, or that are performed after installation on the aircraft but without electrical power connection, are not exempted from the hand-wipe cleaning requirements, unless they occur within five feet of an electrical system that is energized. Electric power tools, cooling fans, and portable power equipment are not energized electrical systems.

Activity 6: Cleaning of composite systems prior to adhesive bonding is not exempt from MACT subpart GG requirements.

Activity 7: Cleaning of electronic assemblies and printed circuit boards may or not be subject to MACT subpart GG requirements, as discussed below. Cleaning (including flux removal) of completed electronic assemblies is exempt from Subpart GG requirements prior to their permanent installation in the aircraft, when their cleaning is distinct from what other aircraft parts receive. Cleaning of printed circuit boards is exempt from Subpart GG requirements. Cleaning, including flux removal, of electronic assemblies using hand-wipe cleaning, either during manufacture or rework, is not subject to hand-wipe cleaning requirements. However, for completed electronic assemblies that have been permanently installed in the aircraft, or that receive the same cleaning as other parts of the aircraft, the facility must satisfy the housekeeping requirements.

Activity 8: Cleaning of aircraft instruments and instrumentation is exempt from MACT subpart GG requirements prior to their permanent installation.

Abstract for [Z070001]:

Q: Could EPA clarify the regulations regarding debris management and disposal under 40 CFR part 61, subpart M, in reference to the U.S. Army Corp of Engineers (USACE) and the State of Louisiana assisting the efforts to address the debris generated as a result of Hurricanes Katrina and Rita?

A: EPA explains that if a building or other structure has been totally destroyed by a hurricane, NESHAP subpart M does not apply to subsequent activities. However, the demolition and disposal of ''partially-damaged'' or ''standing-but-unsafe-to-enter'' structures are subject to Asbestos NESHAP requirements.

Abstract for [0700001]:

Q: May the Chalmette Refinery, located in Chalmette, Louisiana, comply with 40 CFR part 60, subpart RRR, in lieu of 40 CFR part 60, subpart NNN, for testing, monitoring, and recordkeeping related specifically to use of boilers and process heaters for compliance with the standards of both subparts?

A: Yes. The facility's refinery fuel gas system comprises boilers and process heaters, some with heat input capacities equal to or greater than 150 MMBTU/hr and some with heat input capacities less than 150 MMBTU/hr. Vent gases are mixed with other gaseous streams collected in the fuel gas system and distributed as a mixed gas stream that constitutes the primary fuel introduced into the flame zone of each boiler or process heater. None of the distillation vents are equipped with a bypass directly to the atmosphere. Thus, compliance with NSPS subpart RRR testing, monitoring, and recordkeeping requirements in lieu of NSPS subpart NNN similar requirements is acceptable. However, the facility must provide a copy of the schematic required by 40 CFR 60.705(s) and maintain the schematic in its onsite file for the life of the system to ensure that the affected vent streams are being routed to appropriate control devices under this approval.

Abstract for [0700002]:

Q1: The Cymetech facility in Calvert City, Kentucky, produces a by-product which contains a mixture of chemicals, some of which are listed in 40 CFR 60.489. Does 40 CFR part 60, subpart VV, apply to the operation?

A1: Yes. EPA finds that the operations are subject to NSPS subpart VV because the by-product includes listed chemicals and is sold because of the chemical characteristics of the listed chemicals.

Q2: If the Cymetech facility in Calvert City, Kentucky, is subject to 40 CFR part 60, subpart VV, does the exemption in 40 CFR 60.480(d)(3) apply?

A2: Yes. EPA finds that because the affected facility produces heavy liquid chemicals only from heavy liquid feed or raw materials, the exemption in 40 CFR 60.480(d)(3) is applicable, and the facility is not subject to the standards in 40 CFR 60.482.

Abstract for [0700003]:

Q: Are wood gasification systems at Norbord South Carolina, Inc., in Kinards, South Carolina and the University of South Carolina in Columbia, South Carolina, subject to 40 CFR part 60, subparts Db or Dc? The wood gasification systems will consist of wood gasifiers that produce synthetic gas, followed by secondary combustion chambers which combust the synthetic gas. Exhaust from the secondary combustion chambers will be used in steam generating boilers (and in a hot oil generator for one unit).

A: Yes. EPA finds that each secondary combustion chamber in combination with a steam boiler (and hot oil generator for one unit) is a steam generating unit affected facility. NSPS subpart Dc applies to steam generating units with a heat input capacity of 100 mmBtu/hr or less, but greater than or equal to 10 mmBtu/hr. NSPS subpart Db applies to steam generating units with a heat input capacity greater than 100 mmBtu/hr.

Abstract for [0700004]:

Q: Are the fabric filters used to control titanium dioxide spray dryers at the DuPont facility in New Johnsonville, Tennessee, considered dry control devices and therefore, required to meet the 40 CFR part 60, subpart UUU, opacity monitoring requirements? The company's argument that these are not subject is based on language from the Compliance Assurance Monitoring (CAM) rule at 40 CFR part 64, which exempts ''inherent process equipment'' from the CAM rule definition of ''control device.''

A: Yes. The opacity monitoring requirements in 40 CFR 60.734(b) apply to the titanium dioxide spray dryers controlled with fabric filters. The provisions of the CAM rule do not reduce or eliminate the monitoring requirements of existing regulations.

Abstract for [0700005]:

Q: Does EPA waive the 40 CFR part 60, subpart MM, performance testing requirement for the E-coat, guide coat, and top coat lines at BMW's Spartanburg, South Carolina assembly plant during any month when the average volatile organic compound (VOC) emission rate does not exceed 3.8 pounds per vehicle?

A: Yes. Based upon historical emission rate data provided with BMW's request, demonstrating that the plant-wide VOC emission rate does not exceed 3.8 pounds per vehicle will provide adequate assurance of compliance for all three of the coating lines covered by the request. Given recordkeeping conducted in order to verify compliance with other applicable limits at the plant, BMW will have the information needed to verify NSPS subpart MM compliance during any month when the VOC emission rate does exceed 3.8 pounds per vehicle. Therefore, the request can be granted pursuant to 40 CFR 60.8(b)(4) of the General Provisions.

Abstract for [0700006] and [0700007]:

Q: Does EPA approve an alternative continuous emission monitoring frequency for NO_X, CO, and O_2, as provided by the quarterly cylinder gas audit (CGA) and the annual relative accuracy test audit (RATA) quality assurance procedures found under 40 CFR part 60, appendix F, for the ANP Bellingham Energy Company, LLC (ANP) facilities located in Bellingham and Blackstone, MA? The facilities propose to follow the ''grace period'' provisions of 40 CFR part 75, appendix B, section 2.2.4 (for CGAs) and section 2.3.3 (for RATAs).

A: Yes. EPA grants ANP Bellingham permission to conduct CGAs and RATAs following the ''grace period'' provisions of 40 CFR part 75, appendix

B, section 2.2.4 (for CGAs) and section 2.3.3 (for RATAs, which would require that a CGA be conducted at least once every four calendar quarters regardless of operation and conduct a RATA at least once every eight calendar quarters regardless of operation.

Abstract for [0700008]:

Q: Does EPA approve the use of sensory means (i.e., sight, sound, smell), as an alternative to using EPA Method 21 as required by 40 CFR part 60, subpart VV, for the identification of leaks from equipment in propionic acid service at the Eastman Chemical Company facility in Kingsport, Tennessee?

A: Yes. The proposed alternative method for detection of leaks is acceptable. Monitoring results provided by Eastman indicate that leaks from equipment in propionic service are more easily identified through sensory methods than by using Method 21 because of the physical properties (high boiling points, high corrosivity, and low odor threshold) of propionic acid and the process conditions at the plant.

Abstract for [0700009]:

Q: Are the 40 CFR part 60, subpart RRR, flow monitoring procedures an acceptable alternative to the 40 CFR part 60, subpart NNN, requirements for the distillation operation at Degussa Corporation in Mobile, Alabama?

A: Yes. EPA finds that the NSPS subpart RRR flow monitoring procedures are an acceptable alternative to the flow monitoring procedures required under NSPS subpart NNN in this case. The NSPS subpart RRR requirement to monitor diversions from the control device accomplishes the same result (i.e., providing a record of when vent streams are not controlled) as the NSPS subpart NNN requirement to monitor the flow to the control device.

Abstract for [0700010]:

Q1: Does 40 CFR part 60, subpart DD, apply only to the unmalted barley grain portion of the operation at the Grupu-Modelo Agriculture, Inc. (GMA) new malting facility located in Idaho Falls, Idaho?

A1: Yes. EPA has concluded that NSPS subpart DD applies to the unmalted barley grain portion of GMA operation. However, it does not apply to the malting processes, the second part of the operations of the malting plant. NSPS subpart DD does not apply to malted barley because it is not considered a grain. Furthermore, NSPS subpart DD does not apply to operations involving malt because the rule addresses emissions resulting from handling processes and not from processes which effect a chemical or physical change in the product.

Q2: Is GMA required to perform performance testing under EPA 40 CFR part 60, subpart DD, on the kiln vents used for drying green malt that has been transformed from barley?

A2: EPA has determined the GMA kilns are not subject to NSPS subpart DD since these are used only for the malt process. Therefore, GMA is not required to conduct performance tests on the two kiln vents pursuant to NSPS subpart DD.

Abstract for [0700011]:

Q: Does EPA approve a delay in the installation of a Continuous Opacity Monitor System (COMS), under 40 CFR part 60, subpart Db, on a boiler at the Bennett Forest Industries (BFI) facility located in Grangeville, Idaho, until the facility reaches steaming rates above half its physical and permitted capacity?

A: No. EPA denies this request. A COMS must be installed and operated in accordance with the timeframes and requirements specified in NSPS subpart Db. The General Provisions require that the COMS be installed and operational no later than 180 days after initial startup of the BFI boiler. Furthermore, if COMS data will be used to demonstrate compliance with the opacity requirements as provided in 40 CFR 60.11(e)(5), there are additional requirements that must be met prior to conducting the performance test, described in 40 CFR 60.13(c). Even if EPA were to construe the request for the delay of the installation of the COMS as a request for approval of alternative monitoring procedures, EPA does not believe BFI has provided sufficient justification for an alternative monitoring. EPA does not believe that the costs of complying with other environmental regulations alone provide a sufficient basis for an alternative monitoring request. BFI has not shown that timely installation of the COMS is technically or economically infeasible, or otherwise impracticable.

Abstract for [0700012]:

Q: Does EPA waive the initial performance test for a gas producer unit (turbine compressor and combustor) at Unocal Alaska's Dolly Varden Platform (Unocal) in Cook Inlet, Alaska?

A: Yes. EPA waives the requirement to conduct an initial performance test pursuant to 40 CFR part 60, subpart A, § 60.8(b)(4), because Unocal has demonstrated compliance with the standard using other means.

Abstract for [0700013]:

Q: Does EPA approve Alyeska Pipeline Service Company's fuel gas demonstration for fuel gas combusted at the Trans Alaska Pipeline System (TAPS) pump stations 1 through 4?

A: Yes. Based on the information submitted to EPA, Alyeska Pipeline Service Company has demonstrated that the fuel gas combusted at TAPS meets the definition of a natural gas as defined by 40 CFR 60.331(u).

Abstract for [0700014]:

Q1: Is an exclusively wood-fired boiler at the Bennett Forest Industries (BFI) facility located in Grangeville, Idaho, subject to the requirement to record the amount of wood combusted each day and to calculate the annual capacity factor for wood as detailed in 40 CFR part 60, subpart Db, § 60.49b(d)?

A1: No. EPA has determined that if BFI is subject to the more stringent emission limit for particulate matter of 0.10 lb/million Btu and a restriction to combust only wood, the requirement to record the amount of wood combusted each day is not needed for the purposes of calculating the annual capacity factor, as required by NSPS subpart Db, § 60.49b(d). Assuming the restriction to burn only wood is required by a federally enforceable permit, EPA can be assured that the annual capacity factors for all other fuels aside from wood will be zero. If BFI is subject to the more stringent limit for particulate matter of 0.10 lb/million Btu, there is also no need for BFI to calculate the annual capacity factor for wood.

Q2: Does EPA accept the use of a steaming rate monitor, which is capable of calculating fuel usage, as an alternate method for determining the amount of wood combusted for a wood-fired boiler at a BFI facility? BFI has requested this alternative method because there are physical difficulties in measuring the actual mass of the wood that they combust as it comes in various forms resulting from their operation as a lumber mill.

A2: Yes. EPA has determined that considering BFI's circumstances related to this request, if needed, this approach is acceptable for calculating the amount of wood combusted.

Abstract for [0700015]:

Q: Does EPA approve a custom fuel monitoring schedule under 40 CFR part 60, subpart GG, for Union Oil Company of California at its Steelhead Platform, Cook Inlet Alaska?

A: Yes. EPA approves the custom fuel monitoring schedule according to an August 14, 1987, national policy which allows EPA regional offices to approve NSPS subpart GG custom fuel monitoring schedules on a case-by-case basis. In this case, what is being approved is the inclusion of a new turbine into the existing custom fuel monitoring schedule.

Abstract for [0700016]:

Q: Is the changing of a nozzle tip to accommodate residual fuel in Boiler #3 at the Idahoan Foods (Idahoan) facility located in Lewisville, Idaho, considered a modification according to 40 CFR 60.14 of the General Provisions?

A: No. Idahoan intended to purchase a boiler that was designed to accommodate multiple liquid fuel types at its construction. EPA determines that the need to change-out the nozzle tips to accommodate different fuels is an inherent design of the boiler, and therefore Boiler #3 was originally designed to accommodate residual and diesel fuel in addition to natural gas. Under 40 CFR 60.14(e)(4), the use of an alternative fuel, if prior to the applicability date the existing facility was designed to accommodate that alternative fuel, shall not by itself be considered a modification.

Abstract for [0700017]:

Q1: Does EPA agree that three of Unocal Alaska incinerators located at Granite Point Platform, Swanson River Field, and Trading Bay Production Facility that are subject to 40 CFR Part 62, subpart III, for Commercial and Industrial Solid Waste Incinerators (CISWI), meet the criteria for the exemption for municipal waste combustion units under 40 CFR 62.14525(c)(2)?

A1: Yes. EPA agrees that the three Unocal's incinerators meet the exemption in 40 CFR 62.14525(c)(2) and therefore, accepts this notification of exemption under 40 CFR 62.14525(c)(2).

Q2: Is Unocal currently required to submit a Title V permit application for an incinerator, located at the East Foreland Dock Facility (EFDF), that was subject to 40 CFR part 62, subpart III, but that was permanently shut down as of June 15, 2004?

A2: No. Unocal is no longer required to submit a Title V permit application for the EFDF incinerator because it has been permanently shut down and is no longer operating.

Abstract for [0700018]:

Q: Does EPA approve a reduction in the fuel usage recordkeeping requirement in 40 CFR part 60, subpart Dc, § 60.48(c), from daily to monthly, for a natural gas-fired boiler at a BARI facility in Idaho Falls, Idaho?

A: Yes. EPA approves the request from BARI for a reduction in the fuel usage recordkeeping requirement in 40 CFR part 60, subpart Dc, § 60.48(c), from daily to monthly, and to use a gas meter to record monthly fuel usage, with the monthly fuel bill as a back-up record in the event of a meter malfunction.

Abstract for [0700019]:

Q: Does EPA waive applicability of 40 CFR part 60, subpart Db, and 40 CFR part 60, subpart Dc, for Boilers No. 3 and No. 4 at the Idaho Supreme Potato (ISP) facility in Firth, Idaho, given that an assumed modification of replacing nozzles reported on February 13, 2001, did not actually happen?

A: Yes. EPA has determined that Boilers No. 3 and No. 4 were not modified pursuant to 40 CFR 60.14, and therefore, are currently not subject to NSPS subparts Db or Dc. This determination is based on the assumption that although Boiler No. 4 still has the physical ability to burn coal in Boiler No. 4 it will not do so. In a previous EPA applicability determination on ISP's Boiler No. 4 dated March 13, 1995, EPA assumed that this boiler would not burn coal in the future. Therefore, if coal were to be burned in Boiler No. 4 in the future, the 1995 EPA determination would no longer be valid. In such an event, NSPS and PSD review would be triggered.

Abstract for [0700020]:

Q: Does EPA approve a custom fuel monitoring schedule under 40 CFR part 60, subpart GG, for ConocoPhillips Alaska's Alpine Development Project in North Slope, Alaska?

A: Yes. EPA approves the custom fuel monitoring schedule according to an August 14, 1987, national policy which allows EPA regional offices to approve NSPS subpart GG custom fuel monitoring schedules on a case-by-case basis. In this case, what is being approved is a custom fuel monitoring schedule for fuel oil monitoring and demonstration that the facility's gaseous fuel meets the definition of a natural gas.

Abstract for [0700021]:

Q: Does EPA grant an extension of the initial performance test date for stationary gas turbines, subject to 40 CFR part 60, Subpart GG, which are located at the ConocoPhillips Alpine (CPA) Development Project, in North Slope, Alaska?

A: No. EPA denies CPA's request for an extension.

Abstract for [0700022]:

Q: Does EPA approve alternative test methods for the performance evaluation to demonstrate compliance with 40 CFR part 60, subpart I, § 60.90, at the Alaska Roadbuilders' (ARB) RB350 ADM Asphalt Plant in Alaska?

A: Yes. EPA concludes that the proposed testing meets the requirements of 40 CFR part 60, subpart I, and the EPA test methods specified therein. Assigning a value of 30.0 to the dry gas molecular weight, in lieu of actual measurements of O_2 and CO is an acceptable alternative for processes burning natural gas, coal or oil according to EPA Method 3, Section 1.3, subject to the approval of the Administrator.

Q2: Does EPA waive the 30-day notice prior to conducting a performance evaluation that is required according to 40 CFR § 60.7(a)(5) and 60.8(d) at the ARB RB350 ADM Asphalt Plant?

A2: Yes. EPA grants the request for a waiver of this requirement pursuant to 40 CFR 60.19(f)(3).

Abstract for [0700023]:

Q: Does EPA approve a reduction in the fuel usage record-keeping requirement in 40 CFR part 60, subpart Dc, § 60.48c, from daily to monthly, as well as the use of one gas meter to record monthly natural gas usage for four boilers at the Saint Lucas Regional Medical Center (SLRMC)?

A: Yes. EPA approves a reduction in the fuel usage record-keeping requirement in NSPS Subpart Dc from daily to monthly and the use of one gas meter to record monthly natural gas usage for SLRMC's four boilers. The approval for the reduction in the recordkeeping to monthly instead of daily is based on a memorandum dated February 20, 1992, from the EPA Office of Air Quality Planning and Standards which states that there is little value in requiring daily recordkeeping of the amounts of fuel combusted for an affected unit that fires only natural gas with clean low-sulfur fuel oil (sulfur content less than 0.5 percent) as a backup.

Abstract for [0700024]:

Q: Is the incineration unit at a pet crematory in Palmer, Alaska, exempted from the requirements of 40 CFR part 60, subpart Ec, for Hospital/Medical/Infectious Waste Incineration (HMIWI), because only pathological wastes will be combusted? Is a permit required for this operation?

A: EPA has determined that provided the requirements are met for the pathological wastes, according to 40 CFR 60.50c(b), the incineration unit is not subject to the HMIWI regulation. A Federal Title V Air Operating Permit (Title V permit) is not required for the purposes of the HMIWI regulation if the exemption is maintained.

Abstract for [0700025]:

Q1: Does EPA approve monthly instead of daily monitoring of natural gas usage for a vaporizer subject to 40 CFR part 60, subpart Dc, at the BOC Edwards (BOC) facility in Hillsboro, Oregon?

A1: Yes. EPA conditionally approves monthly instead of daily monitoring of natural gas usage for the BOC affected vaporizer pursuant to NSPS subpart Dc.

Q2: Does EPA approve the use of fuel receipts from a gas supplier to serve as

monthly monitoring method, under 40 CFR part 60, subpart Dc?

A2: Yes. EPA approves the use of fuel receipts from a gas supplier to serve as monthly monitoring method under NSPS subpart Dc.

Q3: Could EPA determine whether the amount of natural gas used by the affected facility (vaporizer) can be determined by the following calculation method rather than direct measurement: (monthly vaporizer gas usage) = (monthly site natural gas usage from fuel bill) – (average monthly site natural gas usage before installation of the vaporizer).

A3: Yes. EPA finds that the amount of natural gas used by the affected facility (vaporizer) can be determined by the calculation method proposed rather than by direct measurement, as long as the average monthly site natural gas usage before installation of the vaporizer was nearly constant and will remain the same with no new natural gas usage.

Abstract for [0700026]:

Q1: Does EPA approve a request for a reduction in the fuel usage recordkeeping requirement in 40 CFR part 60, subpart Dc, § 60.48c, from daily to monthly for two 25.13 MMBTU/hr boilers fueled by propane and located at Glanbia Foods Inc. (Glanbia) facility in Richfield, Idaho?

A1: Yes. EPA approves the request for a reduction in the fuel usage recordkeeping requirement in 40 CFR 60.48c from daily to monthly. This approval is based on a memorandum dated February 20, 1992, from the EPA Office of Air Quality Planning and Standards, which states that there is little value in requiring daily recordkeeping of the amounts of fuel combusted for an affected unit that fires only natural gas, and the definition of natural gas, from the Acid Rain Program, in 40 CFR part 72.

Q2. Does EPA approve one gas meter for two boilers that will measure the total natural gas usage per month?

A2. Yes. When more than one boiler is firing propane simultaneously, they will divide each boiler design heat input capacity by the total of the design heat input capacities of each boiler, and use this to prorate the natural gas usage of each boiler on a monthly basis. EPA determines that this will adequately determine the fuel usage by each boiler.

Abstract for [0700027]:

Q1: Does EPA approve a reduction in the fuel usage recordkeeping requirement in 40 CFR part 60, subpart Dc, § 60.48c, from daily to monthly for boilers fueled by natural gas, diesel fuel and/or biomass located at the Glanbia Foods Incorporated facility in Gooding, Idaho?

A1: EPA finds that boiler No. 1 is not subject to NSPS subpart Dc requirements since it was installed before the applicability date of the rule. EPA approves the request from Glanbia for a reduction in the fuel usage record-keeping requirement in 40 CFR 60.48c of Subpart Dc from daily to monthly for Boilers 2, 3, and 4, which burn natural gas exclusively or natural gas with diesel fuel as a backup. The approval for boilers No. 2 through 4 is based on a memorandum dated February 20, 1992, from the EPA Office of Air Quality Planning and Standards which states that there is little value in requiring daily recordkeeping of the amounts of fuel combusted for an affected unit that fires only natural gas or natural gas with clean low-sulfur fuel oil (sulfur content less than 0.5 percent) as a backup.

Q2: Does EPA approve one gas meter for several boilers fueled by natural gas that will measure the total natural gas usage per month?

A2: Yes. EPA determines that this will adequately determine the fuel usage by each boiler. When more than one boiler is firing natural gas simultaneously, they will divide each boiler design heat input capacity by the total of the design heat input capacities of each boiler, and use this to prorate the natural gas usage of each boiler on a monthly basis. For boilers 2 and 3, which are capable of firing low sulfur diesel fuel, each boiler will maintain individual fuel oil meters.

Q3: Does EPA approve a reduction in the fuel usage record-keeping requirement in 40 CFR 60.48c from daily to monthly for boiler No. 5, which is fueled by biogas, from the wastewater treatment effluent process as the primary fuel and can burn natural gas as a backup?

A3: No. EPA cannot approve this request at this time because the decision to reduce this requirement for certain boilers is based on the assumption that that fuel has low sulfur content. The sulfur content of natural gas is well known; however, the use of biogas in the context of this regulation has not been addressed before and it is uncertain what the sulfur content of biogas would be in this particular case.

Abstract for [0700028]:

Q: Is 40 CFR part 60, subpart Dc, applicable to Trident's Boiler No. 6, which was installed at the facility in 1994 but which the manufacturer's nameplate shows as constructed in 1976?

A: No. NSPS subpart Dc applies to ''Each steam generating unit for which construction, modification, or reconstruction is commenced after June 9, 1989.'' The boiler was operated prior to June 9, 1989, elsewhere in Alaska before its relocation and it has not been rebuilt, reconstructed, or modified since its original installation. Under the NSPS general provisions, 40 CFR 60.14(e)(6), the relocation or change in ownership of an existing facility shall not, by itself, be considered a modification.

Abstract for [0700063]:

Q: Do 40 CFR part 60, subpart NNN (Distillation Operations in the Synthetic Organic Chemical Industry (SOCMI)) and 40 CFR Part 60, Subpart RRR (Reactor Operations in the SOCMI), apply to the manufacturing of biodiesel and glycerin from soybean oil and methanol at the North Prairie Productions (NPP) facility located in Evansville, Wisconsin?

A: Yes. NSPS subparts NNN and RRR apply to the production of glycerin from soybean oil and methanol at the NPP biodiesel manufacturing facility, although certain exemptions may apply to the facility based on its production capacity and vent stream characteristics. The Agency finds that the production of glycerin in the process described by NPP is SOCMI, as both glycerin and methanol are SOCMI chemicals and appear on the chemical use trees. Additionally, the NPP process will use distillation and reaction operations, the units defined as affected facilities under Subparts NNN and RRR, respectively, which will result in emissions of volatile organic compounds (VOCs), which are the pollutants of concern under those NSPS.

Dated: November 16, 2007.

Lisa C. Lund,

Acting Director, Office of Compliance.

Editorial Note: This document was received at the Office of the Federal Register on February 27, 2008.

[FR Doc. E8–4030 Filed 2–29–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2851]

Petition for Reconsideration of Action in Rulemaking Proceeding

February 22, 2008.

A Petition for Reconsideration has been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–

378–3160). Oppositions to this petition must be filed by March 18, 2008. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: In the Matter of Amendment of the Commission's Rules Concerning Maritime Communications (PR Docket No. 92–257).

Number of Petitions Filed: 1.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–4050 Filed 2–29–08; 8:45 am]

BILLING CODE 6712–01–P

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 March 31, 2008.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Bank of America Corporation, Charlotte, North Carolina; to acquire Countrywide Financial Corporation, Calabasas, California, and thereby indirectly acquire Countrywide Bank, FSB, Alexandria, Virginia, Countrywide Home Loans, Inc., Calabasas, California, Countrywide Financial Corporation, Calabasas, California, Countrywide Financial Holding Company, Inc., Calabasas, California, Effinity Financial Corporation, Alexandria, Virginia, Countrywide Tax Services Corporation, Simi Valley, California, CTC Real Estate Services, Calabasas, California, Countrywide Servicing Exchange, Calabasas, California, Countrywide Asset Management Corp., Calabasas, California, Landsafe Appraisal Services, Inc., Plano, Texas, Landsafe Credit, Inc., Richardson, Texas, Landsafe Flood Determination, Inc., Richardson, Texas, Landsafe Title of California, Inc., Rosemead, California, Landsafe Title of Texas, Inc., Rosemead, California, Landsafe Title of Florida, Inc., Calabasas, California, Countrywide Warehouse Lending, Calabasas, California, Countrywide Home Loans Servicing LP, Plano, Texas, Countrywide Mortgage Ventures, LLC, Calabasas, California, Countrywide Commercial Real Estate Finance, Inc., Calabasas, California, The Countrywide Foundation, Calabasas, California, Recontrust Company, National Association, Thousand Oaks, California, CWB Community Assets, Inc., Thousand Oaks, California, Countrywide Commercial Administration LLC, Calabasas, California, Recontrust Company (Nevada) Thousand Oaks, California, Countrywide KB Home Loans, LLC, Thousand Oaks, California, CWB Mortgage Ventures, LLC, Thousand Oaks, California, Landsafe Services of Alabama, Inc., Rosemead, California, Landsafe Title of Maryland, Inc., Calabasas, California and thereby engage in (1) operating a savings association; (2) operating a nondepository trust company; (3) community development activities; (4) extending credit and servicing loans; (5) real estate and personal property appraising; (6) credit bureau services; (7) asset management, servicing, and collection activities; (8) acquiring debt in default; and (9) providing tax services for residential mortgage transaction pursuant to section 225.28(b)(1), 225.28(b)(2), 225.28(b)(4), 225.28(b)(5), 225.28(b)(6) and 225.28(b)(12) of Regulation Y.

In connection with this proposal Bank of America Corporation, has applied to acquire from Bank of America, National Association, Charlotte, North Carolina, 20,000 shares of Series B Non-Voting Convertible Preferred Stock of Countrywide Financial Corporation, Calabasas, California, which is convertible at the option of the holder into approximately 15.7 percent of the voting common stock of Countrywide Financial Corporation.

Board of Governors of the Federal Reserve System, February 27, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–4013 Filed 2–29–08; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Childhood Lead Poisoning Prevention

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting for the aforementioned committee:

Times and Dates: 8:30 a.m.–5 p.m., March 18, 2008. 8:30 a.m.–12:30 p.m., March 19, 2008.

Place: CDC Global Communication Center, Roybal Facility, 1600 Clifton Road, Atlanta, GA 30333, *Telephone:* (770) 488–3300.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 75 people. *Please Note:* Due to current security measures, a valid government issued identification card with photo is required for admittance into the Roybal facility. Non-U.S. citizens wishing to attend should contact Claudine Johnson, *Telephone:* (770) 488–3629. Individuals should ask for the meeting by name: CDC Advisory Committee on Childhood Lead Poisoning Prevention when they arrive at the Roybal Visitors Center.

Purpose: The Committee provides advice and guidance to the Secretary; the Assistant Secretary for Health; and the Director, CDC, regarding new scientific knowledge and technological developments and their practical implications for childhood lead poisoning prevention efforts. The committee also reviews and reports regularly on childhood lead poisoning prevention practices and recommends improvements in national childhood lead poisoning prevention efforts.

Matters To Be Discussed: A discussion on the potential approaches to strengthen existing strategies to achieve the Healthy People 2010 goal of eliminating Elevated Blood Lead Levels as a public health problem in the U.S. by 2010; Update the school performance and concurrent Blood Lead Levels (BLLs); Discuss the study designs related to adverse effects from BLLs < 10 μg/dl; and discuss the development of a prevention-based research agenda.

Agenda items are subject to change as priorities dictate. There will be an opportunity for oral comments during the meeting. Depending on the time available

and the number of requests, it may be necessary to limit the time of each presenter.

Contact Person for More Information: Claudine Johnson, Clerk, Lead Poisoning Prevention Branch, Division of Environmental Emergency Health Services, National Center for Environmental Health, CDC, 4770 Buford Hwy., NE., Mailstop F–60, Atlanta, GA 30341, *Telephone:* (770) 488–3629, Fax (770) 488–3635.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: February 27, 2008.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–4085 Filed 2–29–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0118]

Draft Guidance for Industry on Diabetes Mellitus: Developing Drugs and Therapeutic Biologics for Treatment and Prevention; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Diabetes Mellitus: Developing Drugs and Therapeutic Biologics for Treatment and Prevention.'' The draft guidance provides recommendations for industry for developing drugs and therapeutic biologics for the prevention and treatment of diabetes mellitus. Because diabetes mellitus has reached epidemic proportions in the United States, FDA recognizes the need for new products that can be used as part of a comprehensive treatment strategy in the treatment and prevention of diabetes. In addition to the draft guidance, FDA plans to convene a public advisory committee meeting to specifically discuss new approaches for the development of products for the treatment of diabetes, with particular emphasis on the design and implementation of studies to assess long-term cardiovascular risks and benefits of these new products. FDA plans to announce the meeting date in a future issue of the **Federal Register**.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by May 2, 2008.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Ilan Irony, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 3100, Silver Spring, MD 20993–0002, 301–796–2290.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Diabetes Mellitus: Developing Drugs and Therapeutic Biologics for Treatment and Prevention.'' Although a number of drugs are available for the treatment of type 1 and type 2 diabetes, many patients remain inadequately controlled, and thus are exposed to a higher risk of long-term complications. This draft guidance provides recommendations on the following topics related to the treatment of type 1 and type 2 diabetes mellitus:

- Diabetes-specific preclinical studies;
- Different study designs in different phases of drug development for both type 1 and type 2 diabetes;
- Study endpoints in the assessment of pharmacokinetic/pharmacodynamic profiles and for efficacy and safety assessment in treating patients with diabetes;
- Study population considerations in different phases of development;
- Sample sizes;
- Study duration; and
- Specific statistical issues related to development of drugs and biologics intended for the treatment of diabetes.

The draft guidance also provides recommendations regarding the development of products for the prevention of both type 1 and type 2 diabetes.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on the treatment and prevention of diabetes mellitus. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

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 FDMS only.

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: February 25, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–3974 Filed 2–29–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Organ Procurement and Transplantation Network

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Request for information.

SUMMARY: HRSA, Healthcare Systems Bureau, Division of Transplantation (DoT) is in the process of information-

gathering to assist in determining whether it should engage in rulemaking with respect to vascularized composite allografts, described more fully below. The purpose of this solicitation is to receive feedback from stakeholders and the public on the following questions: (1) Whether vascularized composite allografts should be included within the definition of organs covered by the regulations governing the operation of the Organ Procurement and Transplantation Network (OPTN) (referred to here as the ''final rule''), and regulated as such, and the likely impact of such an amendment; (2) whether vascularized composite allografts should be added to the definition of human organs covered by section 301 of the National Organ Transplant Act of 1984, as amended, (NOTA) and the likely impact of such an addition; and (3) if either of these changes are pursued, the optimal way to define vascularized composite allografts for the above-described purposes.

This Request for Information is limited to information-gathering and is not a proposal to make any determinations regarding Federal oversight of vascularized composite allografts.

DATES: Written comments must be received at HRSA by May 2, 2008. Comments will be made publicly available by submitting a written request to the address below.

In addition, HRSA will hold a meeting to which the public and all stakeholders are invited for discussion and recommendations about the issues described above. The meeting will be held on Friday, April 4, 2008, from 10 a.m. to 4 p.m., at the Parklawn Building, 5600 Fishers Lane, Rockville, MD 20057.

ADDRESSES: Please send all written comments to James F. Burdick, M.D., Director, Division of Transplantation, Healthcare Systems Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room12C–06, Rockville, Maryland 20857; telephone (301) 443–7577; fax (301) 594–6095; or e-mail: *jburdick@hrsa.gov.*

Requests to attend the meeting in person should be addressed to Elizabeth Ortiz-Rios, M.D., M.P.H., Chief Medical Officer, Division of Transplantation, Healthcare Systems Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 12C–06, Rockville, Maryland 20857; telephone (301) 443–4423; fax (301) 594–6095; or e-mail: *EOrtiz-Rios@hrsa.gov.* A call-in number will be provided for individuals who would like to participate by phone. The call-in information will be posted in the 'Highlights' section on the home page of *http://www.organdonor.gov.* If you plan to participate by phone, we request that you notify Dr. Ortiz-Rios by e-mail at *EOrtiz-Rios@hrsa.gov* no later than March 24, 2008, so that we can better estimate the number of phone lines that will be needed. Please include in the subject line of electronic correspondence ''Vascularized Composite Allografts.''

Docket: For access to the docket to read background documents or comments received, phone (301) 443–7577 to schedule an appointment to view public comments.

FOR FURTHER INFORMATION CONTACT: James F. Burdick, M.D., Director, Division of Transplantation, Healthcare Systems Bureau, Health Resources and Services Administration, at the contact information cited above.

SUPPLEMENTARY INFORMATION:

Background and General Questions

The first successful hand transplant in the United States was performed in 1999. Worldwide there have been over two dozen limb transplants, at least two transplants of portions of the face, and a small number of transplants of other such anatomical parts (e.g., abdominal wall, vascularized skeletal muscle, uterus, digits, thymus). Although the body parts involved vary significantly, two characteristics that are shared in such transplants are that they are susceptible to ischemia (damage or death from lack of blood flow) and their need for revascularization, done through a surgical reconnection of blood vessels to accomplish the transplant, as opposed to secondary ingrowth of vessels. In viable vascularized transplants, immunosuppression is necessary to prevent or treat rejection. This immunosuppression has risks, which have been justified in patients needing organs as presently defined in the final rule, because of their lifesaving potential. In the past, the risks of immunosuppression have inhibited transplantation of vascularized composite allografts because the risks associated with the prolonged use of immunosuppressive drugs were thought to exceed the expected benefits of the transplant. However, the powerful impact these transplants can have to overcome and improve the quality of life for individuals with grievous disabilities has become increasingly apparent. Coupled with this, immunosuppressive management for these transplants has improved so that risks associated with immunosuppression, such as cancer, infection, or other morbidities in recipients are lessened considerably. For these reasons, it is likely that the numbers of vascularized composite allografts transplanted will increase in the future. Given this anticipated increase, HRSA is considering the advisability of proposing that such transplants (i.e., transplants of vascularized composite allografts) be regulated under the final rule and governed by section 301 of NOTA.

HRSA is considering whether to propose that viable vascularized composite allografts, or body segments, be considered organs subject to the oversight of the OPTN under the authority of the final rule. This might be accomplished by adding vascularized composite allografts to the final rule's definition of organs through rulemaking. Currently, the final rule defines covered organs as ''a human kidney, liver, heart, lung, or pancreas, or intestine (including the esophagus, stomach, small and/or large intestine, or any portion of the gastrointestinal tract). Blood vessels recovered from an organ donor during the recovery of such organ(s) are considered part of an organ with which they are procured for purposes of this part if the vessels are intended for use in organ transplantation and labeled 'For use in organ transplantation only.' '' Once a body part is considered an organ under the final rule, transplants involving such organs are subject to the requirements of the final rule. For example, entities performing transplants with the organs must receive designation as an organ-specific designated transplant program within an OPTN member institution. In addition, OPTN members must comply with the final rule's data submission requirements with respect to the transplants performed. In addition, OPTN members are subject to oversight by the OPTN contractor for compliance with OPTN policies regarding donor screening and allocation, and may be subject to enforcement actions for violations of such policies.

The Definition of Organs Under the Final Rule

HRSA is seeking feedback from stakeholders and from the public about the advisability of exploring rulemaking to include vascularized composite allografts within this definition of organs, as well as the potential ramifications of such a change. If, upon consideration of public comments, HRSA is persuaded that such a change may be warranted, HRSA may initiate rulemaking setting forth a more specific set of proposals.

For example, HRSA is interested in the public's assessment of the likely impact if OPTN policies concerning issues such as membership designation to receive organs, the retrieval of organs, allocation of organs, data collection and reporting, and OPTN policy compliance oversight were extended to vascularized composite allograft transplants. HRSA seeks feedback concerning whether regulation under the OPTN final rule would be effective in addressing special safety and allocation issues presented by vascularized composite allograft transplants as the field grows. Further, HRSA is interested in the public's assessment as to whether the clinical aspects of transplants of such vascularized composite allografts are more analogous to transplants of organs, as defined currently by the final rule, than to conventional tissue transplantation without surgical revascularization.

Presently, it is HRSA's understanding that these transplants of vascularized composite allografts are done by individual arrangements with local organ procurement organizations (OPOs) to allow retrieval of the needed structure during routine deceased donor organ retrievals. However, some of these vascularized composite allografts, e.g., testes, ovaries, or other endocrine glands, may come from living donors. HRSA is interested in perceived vulnerabilities concerning the current regulatory status of such transplants and the potential benefits of subjecting such transplants to the oversight of the OPTN and HRSA under the final rule.

The Definition of Human Organs Under Section 301 of NOTA

HRSA is also seeking feedback as to whether it should explore rulemaking to add vascularized composite allografts to the definition of human organs covered by section 301 of NOTA, as well as the potential consequences of such an action. Section 301 prohibits the purchase, sale, or other exchange for valuable consideration of human organs for transplantation. Although the statute lists covered human organs, the Secretary is authorized to add to this list through rulemaking. ''Human organ,'' as defined by NOTA and modified by the Secretary, means ''the human (including fetal) kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, skin, and intestine, including the esophagus, stomach, small and/or large intestine, or any portion of the gastrointestinal tract.'' Adding to the definition of human organs covered by section 301 would make transfers of organs meeting the statute's requirements subject to its criminal sanctions. If, after receiving public comments, HRSA is persuaded that a change to this definition may be appropriate, HRSA may initiate rulemaking setting forth a more specific set of proposals.

Defining Vascularized Composite Allografts

To assist the Secretary in the event that he proposes, through rulemaking, to add vascularized composite allografts to the definition of organs covered by the final rule and/or to the definition of human organs governed by section 301 of NOTA, HRSA seeks feedback from stakeholders and from the public as to how such allografts should be defined. HRSA has identified two potential approaches.

Under the first approach, a regulatory definition could be broad, describing the features of the allografts without listing particular body parts. Under such an approach, the definition might extend to transplants of body parts that are not known to have been performed clinically to date, or even to body parts whose transplantation has not yet been envisioned. HRSA is interested in what elements would need to be included in such a definition in order to be broad enough to cover the universe of intended body parts, but narrow enough to put the public on notice as to which parts meet the regulatory definitions of organs. Shared characteristics that might be included in a regulatory definition could include some or all of the following: (1) A vascularized allograft containing multiple tissue types; (2) recovered from a human donor as an anatomical/structural unit; (3) transplanted into a human recipient as an anatomical/structural unit; (4) minimally manipulated, as defined by FDA in Title 21 CFR 1271.3(f); (5) for homologous use as defined by FDA in Title 21 CFR 1271.3(c); (6) not combined with another article such as a device; (7) used fresh and not cryopreserved; (8) susceptible to ischemia and, therefore, only stored temporarily (e.g., cold storage in preservation medium and intended for implantation into a recipient within hours of the recovery); and (9) susceptible to allograft rejection which requires immunosuppression that may increase infectious disease risk to the recipient. HRSA seeks feedback from the public as to whether some or all of these characteristics describe vascularized composite allografts, which would be included in the definition of organ. HRSA invites feedback on such an approach as well as the particular characteristics listed here and invites suggestions concerning the advisability of including any additional characteristics.

Under a second alternative, HRSA could propose a definition that lists specific body parts to be added to the definition of organs (e.g., face, hand, etc.). HRSA seeks feedback as to the feasibility of creating such a definition, which body parts should be included in such a definition, and whether such a definition would necessarily exclude certain body parts for which transplantation might be possible, but has not been performed to date (either in the United States or internationally).

Following this comment period and meeting, if HRSA decides to proceed with rulemaking to include vascularized composite allografts in the definition of organ, this decision will be written and published as a Notice of Proposed Rulemaking.

Dated: February 20, 2008.

Elizabeth M. Duke,

Administrator.

[FR Doc. E8–3994 Filed 2–29–08; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 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 Cancer Institute Special Emphasis Panel, Innovations in Cancer Sample Preparation.

Date: March 20, 2008.

Time: 8 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Sherwood Githens, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116

Executive Blvd., Room 8053, Bethesda, MD 20892, 301/435–1822, *githenss@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Antibody Array for Cancer Detection.

Date: March 26–27, 2008.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Sherwood Githens, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8053, Bethesda, MD 20892, 301/435–1822, *githenss@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Cancer Stem Cells.

Date: March 27, 2008.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Irina Gordienko, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 7073, Bethesda, MD 20892, 301–594–1566, *gordienkoiv@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Portable Energy Balance Review Panel (PEBRP).

Date: April 2, 2008.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: C. Michael Kerwin, PhD, MPH, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Rm. 8057, Bethesda, MD 20892–8329, 301–496–7421, *kerwinm@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, A web-based tailored health behavior intervention for African American colon cancer.

Date: April 2, 2008.

Open: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: C. Michael Kerwin, PhD, MPH, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Rm. 8057, Bethesda, MD 20892–8329, 301–496–7421, *kerwinm@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Development of Clinical Mass Spectrometric Immunoassays.

Date: April 3, 2008.

Time: 11 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, CR 6008, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Sherwood Githens, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8053, Bethesda, MD 20892, 301/435–1822, *githenss@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Network for Translational Research: Optical Imaging (NTROI).

Date: June 2–3, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC North—Gaithersburg, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Kenneth L. Bielat, PhD, Scientific Review Officer, Special Review Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7147, Bethesda, MD 20892–8329, 301–496–7576, *bielatk@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Cancer Prevention Research.

Date: June 17–18, 2008.

Time: 7 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance M Street Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Irina Gordienko, PhD, Scientific Review Officer, Scientific Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6166 Executive Blvd., Rm. 7073, Bethesda, MD 20892, 301–594–1566, *gordienkoiv@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: February 21, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–906 Filed 2–29–08: 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, April 7, 2008, 8 a.m. to April 7, 5 p.m., Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD, 20877 which was published in the **Federal Register** on February 15, 2008, 73FR8886–8887.

This notice is amended to change the name from ''Biosensors for Early Cancer Detection & Risk Assessment/Novel & Improved Methods to Measure Cancer Epigenetic Biomarkers'' to ''Biosensors/Cancer Epigenetic Biomarkers''. The meeting is closed to the public.

Dated: February 25, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–908 Filed 2–29–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closing Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as mended (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 section 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel, NEI Cooperative Agreement Review.

Date: March 6, 2008.

Time: 9 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Houmam H. Araj, PHD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, NIH, 5635 Fishers Lane, Suite 1300, Bethesda, MD 20892–9602, 301–451–2020, *Haraj@mail.nih.gov.*

This notice is being published less than 15 days prior to the meetings due to the timing limitations impose by the review and funding cycle.

Name of Committee: National Eye Institute Special Emphasis Panel, NEI Cooperative Agreement Review.

Date: March 20, 2008.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health/NEI, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anne E. Schaffner PHD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, NIH, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, 301–451–2020, *aes@nei.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Visions Research, National Institutes of Health, HHS)

Dated: February 25, 2008.

Jennifer Spaeth.

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–903 Filed 2–29–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute On Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute On Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: March 28, 2008.

Open: 8 a.m. to 8:30 a.m.

Agenda: Other.

Place: National Institutes of Health, 5 Research Court, 2A08, Rockville, MD 20852.

Closed: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 5 Research Court, 2A08, Rockville, MD 20852.

Contact Person: Robert J. Wenthold, PhD, Director, Division of Intramural Research, National Institute On Deafness and Other Communication Disorders, 5 Research Court, Room 2B28, Rockville, MD 20852, 301–402–2829.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: February 25, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–901 Filed 2–29–08: 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel, The Research Core Center Review.

Date: March 25, 2008.

Time: 1:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Christine A. Livingston, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Health/NIDCD, 6120 Executive Blvd.—MSC 7180, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel, Loan Repayment Program.

Date: May 1, 2008.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Stanley C. Oaks, PhD, Scientific Review Administrator, Division of Extramural Activities, NIDCD, NIH, Executive Plaza South, Room 400C, 6120 Executive Blvd.—MSC 7180, Bethesda, MD 20892–7180, (301) 496–8683, *so14s@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communication Disorders, National Institutes of Health, HHS)

Dated: February 25, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–902 Filed 2–29–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Muscular Dystrophy Cooperative Research Centers.

Date: March 20–21, 2008.

Time: 7 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Kan Ma, PhD, Scientific Review Administrator, NIH/NIAMS, EP Review Branch, One Democracy Plaza, Suite 800, Bethesda, MD 20892–4872, 301–594–4952, *mak2@mail.NIH.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Small Research Grants Review.

Date: March 25, 2008.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Eric H. Brown, PhD, Scientific Review Officer, National Institute of Arthritis and Musculoskeletal Skin Diseases, National Institutes of Health, 6701 Democracy Blvd, Room 824, MSC 4872, Bethesda, MD 20892–4874, (301) 594–4955, *browneri@mail.nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Vascular Diseases Clinical Trial.

Date: April 3, 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 (Telephone Conference Call).

Contact Person: Charles H. Washabaugh, PhD, Scientific Review Administrator, Review Branch, NIAMS/NIH, 6701 Democracy Blvd, Room 816, Bethesda, MD 20892, 301 451–4838, *washabac@mail.nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Musculoskeletal Diseases Clinical Trial Planning Grant.

Date: April 4, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference call).

Contact Person: Eric H. Brown, PhD, Scientific Review Officer, National Institute of Arthritis and Musculoskeletal Skin Diseases, National Institutes of Health, 6701 Democracy Blvd, Room 824, MSC 4872, Bethesda, MD 20892–4874, (301) 594–4955, *browneri@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: February 25, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–905 Filed 2–29–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute On Aging; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Aging Special Emphasis Panel, March 10, 2008, 7 a.m. to March 11, 2008, 5 p.m., Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817 which was published in the **Federal Register** on February 4, 2008, 73 FR 6519.

Meeting will begin at 6 p.m. on March 10, 2008. The meeting is closed to the public.

Dated: February 21, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–907 Filed 2–29–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; Services in Non-Specialty Setting.

Date: March 11, 2008.

Time: 2 p.m. to 4 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: Aileen Schulte, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–1225, *aschulte@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 25, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–909 Filed 2–29–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Hematology Small Business.

Date: March 13–14, 2008.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Delia Tang, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, 301–435–2506, *tangd@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Drug Discovery.

Date: March 18, 2008.

Time: 1:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marian Wachtel, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3208, MSC 7858, Bethesda, MD 20892, 301–435–1148, *wachtelm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Immunology Member Conflicts: Leukocytes, Lymphocytes, and Inflammation.

Date: March 18, 2008.

Time: 1:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Stephen M. Niqida, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892, 301–435–1222, *niqidas.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Endocrinology, Metabolism and Reproductive Sciences.

Date: March 20, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Legacy Hotel and Meeting Centre, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Krish Krishnan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Special Emphasis Panel for Member Conflict.

Date: March 24, 2008.

Time: 11:30 a.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: Jose H. Guerrier, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, (301) 435–1137, *guerriej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, NAED Reviewer Conflicts.

Date: March 26–27, 2008.

Time: 8 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Eduardo A. Montalvo, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5212, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Lymphangiogenesis.

Date: March 31, 2008.

Time: 1:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Larry Pinkus, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkus@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, AMCB, ADDT, ACE and AIP Reviewer Conflicts.

Date: April 2–3, 2008.

Time: 8 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Eduardo A. Montalvo, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5212, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR 301–368: MLPCN U02 Review Meeting.

Date: April 3–4, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Washington, DC, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: Joseph G. Rudolph, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7844, Bethesda, MD 20892, (301) 435–2212, *josephru@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.392–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

February 25, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–904 Filed 2–29–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1745–DR]

Tennessee; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Tennessee (FEMA–1745–DR), dated February 7, 2008, and related determinations.

EFFECTIVE DATE: February 7, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 7, 2008, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Tennessee resulting from severe storms, tornadoes, straight-line winds, and flooding during the period of February 5–6, 2008, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Tennessee.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments (PDAs), unless you determine that the incident is of such unusual severity and magnitude that PDAs are not required to determine the need for supplemental Federal assistance pursuant to 44 CFR 206.33(d).

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent

for the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Gracia B. Szczech, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Tennessee to have been affected adversely by this declared major disaster:

Hardin, Macon, Madison, Shelby, and Sumner Counties for Individual Assistance and debris removal and emergency protective measures (Categories A and B) under the Public Assistance program.

All counties within the State of Tennessee are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–3966 Filed 2–29–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1744–DR]

Arkansas; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas (FEMA–1744–DR), dated February 7, 2008, and related determinations.

EFFECTIVE DATE: February 12, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective February 12, 2008.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs, 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–3961 Filed 2–29–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1744–DR]

Arkansas; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA–1744–DR), dated February 7, 2008, and related determinations.

EFFECTIVE DATE: February 20, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Arkansas is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 7, 2008.

Marion County for Individual Assistance and Public Assistance.

Union County for Individual Assistance (already designated for debris removal and emergency protective measures [Categories A and B], including direct Federal assistance, under Public Assistance program.)

Newton County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–3965 Filed 2–29–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1744–DR]

Arkansas; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA–1744–DR), dated February 7, 2008, and related determinations.

EFFECTIVE DATE: February 12, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Arkansas is hereby amended to

include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 7, 2008.

Baxter, Conway, Izard, Pope, Randolph, Sharp, Stone, and Van Buren Counties for Public Assistance Categories C–G (already designated for Individual Assistance and debris removal and emergency protective measures [Categories A and B], including direct Federal assistance, under the Public Assistance program.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs, 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–3968 Filed 2–29–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1745–DR]

Tennessee; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Tennessee (FEMA–1745–DR), dated February 7, 2008, and related determinations.

EFFECTIVE DATE: February 12, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Tennessee is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 7, 2008.

Benton, Hickman, Houston, Lewis, Montgomery, Perry, Trousdale, and Williamson Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs, 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–3967 Filed 2–29–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1740–DR]

Indiana; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Indiana (FEMA–1740–DR), dated January 30, 2008, and related determinations.

EFFECTIVE DATE: February 21, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Indiana is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 30, 2008.

Allen, Benton, DeKalb, Huntington, Kosciusko, Lake, LaPorte, Newton, Noble, St. Joseph, Starke, and Whitley Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs, 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–3956 Filed 2–29–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1746–DR]

Kentucky; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–1746–DR), dated February 21, 2008, and related determinations.

EFFECTIVE DATE: February 21, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 21, 2008, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky resulting from severe storms, tornadoes, straight-line winds, and flooding during the period of February 5–6, 2008, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare

that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the Commonwealth, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program also will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael Bolch, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

The following areas of the Commonwealth of Kentucky have been designated as adversely affected by this declared major disaster:

Allen, Christian, Fayette, Hardin, Hart, Meade, Mercer, Monroe, and Muhlenberg Counties for Individual Assistance.

All counties within the Commonwealth of Kentucky are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs, 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–3958 Filed 2–29–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1745–DR]

Tennessee; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Tennessee (FEMA–1745–DR), dated February 7, 2008, and related determinations.

EFFECTIVE DATE: February 20, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Tennessee is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 7, 2008.

Fayette County for Individual Assistance and Public Assistance.

Hardin, Macon, Madison, Shelby, and Sumner Counties for Public Assistance Categories C–G (already designated for Individual Assistance and debris removal and emergency protective measures [Categories A and B] under the Public Assistance program.)

Benton, Hickman, Houston, Lewis, Perry, Trousdale, and Williamson Counties for Public Assistance (already designated for Individual Assistance.)

Haywood and McNairy Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs, 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–3957 Filed 2–29–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form I–243, Application for Removal; OMB Control No. 1615–0019.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until May 2, 2008.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to (202) 272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please make sure to add OMB Control Number 1615–0019 in the subject box.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

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

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

Overview of This Information Collection

(1) Type of Information Collection: Extension of a currently approved information collection.

(2) Title of the Form/Collection: Application for Removal.

(3) Agency form number, if any, and the applicable Department of Homeland Security component sponsoring the collection: Form I–243. U.S. Citizenship and Immigration Services.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: *Primary:* Individuals and households. The information provided on this form allows the USCIS to determine eligibility for an applicant's request for removal from the United States.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 41 responses at 30 minutes (.50 hours) per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 20 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit the USCIS Web site at: *http://www.regulations.gov/.*

We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, Telephone number 202–272–8377.

Dated: February 27, 2008.

Stephen Tarragon,

Deputy Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–4032 Filed 2–29–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S Citizenship and Immigration Services

Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form N–4, Monthly Report Naturalization Papers; OMB Control No. 1615–0051.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until May 2, 2008.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to (202) 272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please make sure to add OMB Control Number 1615–0051 in the subject box.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

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

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

Overview of This Information Collection

(1) Type of Information Collection: Extension of an existing information collection.

(2) Title of the Form/Collection: Monthly Report Naturalization Papers.

(3) Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection: Form N–4; U.S. Citizenship and Immigration Services.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: *Primary:* State or local Governments. Section 339 of the Immigration and Nationality Act (Act) requires that the clerk of each court that administers the oath of allegiance notify U.S. Citizenship and Immigration Services (USCIS) of all persons to whom the oath of allegiance for naturalization is administered, within 30 days after the close of the month in which the oath was administered. This form provides a format for submitting a list of those persons to USCIS and provides accountability for the delivery of the certificates of naturalization as required under that section of law.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 160 respondents at 12 responses annually at 30 minutes (.50) per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 960 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit the USCIS Web site at: *http://www.regulations.gov/.* We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, Telephone number 202–272–8377.

Dated: February 27, 2008.

Stephen Tarragon,

Deputy Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–4033 Filed 2–29–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form N–300, Application to File Declaration of Intention; OMB Control No. 1615–0078.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until May 2, 2008.

Written comments and suggestions regarding the item(s) contained in this notice, and especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via e-mail at *rfs.regs@dhs.gov*. When submitting comments by e-mail please add the OMB Control Number 1615–0078 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

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

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

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

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

Overview of This Information Collection

(1) Type of Information Collection: Extension of a currently approved information collection.

(2) Title of the Form/Collection: Application to File Declaration of Intention.

(3) Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection: Form N–300. U.S. Citizenship and Immigration Services.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: *Primary:* Individuals or Households. This form will be used by permanent residents to file a declaration of intention to become a citizen of the United States. This collection is also used to satisfy documentary requirements for those seeking to work in certain occupations or professions, or to obtain various licenses.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 433 responses at 45 minutes (.75 hours) per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 325 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit the USCIS Web site at: *http://www.regulations.gov/*.

We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, Telephone number 202–272–8377.

Dated: February 27, 2008.

Stephen Tarragon,

Deputy Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–4034 Filed 2–29–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability, Draft Restoration Plan and Environmental Action Statement

AGENCY: Fish and Wildlife Service, Interior.

SUMMARY: The U.S. Fish and Wildlife Service (Service), on behalf of the Department of the Interior (DOI), as the natural resource trustee, announces the release for public review of the Draft Natural Resource Damage Restoration Plan and Environmental Action Statement (RP/EAS) for the Lakepoint Wetlands Site in Tooele County, Utah. The Draft RP/EAS presents a preferred alternative that compensates for impacts to natural resources caused by the release of hazardous substances from the Kennecott Utah Copper Corporation (KUCC) North Zone Wetlands National Priorities List Superfund Site.

DATES: Written comments must be submitted on or before April 2, 2008.

ADDRESSES: Copies of the RP/EAS are available for review during office hours at U.S. Fish and Wildlife Service, Utah Ecological Services Field Office, 2369 West Orton Circle, Suite 50, West Valley City, Utah 84119, and online at *http://mountain-prairie.fws.gov/nrda/LakepointWetlands.* Requests for copies of the RP/EAS may be made to the same address. Interested members of the public are invited to review and comment on the RP/EAS. Written comments will be considered and addressed in the final RP/EAS at the conclusion of the 30-day public comment period. Written comments or materials regarding the RP/EAS should be sent to the Utah Ecological Services Field Office at the address given above.

FOR FURTHER INFORMATION CONTACT: Chris Cline, U.S. Fish and Wildlife Service, Utah Ecological Services Field Office, 2369 West Orton Circle, Suite 50, West Valley City, Utah 84119. Interested parties also may call 801–975–3330 or e-mail *Chris_Cline@fws.gov* for further information.

SUPPLEMENTARY INFORMATION:

Background

In December 2007, the DOI, acting as natural resource Trustee, reached a natural resource damages settlement for natural resource injuries associated with the discharge of hazardous substances at KUCC's North Zone Wetlands National Priorities List site, located on the south shore of the Great Salt Lake in Salt Lake County, Utah. The discharge of hazardous substances and the remedial activities injured Service trust resources (migratory birds). The terms of the natural resource damages settlement compensate for injuries at the North Zone Wetlands site by directing the restoration of comparable natural resources at the Lakepoint Wetlands Site in Tooele County, Utah.

The RP/EAS is being released in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended, commonly known as Superfund, (42 U.S.C. 9601 et seq.), the Natural Resource Damage Assessment Regulations found at 43 CFR, part 11,

and the National Environmental Policy Act. It is intended to describe and evaluate the Trustee's proposal to restore natural resources injured by the release of hazardous materials at the North Zone Wetlands National Priorities List Site.

The RP/EAS describes a habitat restoration alternative agreed to in the natural resource damages settlement between KUCC and the Trustee, based on evaluation of several restoration alternatives. The preferred alternative consists of the restoration of a total of 249 hectares (616 acres) of land at the Lakepoint Wetland site through acquisition and preservation into perpetuity of land and water rights, habitat and waterway improvement, and other actions described within the RP/EAS. These actions will compensate for injuries to natural resources, including migratory birds, and migratory bird habitat.

Author

The primary author of this notice is Chris Cline, U.S. Fish and Wildlife Service, Utah Ecological Services Field Office, 2369 West Orton Circle, Suite 50, West Valley City, Utah 84119.

Authority

The authority for this action is the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended, commonly known as Superfund, (42 U.S.C. 9601 *et seq.*), and the Natural Resource Damage Assessment Regulations found at 43 CFR part 11.

Dated: December 21, 2007.

Gary G. Mowad,

Acting Deputy Regional Director, Denver, Colorado.

[FR Doc. E8–3987 Filed 2–29–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–1310PP–ARAC]

Notice of Public Meeting, BLM-Alaska Resource Advisory Council

AGENCY: Bureau of Land Management, Alaska State Office, Interior.

ACTION: Notice of public meeting.

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) Alaska Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held March 25–26, 2008, at the Campbell Creek Science Center, located at BLM Campbell Tract, 6865 Elmore Road, Anchorage, Alaska. On March 25, the meeting starts at 1 p.m. On March 26, the meeting begins at 8:30 a.m., and the council will accept public comment from 1–2 p.m.

FOR FURTHER INFORMATION CONTACT: Sharon Wilson, BLM-Alaska State Office, 222 W. 7th Avenue #13, Anchorage, AK 99513. Telephone (907) 271–4418 or e-mail *Sharon_Wilson@blm.gov*.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Alaska. At this meeting, topics planned for discussion include:

- BLM District updates and resource management planning;
- Alaska land conveyance updates;
- Public health concerns as a component in planning documents;
- Reindeer grazing research;
- Preparing for 2008 fire season;
- Integrated pest management program along the Dalton Highway.

All meetings are open to the public. Depending on the number of people wishing to comment and time available, the time for individual oral comments may be limited, so be prepared to submit written comments if necessary. 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.

Individuals who plan to attend and need special assistance, such as sign language interpretation, transportation, or other reasonable accommodations, should contact BLM.

Dated: February 26, 2008.

Vincent Galterio,

Acting State Director.

[FR Doc. E8–3985 Filed 2–29–08; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–340–08–1430–FR 241A, IDI–32610–01, IDI–32611–01, and IDI–33660–01]

Notice of Realty Action: Recreation and Public Purposes (R&PP) Act Classification of Public Lands for Conveyance to Lemhi County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) has examined three parcels of public land, approximately 49.79 acres in Lemhi County, Idaho and has determined them to be suitable for classification for conveyance to Lemhi County Commission under the provisions of the Recreation and Public Purposes (R&PP) Act (43 U.S.C. 869, *et seq.*), as amended.

DATES: Comments regarding the proposed conveyance will be accepted until April 17, 2008.

ADDRESSES: Address all written comments concerning this Notice to Steven Hartmann, BLM Salmon Field Manager, 1206 South Challis Street, Idaho 83467.

FOR FURTHER INFORMATION CONTACT: Gloria Jakovac, Realty Specialist, at the above address or (208) 756–5421.

SUPPLEMENTARY INFORMATION: The following described public land in Lemhi County, Idaho, has been examined and found suitable for conveyance to the Lemhi County Commission under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*):

Boise Meridian, Idaho

T.15 N., R. 22 E.,
  Section 32, lot 2.
T. 21 N., R. 22 E.,
  Section 28, S½SE¼SE¼;
  Section 33, NE¼NE¼NE¼,
    N½NW¼NE¼NE¼,
    SE¼NW¼NE¼NE¼.
T. 21 N., R. 23 E.,
  Section 34, lot 7.

The land described above contains approximately 49.79 acres in Lemhi County. The Lemhi County Commission proposes to continue the existing use of the parcels to meet the public needs of the Salmon area. Two of the parcels identified above have been used by Lemhi County since 1994 for the purposes of satellite dumpster sites to gather residential refuse and then transfer it to the Lemhi County Landfill located near Salmon, Idaho. The third site is authorized to Lemhi County for the purposes of a public rifle range and has been used for such purposes since 1993. All three sites were constructed and are maintained by Lemhi County or their assigned community board.

All three parcels located in Lemhi County, Idaho have been examined and found suitable for classification for conveyance under the provisions of the R&PP Act, as amended (43 U.S.C. 869 *et seq.*) and is hereby classified accordingly. It has been determined that conveyance of the three parcels to Lemhi County for recreational and public purposes use is consistent with the Lemhi Resource Management Plan dated 1987, as amended, and the Challis Resource Management Plan dated 1999. It has been determined that the lands are not needed for any Federal purpose and existing resource values will not be affected by the disposal of the parcels of public land. Upon publication of this notice in the **Federal Register**, the lands described above will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act, and leasing under the mineral leasing laws.

The conveyance, when issued for each parcel, will be subject to the provisions of the R&PP Act and applicable regulation of the Secretary of the Interior, and will be subject to the following terms, conditions, and reservations:

1. A reservation of a right-of-way thereon for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe, including all necessary access and exit rights.

3. The conveyance will be subject to valid existing rights of record, including, but not limited to, those documented on the BLM public land records at the time of conveyance of the lands.

4. These parcels are subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liabilities Act, 42 U.S.C. 9620(h) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1988, Sat. 1670. The patentee, its successors or assigns, by accepting a patent, agrees to indemnify, defend, and hold harmless the United States, its officers, agents, representatives, and employees (hereinafter ''United States'') from any costs, damages, claims, causes of action in connection with the patentee's use, occupancy, or operations on the patented real property. This agreement includes, but is not limited to, acts or omissions of the patentee and its employees, agents, contractors, lessees, or any third party arising out of, or in connection with, the patentee's use, occupancy, or operations on the patented real property which cause or give rise to, in whole or in part: (1) Violations of Federal, state, and local laws and regulations that are now, or may in the future become, applicable to the real property and/or applicable to the use, occupancy, and/or operations thereon; (2) Judgments, claims, or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), pollutant(s), or contaminants(s), and/or petroleum product(s) or derivative(s) of a petroleum product, as defined by Federal or state environmental laws; of, on, into, or under land, property, and other interests of the United States; (5) other activities by which solid or hazardous substance(s) or waste(s), pollutant(s) or contaminant(s), or petroleum product(s) or derivative(s) of a petroleum product as defined by Federal or state environmental laws are generated, stored, used, or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to the said solid or hazardous substance(s) or waste(s) or contaminant(s), or petroleum product(s) or derivative(s) of a petroleum product as defined by Federal or state laws. Patentee shall stipulate that it will be solely responsible for compliance with all applicable Federal, state, and local environmental laws and regulatory provisions, throughout the life of the facility, including any closure and/or post-closure requirements that may be imposed with respect to any physical plant and or facility upon the real property under any Federal, state, or local environmental laws or regulatory provisions. In the case of a patent being issued, this covenant shall be construed as running with patented real property and may be enforced by the United States in a court of competent jurisdiction.

Terms, conditions, and reservations specific to each parcel as follows will also be included in the conveyance document:

IDI–33660—Pahsimeroi Dumpster Site

1. IDI–20154—Those rights held by Lemhi County, its successors or assigns, for an existing road exercised under RS2477 and noted under BLM Serial Number IDI–20154.

2. IDI–6611—Those rights held by Idaho Department of Transportation, its successors or assigns, for an existing road right-of-way, 200 feet wide.

IDI–32611—Baker Dumpster Site

1. IDI–20154—Those rights held by Lemhi County, its successors or assigns, for an existing road exercised under RS2477 and noted under BLM Serial Number IDI–20154.

2. IDI–35820—Those rights held by Century Telephone Inc. for a buried telephone line right-of-way.

Continued use of the land by valid right-of-way holders is proper subject to the terms and conditions of the grant.

Classification Comments: Interested parties may submit comments involving the suitability of the lands for the purposes described above. Comments on the classification are restricted:

(1) Whether the land is physically suited for the proposal;

(2) whether the use will maximize the future use or uses of the land;

(3) whether the use is consistent with local planning and zoning; and

(4) if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a dumpster site or public rifle range as previously described. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, 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. Any adverse comments will be reviewed by the BLM, Idaho State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the classification will become effective on May 2, 2008. The lands will not be offered for conveyance until after the classification becomes effective.

Authority: 43 Code of Federal Regulations (CFR) 2741.

Joe J. Kraayenbrink,

District Manager, Idaho Falls District.

[FR Doc. E8–3988 Filed 2–29–08; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice; Correction

AGENCY: National Park Service, Interior.

SUMMARY: The National Park Service published a document in the **Federal Register** of January 28, 2008, concerning meetings for the NPS Subsistence Resource Commission (SRC) program within the Alaska Region. The notice was incomplete. This notice corrects omissions from the January 28, 2008 notice.

FOR FURTHER INFORMATION CONTACT: Clarence Summers, (907) 644–3603.

Correction

In the **Federal Register** of January 28, 2008, in FR Doc. 08–336, on page 4916, in the first column, between the first and second ''**DATES**'' captions, insert the following:

Lake Clark National Park SRC Meeting

Date: The Lake Clark National Park SRC meeting will be held on Tuesday, February 12, 2008, from 1 p.m. to 5 p.m., Alaska Standard Time.

Location: Lake Clark National Park and Preserve Visitor Center, Port Alsworth, AK.

FOR FURTHER INFORMATION CONTACT: Mary McBurney, Subsistence Manager, telephone: (907) 235–7891, or Joel Hard, Superintendent, and Michelle Ravenmoon, Subsistence Coordinator, telephone: (907) 781–2218, at Lake Clark National Park and Preserve, 1 Park Place, Port Alsworth, AK 99653.

Denali National Park SRC Meeting

Date: The Denali National Park SRC meeting will be held on Monday, March 31, 2008, from 9 a.m. to 5 p.m., Alaska Standard Time.

Location: Cantwell Community Center in Cantwell, AK.

FOR FURTHER INFORMATION CONTACT: Amy Craver, Subsistence Manager, telephone: (907) 683–9544, or Philip Hooge, Assistant Superintendent, telephone: (907) 683–9581, at Denali National Park and Preserve, P.O. Box 9, Denali Park, AK 99755.

Aniakchak National Monument SRC Meeting

Date: The Aniakchak National Monument SRC meeting will be held on Wednesday, March 12, 2008, from 1 p.m. to 5 p.m., Alaska Standard Time.

Location: Chignik Lake Subsistence Building, Chignik Lake, AK.

FOR FURTHER INFORMATION CONTACT: Mary McBurney, Subsistence Manager, telephone: (907) 235–7891, or Ralph Moore, Superintendent, telephone: (907) 246–3305, at Aniakchak National Monument and Preserve, P.O. Box 7, King Salmon, AK 99613.

Cape Krusenstern National Monument SRC Meeting

Date: The Cape Krusenstern National Monument SRC meeting will be held on Thursday, April 3, 2008, from 9 a.m. to 5 p.m., Alaska Standard Time.

Location: U.S. Fish and Wildlife Service Office, Conference Room, Kotzebue, AK.

FOR FURTHER INFORMATION CONTACT: Ken Adkisson, Subsistence Manager, telephone (907) 443–2522, or Willie Goodwin, Subsistence Manager, and George Helfrich, Superintendent, telephone: (907) 442–3890, at Western Arctic Parklands, P.O. Box 1029, Kotzebue, AK 99752.

Kobuk Valley National Park SRC Meeting

Date: The Kobuk Valley National Park SRC will be held on Friday, April 4, 2008, from 9 a.m. to 5 p.m., Alaska Standard Time.

Location: U.S. Fish and Wildlife Service Office, Conference Room, Kotzebue, AK.

FOR FURTHER INFORMATION CONTACT: Ken Adkisson, Subsistence Manager, telephone (907) 443–2522, or Willie Goodwin, Subsistence Manager, and George Helfrich, Superintendent, telephone: (907)442–3890, at Western Arctic Parklands, P.O. Box 1029, Kotzebue, AK 99752.

Dated: February 25, 2008.

Judith C Gottlieb,

Associate Regional Director, Subsistence and Partnerships.

[FR Doc. E8–4041 Filed 2–29–08; 8:45 am]

BILLING CODE 4312–64–P

DEPARTMENT OF THE INTERIOR

National Park Service

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 February 16, 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 March 18, 2008.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

CALIFORNIA

Los Angeles County

Holmes—Shannon House, 4311 Victoria Park Dr., Los Angeles, 08000202.

San Luis Obispo County

Ah Louis Store, 800 Palm St., San Luis Opispo, 08000203.

COLORADO

Conejos County

McIntire Ranch, Approx. 1.5 mi. N. of Co. Rd. V, Sanford, 08000204.

FLORIDA

Lee County

Gasparilla Inn Historic District, 500 Palm Ave., Boca Grande, 08000205.

HAWAII

Honolulu County

Hibiscus Place, 2954 & 2956 Hibiscus Pl., Honolulu, 08000206.

Liljestrand House, 3300 Tantalus Dr., Honolulu, 08000207.

KENTUCKY

Boone County

Green, M.B., Site, Address Restricted, Petersburg, 08000208.

Bourbon County

Johnston's Inn, 1975 Georgetown Rd., Paris, 08000209.

Kenton County

Feltman Mound, Address Restricted, Taylor Mill, 08000210.

Park Hills Historic District, (Historic Residential Suburbs in the United States, 1830–1960 MPS) Roughly bounded by Dixie Hwy., Montague, Breckenridge, Sleepy Hollow, Old State & Arington Rds. & St. James Ave., Park Hills, 08000211.

Ohio County

Dundee Masonic Lodge No. 733, 11640 KY 69 N., Dundee, 08000213.

Oldham County

Ashbourne Farms, 3800 Old Westport Rd., LaGrange, 08000212.

Warren County

Rose-Daughtry Farmstead, 6487 Louisville Rd., Bristow, 08000214.

Wayne County

Fairchild House, 302 S. Main St., Monticello, 08000215.

MARYLAND

Dorchester County

Handsell, 4835 Vienna Rhodesdale Rd., Vienna, 08000216.

Howard County

Richland Farm, 4730 Sheppard Ln., Clarksville, 08000217.

MICHIGAN

Calhoun County

Central National Tower, 70 W. Michigan Ave., Battle Creek, 08000218.

Genesee County

Berridge Hotel, 421 Garland St., Flint, 08000219.

Tinlinn Apartments, 413 Garland St., Flint, 08000220.

Houghton County

Smith-Dengler House, 58555 U.S. 41 (Calumet Township), Wolverine, 08000221.

Leelanau County

Empire School, 10017 W. Front St., Empire, 08000222.

Oakland County

Endicott, John & Mary Elizabeth Booth, House, 290 Chesterfield, Bloomfield Hills, 08000223.

Ottawa County

Hudsonville Christian School, 5692 School Ave., Hudsonville, 08000224.

Wayne County

Woodbridge Neighborhood (Boundary Increase II), SE. corner of Trumbull & Warren, Detroit, 08000225.

MISSOURI

Cape Girardeau County

Ponder, Abraham Russell, House, 141 S. Louisiana Ave., Cape Girardeau, 08000226.

St. Louis County

Clayton Park Addition, 7901–8027 Bennett Ave. & 1221–1282 Laclede Station Rd., Richmond Heights, 08000228.

Hammerman, Harry, House, 219 Graybridge Ln., Ladue, 08000227.

NEVADA

Clark County

Old Spanish Trail—Mormon Road Historic District (Boundary Increase), Near jct. of I 15 & NV 169, Moapa, 08000229.

NEW MEXICO

Colfax County

Original Townsite Historic District, Roughly bounded by Clark & Cimmaron Aves., S. 2nd & S. 7th Sts., Raton, 08000230.

NEW YORK

Jefferson County

East Charity Shoal Light, (Light Stations of the United States MPS) NE. L. Ontario at US-Canada boundary 9.5 mi. SW. of Cape Vincent, Cape Vincent, 08000231.

NORTH DAKOTA

Pembina County

Gunlogson Farmstead Historic Site, 13571 ND 5, Cavalier, 08000232.

Walsh County

District No. 70—Hoff Rural School, Fire No. 6591 123rd Ave. NE. (Norton Township), Adams, 08000233.

RHODE ISLAND

Newport County

Paradise Farm, 583 Third Beach Rd., Middletown, 08000234.

TENNESSEE

Bradley County

Cleveland Southern Railway Depot, 175 Edwards St., Cleveland, 08000235.

Marion County

McNabb Mines, River Canyon Rd. between Tennessee R. miles 438 & 439, Haletown, 08000236.

Robertson County

Bell Witch Cave, 430 Keysburg Rd., Adams, 08000237.

Washington County

Carolina, Clinchfield & Ohio Railroad Station and Depot, 300 Buffalo St., Johnson City, 08000238.

TEXAS

Bexar County

St. Louis Hall at St. Mary's University, 1 Camino Santa Maria, San Antonio, 08000239.

Comal County

Brauntex Theater, 290 W. San Antonio, New Braunfels, 08000240.

McLennan County

Waco Drug Company, 225 S. 5th St., Waco, 08000241.

VIRGINIA

Fredericksburg Independent city

Elmhurst, 2010 Fall Hill Ave., Fredericksburg (Independent City), 08000242.

Henrico County

Edge Hill, Address Restricted, Richmond, 08000243.

Mathews County

James, Thomas, Store, Old, Main & Maple Sts., Mathews Court House, 08000244.

Petersburg Independent city

People's Memorial Cemetery, (African-American Cemeteries in Petersburg, Virginia MPS) 334 S. Crater Rd., Petersburg (Independent City), 08000245.

Prince William County

Buckland Historic District (Boundary Increase), Parts of Buckland Mill & Cerro Gordo Rds., & U.S. 29/15, Gainsville, 08000246.

Evergreen, 15900 Berkeley Dr., Haymarket, 08000247.

WISCONSIN

Brown County

Green Bay Harbor Entrance Light, (Light Stations of the United States MPS) Offshore approx. 3.1 mi. NW. of Port Comfort (Scott Township), Port Comfort, 08000248.

A request for REMOVAL has been made for the following resources:

INDIANA

Floyd County

Yenowine-Nichols-Collins House 5118 IN 64, New Albany, 75000017.

SOUTH DAKOTA

Aurora County

South Dakota Department of Transportation Bridge No. 02–007–220 (Historic Bridges in South Dakota MPS) Local Rd. over Platte City, White Lake vicinity, 99001338.

Brookings County

Beals, William H. and Elizabeth, House 1302 Sixth St., Brookings, 92000685.

South Dakota Department of Transportation Bridge No. 06–131–040 (Historic Bridges in South Dakota MPS) Local Rd. over Big Sioux R., Bruce vicinity, 99001432.

Brown County

South Dakota Department of Transportation Bridge No. 07–091–330 (Historic Bridges in South Dakota MPS) Cty Highway over State of South Dakota RR tracks, Aberdeen vicinity, 00000183.

Butte County

Nisland Bridge (Rural Butte and Meade Counties MRA) S. of Nisland on Section Rd., Nisland vicinity, 86000936.

Olson Bridge (Rural Butte and Meade Counties MRA) NE. of Belle Fourche, Belle Fourche vicinity, 86000924.

Vale Cut off Belle Fourche River Bridge (Rural Butte and Meade Counties MRA) 7 mi. SW. of Newell, Belle Fourche, 86000937.

Buffalo County

Buffalo County Courthouse and Jail House, Old 100 Main St., Gann Valley, 02000707.

Clay County

South Dakota Department of Transportation Bridge No. 14–105–209 (Historic Bridges in South Dakota MPS) Local Rd. over Chicago, Milwaukee, St. Paul and Pacific Railroad Tracks, Vermillion vicinity, 99001690.

South Dakota Department of Transportation Bridge No. 14–120–222 (Historic Bridges in South Dakota MPS) Local Rd. over Ash Creek, Wakonda vicinity, 99001218.

Gregory County

South Dakota Department of Transportation Bridge No. 27–000–201 (Historic Bridges in South Dakota MPS) Local rd. over unnamed cr., Dallas vicinity, 93001289.

Hanson County

South Dakota Department of Transportation Bridge No. 31–115–110 (Historic Bridges in South Dakota MPS) Local rd. of Pierre Cr., Fulton vicinity, 93001294.

Lincoln County

South Dakota Department of Transportation Bridge No. 42–103–207 (Historic Bridges in South Dakota MPS) Local Rd. over Local Cr., Beresford vicinity, 99001688.

McCook County

South Dakota Department of Transportation Bridge No. 44–028–220 (Historic Bridges in South Dakota MPS) Local rd. over Wolf Cr., Bridgewater vicinity, 93001301.

Minnehaha County

Bridge No. 50–122–155—Brandon vicinity (Historic Bridges in South Dakota MPS) Local Rd. over Skunk Creek, Brandon Township vicinity, 99000956.

South Dakota Department of Transportation Bridge No. 50–192–132

(Historic Bridges in South Dakota MPS) Local Rd. over Big Sioux R. (Mapleton Township), Renner vicinity, 99001694.

Summit Avenue Viaduct (Historic Bridges in South Dakota MPS) Summit Ave. over the Chicago and North Western RR tracks, Sioux Falls, 93001307.

Moody County

Sioux River Bridge (Historic Bridges in South Dakota MPS) 3rd St. over Big Sioux R., Trent, 99001696.

South Dakota Department of Transportation Bridge No. 51–140–078 (Historic Bridges in South Dakota MPS) Local Rd. over Big Sioux R, Flandreau vicinity, 99001698.

Perkins County

South Dakota Department of Transportation Bridge No. 53–101–196 (Historic Bridges in South Dakota MPS) Local Rd. over South Fork Grand R., Bison vicinity, 99001341.

Sanborn County

South Dakota Department of Transportation Bridge No. 56–117–123 (Historic Bridges in South Dakota MPS) Local Rd. over the James R., Forestburg vicinity, 93001311.

Spink County

Hall Bridge (Historic Bridges in South Dakota MPS) Local rd. over Snake Cr., Ashton vicinity, 93001317.

Turner County

South Dakota Department of Transportation Bridge No. 63–177–160 (Historic Bridges in South Dakota MPS) Local Rd. over Turkey Ridge Creek, Hurley vicinity, 99001211.

South Dakota Department of Transportation Bridge No. 63–186–020 (Historic Bridges in South Dakota MPS) Local Rd. over Long Creek, Parker vicinity, 99001214.

Yankton County

Walnut Street Bridge (Historic Bridges in South Dakota MPS) Walnut St. over Marne Cr., Yankton, 99001692.

TENNESSEE

Davidson County

Evergreen Place 1023 Joyce Ln., Nashville, 82003961.

[FR Doc. E8–3975 Filed 2–29–08; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

American Basin Fish Screen and Habitat Improvement Project, Sacramento River, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the Draft Environmental Impact. Statement/ Environmental Impact Report (EIS/EIR) and notice of public hearing.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (as amended) and the California Environmental Quality Act, the Bureau of Reclamation and the California Department of Fish and Game as lead agencies have made available for public review and comment a joint Draft EIS/ EIR for the American Basin Fish Screen and Habitat Improvement Project. The Draft EIS/EIR describes and presents the environmental effects of four alternatives, including no action, to modify the Natomas Mutual Water Company's water division and distribution system, thereby avoiding and minimizing potentially adverse affects to fish, particularly juvenile anadromous fish. A public hearing will be held to receive comments from individuals and organizations on the Draft EIS/EIR.

DATES: Written comments on the Draft EIS/EIR will be accepted on or before May 2, 2008.

A public hearing will be held from 6 p.m. to 8 p.m. on March 19, 2008 in Sacramento, CA. Oral or written comments will be received regarding the project's environmental effects.

ADDRESSES: The public hearing will be held at Reclamation District No. 1000 Board Room, 1633 Garden Highway, Sacramento, CA.

Send written comments on the Draft EIS/EIR to Mr. Brad Hubbard, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825. Copies of the Draft EIS/EIR may be requested from Mr. Hubbard at the above address, or by calling 916–978–5204. See **SUPPLEMENTARY INFORMATION** section for locations where copies of the Draft EIS/ EIR are available for public inspection.

FOR FURTHER INFORMATION CONTACT: Brad Hubbard, Natural Resources Specialist, Bureau of Reclamation, at 916–978–5204; or James Navicky, Environmental Scientist, California Department of Fish and Game, at 916–358–2926.

SUPPLEMENTARY INFORMATION: The Draft EIS/EIR will address impacts related to constructing and operating one or two positive-barrier fish screen diversion facilities; decommissioning and removing the Verona Diversion Dam and lift pumps; removing five pumping plants and one small private diversion; and modifying the distribution system. The Draft EIS/EIR documents the description and analysis of project construction and operation on fish resources, vegetation and wildlife, hydrology and water quality, recreation, visual and cultural resources, land use, geology and soils, traffic and circulation, air quality, noise, and hazards and hazardous materials.

Copies of the Draft EIS/EIR are available for public inspection and review at the following locations:

- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225; telephone: 303–445–2072.
- Bureau of Reclamation, Office of Public Affairs, 2800 Cottage Way, Sacramento, CA 95825–1898; telephone: 916–978–5100.
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street, NW., Main Interior Building, Washington, DC 20240–0001.
- California Department of Fish and Game, 1701 Nimbus Road, Rancho Cordova, CA.
- Natomas Mutual Water Company, 2601 West Elkhorn Boulevard, Rio Linda, California 95673; telephone: 916–419–5936.

Libraries

- Sacramento Public Library, 828 I Street, Sacramento, CA 95814.
- South Natomas Library, 2901 Truxel Road, Sacramento, CA 95833.
- Sutter County Library, 750 Forbes Ave., Yuba City, CA 95991.

Before including your name, 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.

Hearing Process Information

The purpose of the public hearing is to provide the public with an opportunity to comment on environmental issues addressed in the Draft EIS/EIR. Written comments will also be accepted.

Persons needing reasonable accommodations in order to attend and participate in the public meeting should contact Mr. Brad Hubbard at 916–978–

5204 as soon as possible. In order to allow sufficient time to process requests, please call Mr. Hubbard no later than one week before the meeting. Information regarding this project is available in alternative formats upon request.

Dated: February 13, 2008.

John F. Davis,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. 08–912 Filed 2–29–08; 8:45 am]

BILLING CODE 4310–MN–M

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–448 and 731–TA–1117 (Final)]

Certain Off-the-Road Tires From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–448 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731–TA–1117 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from China of certain off-the-road tires, provided for in subheading 4011.20.10, 4011.20.50, 4011.61.00, 4011.62.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.93.40, 4011.93.80, 4011.94.40, and 4011.94.80 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: February 20, 2008.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of certain off-the-road tires, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on June 18, 2007, by Titan Tire Corporation (Des Moines, IA) and The United Steelworkers (Pittsburgh, PA)

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on June 18, 2008, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on July 2, 2008, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 25, 2008. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 30, 2008, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 25, 2008. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as new pneumatic tires designed for off-the-road (''OTR'') and off-highway use, subject to exceptions identified in Commerce's Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination (73 FR 9278, February 20, 2008). Certain OTR tires are generally designed, manufactured and offered for sale for use on off-road or off-highway surfaces, including but not limited to, agricultural fields, forests, construction sites, factory and warehouse interiors, airport tarmacs, ports and harbors, mines, quarries, gravel yards, and steel mills. The vehicles and equipment for which certain OTR tires are designed are used in hauling, towing, lifting, and/or loading a wide variety of equipment and materials in agricultural, construction and industrial settings.

Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 10, 2008; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before July 10, 2008. On July 31, 2008, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 4, 2008, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: February 27, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–3991 Filed 2–29–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–602]

In the Matter of Certain GPS Devices and Products Containing Same; Notice of Commission Determination Not To Review an Initial Determination Granting Complainant's Motion To Amend the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 16) issued by the presiding administrative law judge (''ALJ'') granting complainant's motion to amend the complaint and notice of investigation.

FOR FURTHER INFORMATION CONTACT: Michelle Walters, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 7, 2007, based on a complaint filed by Global Locate, Inc. (''Global Locate''). 72 FR 25777 (May 7, 2007). The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain GPS devices and products containing the same by reason of infringement of claims 1 and 17 of United States Patent No. 6,417,801 (''the '801 patent''); claims 1, 3–5, 8–17, 19–21, and 23 of United States Patent No. 6,606,346 (''the '346 patent''); and various other claims of United States Patent Nos. 6,651,000, 6,704,651, 6,937,187, and 7,158,080. The complaint names five respondents: SiRF Technology, Inc.; Pharos Science & Applications, Inc.; MiTAC International Corp.; Mio Technology Ltd., USA; and E–TEN Information Systems Co., Ltd. (collectively, ''respondents'').

On December 17, 2007, Global Locate moved to amend the complaint and notice of investigation by terminating the investigation with regard to claims 1, 3, 8, 9, 10, and 23 of the '346 patent and by adding claims 2, 6, 11, 14, 18, and 19 of the '801 patent. Global Locate also sought to add Broadcom Corporation (''Broadcom'') as a complainant, because Broadcom recently acquired Global Locate. Respondents did not oppose termination of the investigation as to the claims of the '346 patent, but did oppose the addition of the claims of the '801 patent and the addition of Broadcom to the investigation. The Commission investigative attorney supported Global Locate's motion.

On February 5, 2008, the ALJ granted Global Locate's motion, finding that, pursuant to Commission Rule 210.14(b)(1) (19 CFR **210.14(b)(1)), there was good cause to amend the complaint and notice of investigation. No petitions for review of this ID were filed.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: February 25, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–3979 Filed 2–29–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–610]

In the Matter of Certain Endodontic Instruments; Notice of Commission Determination Not To Review Initial Determination Granting Complainant's Motion To Terminate the Investigation Based on Withdrawal of the Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the initial determination (''ID'') (Order No. 12) of the presiding administrative law judge (''ALJ'') granting complainant's motion to terminate the investigation based on withdrawal of the complaint in the above-captioned investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337'').

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server *(http://www.usitc.gov)*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On July 6, 2007, the Commission instituted the above-captioned investigation based upon a complaint filed June 5, 2007, and supplemented June 22, 2007, on behalf of Dentsply International Inc. (York, Pennsylvania) (''Dentsply''). 72 FR 37051 (July 6, 2007). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain endodontic instruments by reason of infringement of claims 1, 2, 3, and 5 of U.S. Patent Nos. 5,628,674 and claim 2 of U.S. Patent No. 6,206,695. The complaint named as respondents Guidance Endodontics, LLC (Albuquerque, New Mexico) (''Guidance'') and Micro Mega International Manufactures (Besancon cedex, France) (''Micro Mega'').

On January 25, 2008, Dentsply filed a motion to terminate the investigation based on withdrawal of the complaint. The motion stated that Micro Mega does not oppose the motion. On February 4, 2008, Guidance stated that it did not oppose the motion. On February 6, 2008, the Commission investigative attorney filed a response in support of the motion.

On February 6, 2008, the ALJ issued the subject ID (Order No. 12) granting complainant's motion to terminate the investigation based on withdrawal of the complaint, pursuant to Commission Rule 210.21(a)(1). No petitions for review of the ID were filed. The Commission has determined not to review the subject ID. This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and sections 210.41(a) and 210.42(h)(3), of the Commission's Rules of Practice and Procedure (19 CFR 210.41(a), 210.42(h)(3)).

By order of the Commission.

Issued: February 25, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–3976 Filed 2–29–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–448 and 731–TA–1117 (Final)]

Certain Off-The-Road Tires From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–448 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731–TA–1117 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from China of certain off-the-road tires, provided for in subheading 4011.20.10, 4011.20.50, 4011.61.00, 4011.62.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.93.40, 4011.93.80, 4011.94.40, and 4011.94.80 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: February 20, 2008.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of certain off-the-road tires, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as new pneumatic tires designed for off-the-road (''OTR'') and off-highway use, subject to exceptions identified in Commerce's Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination (73 FR 9278, February 20, 2008). Certain OTR tires are generally designed, manufactured and offered for sale for use on off-road or off-highway surfaces, including but not limited to, agricultural fields, forests, construction sites, factory and warehouse interiors, airport tarmacs, ports and harbors, mines, quarries, gravel yards, and steel mills. The vehicles and equipment for which certain OTR tires are designed are used in hauling, towing, lifting, and/or loading a wide variety of equipment and materials in agricultural, construction and industrial settings.

Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on June 18, 2007, by Titan Tire Corporation (Des Moines, IA) and The United Steelworkers (Pittsburgh, PA).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on June 18, 2008, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on July 2, 2008, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 25, 2008. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 30, 2008, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 25, 2008. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 10, 2008; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before July 10, 2008. On July 31, 2008, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 4, 2008, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 Fed. Reg. 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: February 27, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–3977 Filed 2–29–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–990 (Review)]

Non-Malleable Cast Iron Pipe Fittings From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on non-malleable cast iron pipe fittings from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on non-malleable cast iron pipe fittings from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 08–5–180, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10

consideration, the deadline for responses is April 22, 2008. Comments on the adequacy of responses may be filed with the Commission by May 16, 2008. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: March 3, 2008.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On April 7, 2003, the Department of Commerce issued an antidumping duty order on imports of non-malleable cast iron pipe fittings from China (68 FR 16765). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, the Commission determined that there was a single *Domestic Like Product* consisting of non-malleable and ductile cast iron pipe fittings corresponding to Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* to consist of all domestic producers of non-malleable and ductile cast iron pipe fittings corresponding to Commerce's scope.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is April 7, 2003.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is April 22, 2008. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is May 16, 2008. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the

hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided In Response To This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date*.

(7) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2007 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2007 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2007 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above

definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.
Issued: February 26, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–3973 Filed 2–29–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117–0010]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review—U.S. Official Order Forms for Schedule I and II Controlled Substances (Accountable Forms), Order Form Requisition DEA Form 222 and 222a.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until May 2, 2008. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Mark W. Caverly, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection:

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: U.S. Official Order Forms for Schedule I and II Controlled Substances (Accountable Forms), Order Form Requisition (DEA Form 222 and 222a).

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

Form number: DEA Form 222 and 222a.

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

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

Primary: Business or other for-profit.

Other: Not-for-profit, State, local or tribal government.

Abstract: DEA–222 is used to transfer or purchase Schedule I and II controlled substances and data are needed to provide an audit of transfer and purchase. DEA–222a Requisition Form is used to obtain the DEA–222 Order Form. Persons may also digitally sign and transmit orders for controlled substances electronically, using a digital certificate. Orders for Schedule I and II controlled substances are archived and transmitted to DEA.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: DEA estimates that 96,280 registrants submit forms annually for this collection, taking an estimated 13.34 hours annually.

(6) An estimate of the total public burden (in hours) associated with the collection: DEA estimates that there will be 1,283,935 annual burden hours associated with the collection.

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

Dated: February 26, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E8–3954 Filed 2–29–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117–0021]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review Records and Reports of Registrants.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until May 2, 2008. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Mark W. Caverly, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

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

Overview of this Information Collection:

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Records and Reports of Registrants.

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

Form Number: None.

Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice.

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

Primary: Business or other for-profit.

Other: Not-for-profit institutions, federal government, state, local or tribal government.

Abstract: This information is needed to maintain a closed system of distribution by requiring the individual practitioner to keep records of the dispensing and administration of controlled substances.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: DEA estimates that 103,000 respondents, with 103,000 responses annually to this collection. DEA estimates that it takes 30 minutes per year for each practitioner to maintain the necessary records.

(6) An estimate of the total public burden (in hours) associated with the collection: This information collection creates an annual burden of 51,500 hours.

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

Dated: February 26, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E8–3955 Filed 2–29–08; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before April 2, 2008. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: requestschedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Army, Agency-wide (N1–AU–03–18, 2 items, 2 temporary items). Master files and

outputs associated with an electronic information system used to rate Army installations against established standards in three functional areas: infrastructure, environment, and services. Data includes names of installations, functional areas, categories, and quality and quantity ratings assigned to each functional area.

2. Department of Defense, Army and Air Force Exchange Service (N1–334–08–1, 4 items, 4 temporary items). Criminal investigation report files, including interviews, cover sheets, transmittal sheets, lists of property stolen or recovered, recommendations for actions, and similar records.

3. Department of Defense, Office of Inspector General (N1–509–07–2, 3 items, 2 temporary items). Records relating to criminal investigations polygraph examination files. The files include graphic recordings (charts) of a subject's physiological reactions to a line of questions and copies of the questions asked by the examiner. Proposed for permanent retention are polygraph files relating to criminal investigation case files involving significant crimes.

4. Department of Defense, Office of the Secretary of Defense (N1–330–08–5, 2 items, 2 temporary items). System master file and outputs associated with an electronic information system used to configure Department of Defense identification credentials to meet local business needs. The files contain personnel identification data to include name, gender, height, weight, eye color, place and date of birth, photograph, iris scans, and fingerprints.

5. Department of Homeland Security, Headquarters (N1–563–08–2, 6 items, 6 temporary items). Nondisclosure agreements signed by agency personnel and contractors with access to sensitive information. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

6. Department of Homeland Security, Office of Intelligence and Analysis (N1–563–07–16, 7 items, 6 temporary items). Records consisting of declassification request files; dissemination lists for intelligence products; reports containing raw, unevaluated intelligence; requests for information files; situation awareness reports; and workflow tracking systems. Proposed for permanent retention are recordkeeping copies of finished intelligence reports case files. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

7. Department of Housing and Urban Development, Government National Mortgage Association (N1–207–07–3, 17 items, 13 temporary items). Program operations files, records documenting the issuance, servicing, and oversight of guaranteed securities, publicity files, and other related records. Proposed for permanent retention are recordkeeping copies of the annual report and the files of the corporate secretary, president, and executive vice-president. This schedule authorizes the agency to apply the proposed disposition instructions for temporary records to any recordkeeping medium.

8. Department of the Interior, Bureau of Reclamation (N1–115–08–1, 2 items, 2 temporary items). Master files and supporting documentation for an electronic information system used to support the financial billing process and engineering project management.

9. Department of the Interior, Bureau of Reclamation (N1–115–08–2, 4 items, 4 temporary items). Master files, inputs, outputs, and system documentation for an electronic information system used to track agency compliance with the Americans with Disabilities Act and other programs related to facility accessibility improvements.

10. Department of Justice, Bureau of Prisons (N1–129–07–13, 1 item, 1 temporary item). Regional Safety Administrator's files related to workman's compensation. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

11. Department of Justice, Federal Bureau of Investigation (N1–65–08–5, 1 item, 1 temporary item). This schedule requests authority to destroy cases 29C–SL–185340, 29J–SL–187240, and 29K–SL–187135, which pertain exclusively to the investigation of the captioned individual. This request responds to a Federal Pre-Trial Diversion Program court order to delete the records of the captioned individual.

12. Department of the Navy, United States Marine Corps (N1–NU–07–14, 8 items, 8 temporary items). Master files and financial and quarterly reports of an electronic information system relating to food management, including requisitions, storing, preparing, serving, and accounting for subsistence supplies. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium except for master files.

13. Department of Transportation, Federal Transit Administration (N1–408–05–1, 181 items, 136 temporary items). Records relating to program administration; civil rights program; legal, rulemaking, interpretation, and enforcement; budget and accounting; personnel management and training; and award and management of grants. Proposed for permanent retention are recordkeeping copies of high-level mission-related correspondence, biographies, and speeches; organizational planning files; records of advisory, interagency, and international committees sponsored by the agency; press releases; briefing books and papers; digital photographs; publications; directives; conference proceedings; legal opinions and interpretations; substantive rulemaking dockets; enforcement action records and litigation files; reports and reviews; and the final reports, studies, or products of grants awarded for transit-related research, development, or training. Also scheduled for permanent retention are the master files of an electronic information system that contains information on every U.S. federally-funded urban mass transit system and documentation needed to maintain and access the files. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

14. Department of the Treasury, Financial Crimes Enforcement Network (N1–559–07–1, 14 items, 8 temporary items). Files of the Office of the Chief Counsel, which provides interpretations of regulations mandated by the Bank Secrecy Act and U.S. Codes. Included are correspondence, legal and legislative background and precedent-setting information, and ad hoc reports from the partner nations on the international initiatives to counter money laundering. Proposed for permanent retention are recordkeeping copies of memoranda of understanding and interagency agreements, central subject files, and regulatory files.

15. Department of the Treasury, Internal Revenue Service (N1–58–08–8, 4 items, 4 temporary items). Inputs, master files, outputs, and system documentation for an electronic information system used for securing consent from external job applicants to disclose tax-related information for employment suitability.

16. Department of the Treasury, Office of the Comptroller of the Currency (N1–101–08–1, 5 items, 5 temporary items). Master files, inputs, system documentation, and investigative case files of the Bank Fraud Information System. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

17. Environmental Protection Agency, Headquarters (N1–412–07–13, 2 items, 1 temporary item). This schedule authorizes the agency to apply the existing disposition instructions to

records regardless of the recordkeeping medium. The records consist of Privacy Act reports files. Paper recordkeeping copies of these files were previously approved for disposal. Also included are annual reports, for which paper recordkeeping copies previously were approved as permanent.

18. Environmental Protection Agency, Inspector General (N1–412–07–70, 10 items, 8 temporary items). This schedule authorizes the agency to apply existing disposition instructions to records regardless of the recordkeeping medium. The records include hotline files, management assessment reviews and program evaluations, audit case files, suspension and debarment files, and investigative case files (exclusive of those that are unusually significant). Paper recordkeeping copies of these files were previously authorized for disposal. Also included are semiannual reports, for which paper recordkeeping copies previously were approved as permanent.

19. Environmental Protection Agency, Office of Pesticides Programs (N1–412–07–50, 14 items, 14 temporary items). This schedule authorizes the agency to apply existing disposition instructions to records regardless of recordkeeping medium. The records include re-registration case files and other documentation that supports or is ancillary to the registration of pesticides, including chemical reviews, laboratory test reports, novel microbial pesticide files, emergency exemption jackets, and other administrative files. Paper recordkeeping copies of these files were previously approved for disposal.

20. National Archives and Records Administration, Office of Administration (N1–64–08–6, 4 items, 4 temporary items). Master files of the Physical Access Control System, which maintains data for identity verification and access control activity in compliance with Homeland Security Presidential Directive 12. This schedule requests an exception to the applicable General Records Schedule for access control files.

Dated: February 25, 2008.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E8–4006 Filed 2–29–08; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Institute of Museum and Library Services; Notice: Proposed Information Collection, Submission for OMB Review, Analysis of Trends in Institute of Museum and Library Services Grants to States

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). 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.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the contact section below on or before April 2, 2008.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collocation of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Lesley Langa, Research Specialist, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC. Ms. Langa can be reached by telephone: 202–653–4760; fax: 202–653–4600; or e-mail: *llanga@imls.gov.*

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services Act, 20 U.S.C. 9101, et seq. Section 9108 supports IMLS' data collection and analysis role. The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs.

This proposed generic clearance is essential to IMLS' ability to improve services, measure progress in achieving the goals articulated in the agency's strategic plan, understand trends in museum and library service, and in general be fully responsive to federal accountability requirements.

Abstract: The purpose of this study is to gather and analyze original data to:

(1) Better understand achievements, uses, impacts, and remaining needs for its program of annual formula-based library Grants to States from approximately 2003–2007;

(2) Relate services provided through Grants to States to all library services provided by the State Library Administrative Agencies in this period and understand the contribution of Grants to States to stimulating funding for library services;

(3) Relate these services to library services and trends in general in this period; and

(4) Better understand the function and impact of the program in the national context of library services.

Current Actions

This notice proposes clearance of the Proposed Information Collection: Analysis of Trends in Institute of Museum and Library Services Grants to States. The 60-day Notice for this proposed generic clearance was published in the **Federal Register** on December 19, 2007 (FR vol. 72, no. 243, pgs. 71972–71973.) No comments were received.

OMB Number: Not available.

Agency Number: 3137.

Affected Public: Libraries, State Library Administrative agencies.

Number of Respondents: 52.

Frequency: One time.

Burden Hours per Respondent: 30 minutes.

Total burden hours: 26 hours.

FOR FURTHER INFORMATION CONTACT: Comments should be sent to the Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316.

Dated: February 25, 2008

Mamie Bittner,

Deputy Director.

[FR Doc. E8–3950 Filed 2–29–08; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 100, ''Reactor Site Criteria.''

2. *Current OMB approval number:* 3150–0093.

3. *How often the collection is required:* As necessary in order for the NRC to assess the adequacy of proposed seismic design bases and the design bases for other site hazards for nuclear power and test reactors constructed and licensed in accordance with 10 CFR parts 50 and 52 and the Atomic Energy Act of 1954, as amended.

4. *Who is required or asked to report:* Applicants and licensees for nuclear power and test reactors.

5. *The number of annual respondents:* Approximately 9.

6. *The number of hours needed annually to complete the requirement or request per applicant:* 657,000 (73,000 hours per applicant).

7. *Abstract:* 10 CFR part 100, ''Reactor Site Criteria,'' establishes approval requirements for proposed sites for the purpose of constructing and operating stationary power and testing reactors pursuant to the provisions of 10 CFR parts 50 or 52. These reactors are required to be sited, designed, constructed and maintained to withstand geologic hazards, such as faulting, seismic hazards, and the maximum credible earthquake, to protect the health and safety of the public and the environment. Non-seismic siting criteria must also be evaluated. Non-seismic siting criteria include such factors as population density, the proximity of man-related hazards, and site atmospheric dispersion characteristics. NRC uses the information required by 10 CFR part 100 to evaluate whether natural phenomena and potential man-made hazards will be appropriately accounted for in the design of nuclear power and test reactors.

Submit, by May 2, 2008, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate 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 or other forms of information technology?

A copy of the draft supporting statement 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. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Margaret A. Janney (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–7245, or by e-mail to *INFOCOLLECTS@NRC.GOV*.

Dated at Rockville, Maryland, this 26th day of February 2008.

For the Nuclear Regulatory Commission.

Gregory Trussell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E8–4019 Filed 2–29–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 445, ''Request For Approval of Official Foreign Travel.''

2. *Current OMB approval number:* 3150–0193.

3. *How often the collection is required:* On occasion.

4. *Who is required or asked to report:* Non-Federal consultants, contractors and NRC invited travelers (i.e., non-NRC employees).

5. *The number of annual respondents:* 120.

6. *The number of hours needed annually to complete the requirement or request:* 120 hours (1 hour per response).

7. *Abstract:* Form 445, ''Request for Approval of Foreign Travel,'' is supplied by consultants, contractors, and NRC invited travelers who must travel to foreign countries in the course of conducting business for the NRC. In accordance with 48 CFR part 20, ''NRC Acquisition Regulation,'' contractors traveling to foreign countries are required to complete this form. The information requested includes the name of the Office Director/Regional Administrator or Chairman (as appropriate); the traveler's identifying information; the purpose of travel; a listing of the trip coordinators, other NRC travelers and contractors attending the same meeting; and a proposed itinerary.

Submit, by May 2, 2008, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate 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 or other forms of information technology?

A copy of the draft supporting statement 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. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC

home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Margaret A. Janney (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–7245, or by e-mail to *INFOCOLLECTS@NRC.GOV*.

Dated at Rockville, Maryland, this 26th day of February 2008.

For the Nuclear Regulatory Commission.

Gregory Trussell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E8–4021 Filed 2–29–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 150–00017]

In the Matter of: Accurate NDE and Inspection, LLC, Broussard, LA; General License Pursuant to: 10 CFR 150.20, EA–06–281; EA–07–289; Confirmatory Order (Effective Immediately)

I

Accurate NDE and Inspection, LLC (Accurate NDE or Licensee) is the holder of a general license pursuant to 10 CFR 150.20 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission). This general license was granted to Accurate NDE at various times during calendar years 2005, 2006, and 2007.

II

An NRC inspection was conducted at an Accurate NDE temporary job site located on an oil and gas platform in offshore Federal waters within the Gulf of Mexico on December 20, 2005. Following that inspection, an investigation was initiated on January 17, 2006, by the NRC's Office of Investigations (OI) to determine whether a radiographer and a radiographer's assistant, employed by Accurate NDE, willfully violated NRC regulations.

Based on the results of the NRC inspection and OI investigation, the NRC determined that three violations of NRC requirements occurred. The violations involved: A failure to secure an industrial radiography exposure device containing licensed material, as required by 10 CFR 20.1801 and 10 CFR 20.1802; permitting an individual who did not wear a direct reading dosimeter, an operating alarm ratemeter, and a personnel dosimeter, during radiographic operations, to act as a radiographer's assistant, in contradiction of 10 CFR 34.47(a); and the failure to provide complete and accurate information to an NRC inspector, as required by 10 CFR 30.9(a), by providing a falsified daily radiation report. The NRC also determined that each of the violations resulted from willful actions on the part of the radiographer and the radiographer's assistant involved. Therefore, the three violations were categorized in accordance with the NRC Enforcement Policy as a Severity Level III problem.

III

In a letter dated March 20, 2007, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $13,000 for the Severity Level III problem. In the March 20, 2007, letter, the NRC offered Accurate NDE the opportunity to request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve issues associated with this problem. In response, Accurate NDE requested ADR to resolve the matter with the NRC. ADR is a process in which a neutral mediator, with no decision-making authority, assists the NRC and Accurate NDE to resolve any differences regarding the matter.

An ADR session was conducted between Accurate NDE and the NRC in Baton Rouge, Louisiana, on November 7, 2007. During that ADR session, an Agreement in Principle was reached. The elements of the agreement consisted of the following:

1. Accurate NDE will confirm that amended procedures for offshore radiographic activities have been submitted to the State of Louisiana for review and approval as appropriate; and submit those procedures to the NRC for information.

2. Accurate NDE will develop and implement a detailed radiation safety and security checklist for radiography crews to complete; the checklist is to include communication with the company Radiation Safety Officer or management after completion of the checklist: (1) Before leaving for an offshore job and (2) once arriving at the job site, if the ability to communicate is available. The Checklist should include a sign-off by the radiographer that they have briefed the Safety Representative/Responsible Manager on the offshore job site regarding licensed activities. Accurate NDE will include these requirements in licensee procedures.

3. Accurate NDE will develop and provide training to all employees regarding potential consequences for wrongdoing; for new employees, before working with radioactive material; and annually thereafter for all employees involved in radiographic activities.

4. Accurate NDE will ensure that requirements for security of radiographic devices including requirements associated with the increased controls order and contingency actions, if unable to lock and monitor radiographic devices, are included in licensee procedures.

5. Accurate NDE will develop and implement a program for offshore audits of radiographic operations. Audit requirements and audit frequency will be included in procedures. Audit frequency will include at least one offshore audit each calendar year.

6. Accurate NDE will develop and issue a company policy encouraging employees to report problems on the job site.

7. Accurate NDE will develop and issue a personal letter from the Company President or Radiation Safety Officer to current employees regarding expectations for compliance with NRC regulations.

8. Accurate NDE will develop and publish an article in the company newsletter, or equivalent, regarding this case. Specifically, include that employee actions did cause adverse consequences for the company and for the individual.

9. All of the above requirements shall be completed by Accurate NDE within 120 days of the effective date of this Order.

10. In recognition of Accurate NDE's cooperative efforts, extensive corrective actions and good faith effort, the NRC agrees to reduce the civil penalty originally proposed to $500.

On January 21, 2008, Accurate NDE consented to issuing this Order with the commitments, as described in section V below. Accurate NDE further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Since the Licensee has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that the Licensee's commitments as set forth in section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and

the Licensee's consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202, 2.205, 10 CFR Parts 20, 34, and 150, *it is hereby ordered, effective immediately, that:*

1. Accurate NDE will confirm that amended procedures for offshore radiographic activities have been submitted to the State of Louisiana for review and approval as appropriate; and submit those procedures to the NRC for information.

2. Accurate NDE will develop and implement a detailed radiation safety and security checklist for radiography crews to complete; the checklist is to include communication with the company Radiation Safety Officer or management after completion of the checklist: (1) Before leaving for an offshore job and (2) once arriving at the job site, if ability to communicate is available. The checklist shall include a sign-off by the radiographer that they have briefed the Safety Representative/ Responsible Manager on the offshore job site regarding licensed activities. Accurate NDE will include these requirements in licensee procedures.

3. Accurate NDE will develop and provide training to all employees regarding potential consequences for wrongdoing; for new employees, before working with radioactive material; and annually (at intervals not to exceed 12 months) thereafter for all employees involved in radiographic activities.

4. Accurate NDE will ensure that requirements for security of radiographic devices including requirements associated with the increased controls order and contingency actions, if unable to lock and monitor radiographic devices, are included in licensee procedures.

5. Accurate NDE will develop and implement a program for offshore audits of radiographic operations. Audit requirements and audit frequency will be included in procedures. Audit frequency will include at least one offshore audit each calendar year.

6. Accurate NDE will develop and issue a company policy encouraging employees to report problems on the job site.

7. Accurate NDE will develop and issue a personal letter from the Company President or Radiation Safety Officer to current employees regarding expectations for compliance with NRC regulations.

8. Accurate NDE will develop and publish an article in the company newsletter, or equivalent, regarding this case. Specifically, Accurate NDE will include that employee actions did cause adverse consequences for the company and for the individual.

9. All of the above requirements shall be completed by Accurate NDE within 120 days of the effective date of this Order.

10. Within 30 days from the date of this Confirmatory Order, Accurate NDE and Inspection, LLC must pay the reduced civil penalty of $500 in accordance with NUREG/BR–0254 and submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, a statement indicating when and by what method payment was made.

The Regional Administrator, NRC Region IV, may relax or rescind, in writing, any of the above conditions upon a showing by Accurate NDE of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Accurate NDE, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August, 2007, 72 FR 49,139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate also is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission,

Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

If a person other than Accurate NDE requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained. *An answer or a request for hearing shall not stay the immediate effectiveness of this order.*

Dated this 20th day of February, 2008.

For the Nuclear Regulatory Commission.

Elmo E. Collins,

Regional Administrator.

[FR Doc. E8–4025 Filed 2–29–08; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Approval of Variance From the Bond/Escrow Requirement Relating to the Sale of Assets by an Employer Who Contributes to a Multiemployer Plan: P&O Ports Florida, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of approval.

SUMMARY: The Pension Benefit Guaranty Corporation has granted a request from the P&O Ports Florida, Inc., (''P&O Ports'') for a variance from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended, with respect to the Tampa Maritime Association-International Longshoremen's Association Pension Plan. A notice of the request for a variance from the requirement was published on August 3, 2007 (72 FR 43297). The effect of this notice is to advise the public of the decision on the request.

ADDRESSES: The non-confidential portions of the request for a variance and any PBGC response to the request may be obtained by writing PBGC's Communications and Public Affairs Department (CPAD) at Suite 1200, 1200 K Street, NW., Washington, DC 20005–4026, or by visiting or calling CPAD during normal business hours (202–326–4040).

FOR FURTHER INFORMATION CONTACT: Eric Field, Attorney, Office of the Chief Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; telephone 202–326–4020. (For TTY/TDD users, call the Federal Relay Service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4020).

SUPPLEMENTARY INFORMATION:

Background

Under section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 (''ERISA'' or ''the Act''), a complete or partial withdrawal of an employer from a multiemployer plan does not occur solely because, as a result of a bona fide arm's-length sale of assets to an unrelated party, the seller ceases covered operations or ceases to have an obligation to contribute for such operations, if the following conditions under section 4204(a)(1)(A)–(C) of ERISA are met:

(A) The purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale. Additionally, under section 4204(b)(1), if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation (''PBGC'') to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the asset sale rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S. 1076, The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of a variance or an exemption from the bond/escrow requirement under section 4204(a)(1)(B) does not constitute a finding by the PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1).

Under the PBGC's regulation on variances or exemptions from the requirements of section 4204(a)(1)(B) and (C) with respect to sales of assets (29 CFR Part 4204), a request for a

variance of the bond/escrow requirement under any of the tests established in the regulation (sections 4204.12 & 4204.13) is made to the plan in question. The PBGC will consider variance or exemption requests only when the request is not based on satisfaction of one of the three regulatory tests or when the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information within the meaning of section 552(b)(4) of the Freedom of Information Act, 5 U.S.C. 552.

Under section 4204.22 of the regulation, the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, based on the following reasons:

(1) The approval of a variance or exemption would more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) The approval of a variance or exemption would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and section 4204.22(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption. The PBGC received no comments on P&O Ports' request for a variance.

Decision

On August 3, 2007, the PBGC published a notice of the pendency of a request by P&O Ports (the ''Purchaser'') for a variance or exemption (''variance'') from the bond/escrow requirement of section 4204(a)(1)(B) regarding its purchase of SSA Gulf, Inc., d/b/a Harborside Refrigeration and Garrison (the ''Seller'') (72 FR 4538). According to the request, the Seller was obligated to contribute to Tampa Maritime Association-International Longshoremen's Association Pension Plan (the ''Plan''), a multiemployer defined benefit pension plan, pursuant to a collective bargaining agreement with Local 1402 of the International Longshoremen's Association.

According to the Purchaser's representations, the Purchaser acquired, under an asset sale agreement effective May 26, 2006, the business assets of the Seller's stevedoring and related businesses in the Port of Tampa. The parties structured the transaction to comply with section 4204 of ERISA, and the Purchaser represents the following:

(1) The purchase agreement expressly obligates the Purchaser to contribute to the Plan for substantially the same contribution base units for which the Seller was obligated,

(2) The Seller agrees to be secondarily liable for any withdrawal liability it would have had with respect to the sold operations, but for section 4204, should the Purchaser withdraw from the Plan within the five plan years following the sale and fail to pay its withdrawal liability, and,

(3) The Purchaser agrees to post a bond, establish an escrow, or seek a variance from the bond/escrow requirement.

The amount of the bond/escrow required under section 4204(a)(1)(B) of ERISA is $421,864. On April 9, 2007, the Purchaser established on behalf of the Plan an escrow account through Bank of America in that amount. The estimated amount of the withdrawal liability of the Seller with respect to the operations subject to the sale is $1,191,462. The Purchaser asserts that certain financial information to support its request for a variance from the bond/escrow requirement is privileged and confidential. Consequently, as permitted by the PBGC regulation in these circumstances, the request is directed to the PBGC, rather than the Plan. Accordingly, the Purchaser submitted to the PBGC financial statements showing that the amount of the net tangible assets of the Purchaser's controlled group significantly exceed the Seller's estimated withdrawal liability of $1,191,462.

Based on the facts of this case and the representations and statements made in connection with the request for an exemption, PBGC has determined that a variance from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the Plan. Therefore, the PBGC hereby grants the request for a variance from the bond/escrow requirement.

The granting of a variance or an exemption from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the Plan sponsor.

Issued at Washington, DC, on this 21st day of February, 2008.

Charles E. F. Millard,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. E8–3990 Filed 2–29–08; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28170; 812–13481]

Eaton Vance Mutual Funds Trust, et al.; Notice of Application

February 26, 2008.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from rule 12d1–2(a) under the Act.

Summary of Application: Applicants request an order to permit funds of funds relying on rule 12d1–2 under the Act to invest in certain financial instruments.

Applicants: Eaton Vance Mutual Funds Trust, Eaton Vance Special Investment Trust (the ''Trusts''), Eaton Vance Management (''EVM''), Boston Management and Research (''BMR,'' together with EVM, the ''Advisers''), and Eaton Vance Distributors, Inc. (the ''Distributor'').

Filing Dates: The application was filed on January 18, 2008, and amended on January 30, 2008.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 24, 2008 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants, 255 State Street, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Lewis Reich, Senior Counsel, at (202) 551–6919, or Nadya B. Roytblat,

Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 100 F Street, NE., Washington, DC 20549–1520 (telephone (202) 551–8090).

Applicants' Representations

1. The Trusts are organized as Massachusetts business trusts and are registered under the Act as open-end management investment companies. Applicants request an exemption to the extent necessary to permit any existing or future series of the Trusts and any other registered open-end investment company advised by the Advisers or any person controlling, controlled by or under common control with the Advisers, that may rely on rule 12d1–2 under the Act (each a '' Fund'') to also invest to the extent consistent with its investment objective, policies, strategies and limitations, in futures contracts, options on futures contracts, swap agreements, other derivatives, and other financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act (''Other Investments'') in addition to registered investment companies (''Underlying Funds'') and other securities.

2. The Advisers, both Massachusetts business trusts registered under the Investment Advisers Act of 1940, serve as investment advisers to the Funds. EVM is a wholly-owned subsidiary of Eaton Vance Corporation, a publicly held Maryland corporation, and BMR is a subsidiary of EVM. The Distributor, an indirect wholly-owned subsidiary of Eaton Vance Corporation, is registered as a broker-dealer under the Securities Exchange Act of 1934 Act (''Exchange Act''), and serves as the principal underwriter for the Funds.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company (''acquiring company'') may acquire securities of another investment company (''acquired company'') if such securities represent more than 3% of the acquired company's outstanding voting stock or more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquiring company and acquired company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Exchange Act or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G) of the Act.

3. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered unit investment trust that relies on section 12(d)(1)(G) of the Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (1) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the Act; (2) securities (other than securities issued by an investment company); and (3) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the Act. For the purposes of rule 12d1–2, ''securities'' means any security as defined in section 2(a)(36) of the Act.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act, or from any rule under the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

5. Applicants state that the proposed arrangement would comply with the provisions of rule 12d1–2 under the Act, but for the fact that the Funds may invest a portion of their assets in Other Investments. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) to allow the Funds to invest in Other Investments. Applicants assert that permitting the Funds to invest in Other Investments as described in the application would not raise any of the concerns that the requirements of section 12(d)(1) were designed to address.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Prior to approving any investment advisory agreement under section 15 of the Act, the board of trustees of the appropriate Fund, including a majority of the trustees who are not ''interested persons'' as defined in section 2(a)(19) of the Act, will find that the advisory fees, if any, charged under the agreement are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Underlying Fund's advisory agreement. Such finding, and the basis upon which the finding is made, will be recorded fully in the minute books of the appropriate Fund.

2. Applicants will comply with all provisions of rule 12d1–2 under the Act, except for paragraph (a)(2), to the extent that it restricts any Fund from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–3960 Filed 2–29–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57383; File No. SR-BSE–2008–05]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 5, To Amend the Rules of the Boston Options Exchange Related to Obvious Error Procedures

February 26, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

notice is hereby given that on January 29, 2008, 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 substantially prepared by the Exchange. On February 21, 2008, the Exchange filed Amendment No. 1 to the proposal. On February 22, 2008, the Exchange submitted Amendment Nos. 2, 3, and 4, and withdrew Amendment Nos. 1, 2, and 3 to the proposal. On February 26, 2008, the exchange withdrew Amendment No. 4 and submitted Amendment No. 5 to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes amending the Boston Options Exchange (''BOX'') Rules related to Obvious Error procedures. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.bostonstock.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 BSE seeks to amend the BOX Rules[4] to modify the process for determining whether to ''adjust or bust'' certain trades on the BOX market. The Exchange believes that modifying this process will help to better ensure a fair and orderly market.

Currently, BOX has an established process whereby, in the event that a suspected Obvious Error has occurred during trading on the BOX market, a request for review may be made by one or both of the parties involved. This request for review notifies the Market Regulation Center (''MRC'') of the existence of a suspected erroneous transaction and initiates a review process. If the MRC determines that the transaction does in fact represent an Obvious Error, the transaction is either adjusted or busted. Depending on the parties involved in the transaction, the adjustments are either set according to pre-determined increments or by mutual agreement between the parties.

The Exchange states that, currently, the MRC, as defined in the BOX Rules[5] as the ''Exchange's facilities for surveilling and regulating the conduct of business for options on BOX,'' is involved in these Obvious Error requests and determinations. This amendment to the BOX Rules will substitute the BOX Market Operations Center (''MOC'')[6] for the MRC as the entity that first receives these Obvious Error requests. The MOC is already the primary contact for Options Participants when communicating with the BOX market regarding trading matters. Under this proposal, the MOC, as the primary contact, will promptly notify the MRC when an Obvious Error request is received, since the MRC will continue to be the body that makes adjust or bust decisions.

Additionally, the current BOX Obvious Error rules refer to transactions involving Market Makers ''on BOX.'' The proposed amendment to the BOX Rules will remove the language ''on BOX.'' This proposed change would provide an additional avenue of relief for non-BOX market makers, resulting in the Obvious Error Rules applying not only to BOX Market Makers, but also to market makers on other exchanges whose orders are designated with a market maker account type in the BOX Trading Host. Currently, according to Section 20(d)(ii)(1) of Chapter V of the BOX Rules, only BOX Market Makers involved in an erroneous transaction with another BOX Market Maker may avail themselves to the pre-determined obvious error Theoretical Price plus or minus adjustment levels. This amendment, if approved, would maintain and expand the choices available to a non-BOX market maker involved in an erroneous transaction. Just as a BOX Market Maker, a non-BOX market maker would have the choice of agreeing with the counter party to bust the transaction, agreeing to adjust to an agreed upon price for the transaction, or now having the transaction adjusted to the pre-determined levels.

This amendment to the BOX Rules will also establish an additional course of action if it is determined that an Obvious Error has occurred. The current BOX Rules allow for an adjustment in the transaction price where both parties to the transaction are market makers. Alternatively, the BOX Rules call for a bust of the transaction if *at least* one party to the transaction is a market maker on BOX, unless both parties agree to an adjustment price and notify the MRC. The proposed amendment to the Obvious Error Rule will render this particular scenario applicable only when ''*neither*'' party to the transaction is a market maker. Under the scenario where neither of the parties involved in the obviously erroneous transaction is a market maker, a bust of the transaction is believed to be the proper course of action, absent an agreement to an adjusted price for the transaction.

The additional course of action, as proposed, will now be available to the MRC when one party to the transaction is *not* a market maker and the other party *is* a market maker. The Exchange believes that affording a non-market maker party the opportunity to choose between busting the transaction or adjusting it according to the pre-determined increments, as set forth in the Obvious Error Rule, will better protect the non-market maker party in the event of obviously erroneous transactions. The establishment of this option is intended to protect against scenarios where a non-market making party, perhaps a Public Customer, enters into a transaction with a market maker. Under the current rules, if this transaction is determined to be an Obvious Error, the trade will be busted unless the parties agree to an adjustment price. If the Public Customer does not want the trade busted but, nonetheless, cannot agree to an adjusted price with the market maker, then the trade will still be busted. The Exchange believes that this could expose the Public Customer to unintended positions and risk, perhaps in the equities markets, where this particular options transaction was intended to hedge against. The Exchange believes that, by providing access to the pre-established Obvious Error adjustment increments,

[3] Amendment No. 5 replaces and supersedes the original filing and all previous amendments in their entirety.

[4] Capitalized terms not otherwise defined herein shall have the meanings prescribed under the BOX Rules.

[5] *See* Section 1 of Chapter I of the BOX Rules.

[6] This proposal will also add the MOC to the definitions section of the BOX Rules. *See,* Section 1 of Chapter I of the BOX Rules. The remainder of the changes to the definition section fall into two categories. The first is switching the current Sections 31 and 32 so that they are in alphabetical order. The second is, after inserting the MOC as a definition, renumbering the remaining definitions.

some of this risk should be alleviated or eliminated for the non-market maker party by allowing the transaction to be adjusted rather than busted.

The Exchange believes that the availability of the pre-determined adjustment increments should provide non-market maker parties with added assurances that, in the case of an obviously erroneous transaction and at their election, the transaction will be adjusted rather than automatical busted, as provided in the current Rule. While this should provide an added protective feature for non-market makers, it should not expose market makers to any additional risk or decrease the protections that they are already afforded in the BOX Rules. A market maker's transaction already has these pre-determined adjustment increments applied to their trades with other market makers. Thus, this proposal would merely extend the application of the pre-determined adjustment increments to another party that a market maker could trade with via the BOX Trading Host.

2. *Statutory Basis*

The Exchange believes that the proposed amendment to the BOX Rules would result in greater flexibility in determining the outcome of erroneous transactions within the BOX Trading Host. Accordingly, 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)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

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 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 by the Exchange with respect to the proposed rule change.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

A. By order approve the proposed rule change; or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BSE–2008–05 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–BSE–2008–05. 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–BSE–2008–05 and should be submitted on or before March 24, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–3959 Filed 2–29–08; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57382; File No. SR–BSE–2008–11]

Self-Regulatory Organizations; Boston Stock Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Substitution of a Term in the Rules of the Boston Options Exchange

February 26, 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 February 21, 2008, the Boston Stock Exchange, Incorporated (''Exchange'' or ''BSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the BSE. The BSE has designated this proposal as one that neither significantly affects the protection of investors or the public interest nor imposes any significant burden on competition, under Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(6) 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 from interested persons.

[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)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to amend Section 4 (Appointment of Market Makers) of Chapter VI of the Rules of the Boston Options Exchange (''BOX'') to substitute the term ''issue'' for ''class.'' The text of the proposed rule change is available on the Exchange's Web site *http://www.bostonstock.com,* at the principal office of the Exchange, 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 BSE 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 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 Exchange is proposing to amend the BOX Rules applicable to the appointment of Market Makers on BOX. The Exchange is proposing to replace the term ''issue'' in Section 4(f) of Chapter VI of the BOX Rules with the term ''class.'' As the BOX Rules currently read, this is the only instance in which the term ''issue'' is used as a noun to convey this particular meaning. The proposed rule change substitutes the use of the term ''class'' and its meaning with one that is more consistent with the terms used throughout the BOX Rules.

The BOX Rules define the term ''class of options'' to mean all options contracts of the same type and style covering the same underlying security. This is the precise meaning that this instance of the term ''issue'' is meant to convey. The terms ''class of options'' and ''option class'' are also used throughout the BOX Rules to convey this same meaning. This current use of the term ''issue'' is unclear and inconsistent with references used throughout the BOX Rules.

Therefore, the removal of the term ''issue'' and replacement with the term ''class'' in its place will create greater consistency within the BOX Rules. Such a substitution will also clarify the intended meaning of this particular subsection of the BOX Rules by using a term with an accepted definition that more closely conforms to the concept being discussed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[5] in general, and furthers the objectives of Section 6(b)(5),[6] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

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

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[7]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–BSE–2008–11 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–BSE–2008–11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the BSE. 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–BSE–2008–11 and should be submitted on or before March 24, 2008.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 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.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–3962 Filed 2–29–08; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 6115]

Notice of Availability of the Record of Decision and National Interest Determination and the Programmatic Agreement for the Proposed TransCanada Keystone Pipeline Project

Summary: This notice announces the availability of the Record of Decision and National Interest Determination and the Programmatic Agreement for the Proposed TransCanada Keystone Pipeline Project.

On April 19, 2006, TransCanada Keystone Pipeline, LP (''Keystone'') filed an application with the Department of State for a Presidential permit for the construction, connection, operation, or maintenance of facilities at the border of the United States and Canada for the transport of crude oil between the United States and Canada across the international boundary.

Executive Order 13337 of April 30, 2004, as amended, delegates to the Secretary of State the President's authority to receive applications for permits for the construction, connection, operation, or maintenance of facilities, including pipelines, for the exportation or importation of petroleum, petroleum products, coal, or other fuels at the border of the United States and to issue or deny such Presidential Permits upon a national interest determination. The Executive Order directs the Secretary of State to refer the application and pertinent information to, and to request the views of, the heads of certain agencies before issuing a Permit and authorizes the Secretary to consult with other interested federal and state officials, as appropriate. The functions assigned to the Secretary have been further delegated within the Department of State to, inter alia, the Deputy Secretary of State and the Under Secretary of State for Economic, Energy, and Business Affairs.

In accordance with the National Environmental Policy Act of 1969 (''NEPA''), 42 U.S.C. 4321–4370f, the Council of Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR parts 1500–1508, and the Department's regulations for the implementation of NEPA, 22 CFR part 161, an Environmental Impact Statement (EIS) for the issuance of a Presidential Permit for the construction, connection, operation, and maintenance of the pipeline was prepared by Entrix, Inc., a contractor selected by the Department of State.

The Department of State published in the **Federal Register** a Notification of Receipt of the Keystone Application for a permit on August 8, 2006 (71 Fed. Reg. 47861). That notification solicited public comment on the application for a 30-day period. Thereafter, the Department published in the **Federal Register** a Notification of Intent to Prepare an Environmental Impact Statement on October 11, 2006 (71 FR 59849). The Department's Notice of Availability of the Draft EIS and request for public comment was published in the **Federal Register** on August 9, 2007 (72 FR 44908–02), seeking comments by September 24, 2007. The Department received public comments in response to its notice and has taken them into account in making its determination on the Keystone application.

As required by Executive Order 13337, the Keystone pipeline application and a Draft Environmental Impact Statement were transmitted to federal agencies for their review and comment on August 6, 2007. The Department of State received no objections from federal agencies regarding the issuance of a permit. The Department published a notice of the availability of the Final Environmental Impact Statement in the **Federal Register** on January 11, 2008 (73 FR 2027).

Concurrently, the Department took steps to comply with its obligations under Section 106 of the National Historic Preservation Act. On February 15, 2008, Deputy Secretary of State John D. Negroponte signed a Programmatic Agreement with the Advisory Council on Historic Preservation (ACHP), the applicant, all seven state historic preservation officials, and consulting federal agencies. Native American tribes were also invited to sign as concurring parties under the ACHP's guidelines. The purpose of the Programmatic Agreement is to take into account the effect of the proposed Keystone Pipeline Project on historic properties and to satisfy all responsibilities under Section 106 of the National Historic Preservation Act.

Consistent with its authority under Executive Order 13337, the Department reviewed all of the available information and documentation, including comments submitted by federal and state agencies and the public. On February 23, 2008, the Secretary's Delegate, Under Secretary of State for Economic, Energy, and Business Affairs Reuben Jeffery III, signed the Record of Decision and National Interest Determination, which states that issuance of the Presidential Permit for the Keystone Pipeline Project would serve the national interest. Accordingly, the Department proposes to issue the Presidential Permit to Keystone subject to certain terms and conditions.

Executive Order 13337 requires that Secretaries or Heads of certain agencies be notified of the Department's proposed determination concerning issuance of the Presidential Permit. Any agency required to be consulted under Section 1(g) of the Order that disagrees with the proposed determination may notify the Secretary of State within 15 days of this notice that it disagrees with the determination and request that the Secretary refer the application to the President. If no disagreement and request for referral is registered within the prescribed period, the Presidential Permit will be signed and issued to Keystone. On February 25, the Department notified all agencies of its intent to issue the Permit as required under Section 1(g) of the order.

For Further Information Contact: The Record of Decision and National Interest Determination, the Programmatic Agreement, the TransCanada Keystone Pipeline application for a Presidential Permit, including associated maps and drawings, the Final EIS and other project information is available for viewing and download at the project Web site: *http://www.keystonepipeline.state.gov*. For information on the proposed project contact Elizabeth Orlando, OES/ENV Room 2657, U.S. Department of State, Washington, DC 20520, or by telephone (202) 647–4284, or by fax at (202) 647–5947. U.S. Department of State, Washington, DC 20520, or by telephone (202) 647–4284, or by fax at (202) 647–5947.

Issued in Washington, DC on February 25, 2008.

Stephen J. Gallogly,

Director, Office of International Energy and Commodity Policy, Department of State.

[FR Doc. E8–4020 Filed 2–29–08; 8:45 am]

BILLING CODE 4710–07–P

[8] 17 CFR 200.30–3(a)(12).

SUSQUEHANNA RIVER BASIN COMMISSION

Notice of Public Hearing and Commission Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of Public Hearing and Commission Meeting.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing as part of its regular business meeting beginning at 1 p.m. on March 13, 2008 in Bedford, Pennsylvania. At the public hearing, the Commission will consider: (1) A request for an administrative hearing, (2) approval of certain water resources projects, including one enforcement action and several diversions into and out of the basin for pipeline testing, and (3) a separate rescission of an existing docket approval. Details concerning the matters to be addressed at the public hearing and business meeting are contained in the Supplementary Information section of this notice.

DATES: March 13, 2008.

ADDRESSES: Bedford Springs Resort, P.O. Box 639, Bedford, Pa. See Supplementary Information section for mailing and electronic mailing addresses for submission of written comments.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423; ext. 306; fax: (717) 238–2436; e-mail: *rcairo@srbc.net* or Deborah J. Dickey, Secretary to the Commission, telephone: (717) 238–0423, ext. 301; fax: (717) 238–2436; e-mail: *ddickey@srbc.net.*

SUPPLEMENTARY INFORMATION: In addition to the public hearing and its related action items identified below, the business meeting also includes the following items on the agenda: (1) A special presentation on the Bedford Springs Resort renovation project, (2) a report on the present hydrologic conditions of the basin, (3) authorization to release for public comment a proposed increase of the consumptive use fee from its current level of 14 cents per 1,000 gallons of water consumed to 28 cents per 1,000 gallons consumed with an annual CPI adjustment, (4) a Consumptive Use Mitigation Plan, (5) the 2008 Water Resources Program, (6) adjustments in the FY–09 Budget, and (7) approval of various grants and contracts.

Public Hearing—Request for Administrative Hearing

1. Project Sponsor: East Hanover Township, Dauphin Co., Pa. re: December 5, 2007 Commission approval of a consumptive use for Mountainview Thoroughbred Racing Association, Inc.

Public Hearing—Projects Scheduled for Action

1. Project Sponsor and Facility: Cooperstown Dreams Park, Inc., Town of Hartwick, Otsego County, N.Y. Modification of consumptive use and surface water withdrawal approval (Docket No. 20060602).

2. Project Sponsor and Facility: Millennium Pipeline Company, L.L.C. (Chenango River), Towns of Chenango and Fenton, Broome County, N.Y. Application for surface water withdrawal of 2.480 mgd.

3. Project Sponsor and Facility: Millennium Pipeline Company, L.L.C. (Susquehanna River); Town of Windsor; Broome, Tioga, and Chemung Counties; N.Y. Application for surface water withdrawal of 4.130 mgd.

4. Project Sponsor and Facility: Millennium Pipeline Company, L.L.C. (Newtown Creek), Town of Horseheads, Chemung County, N.Y. Application for surface water withdrawal of 2.150 mgd.

5. Project Sponsor and Facility: Millennium Pipeline Company, L.L.C. (Cayuta Creek); Towns of Van Etten and Barton; Chemung and Tioga Counties, N.Y. Application for surface water withdrawal of 2.810 mgd.

6. Project Sponsor and Facility: Millennium Pipeline Company, L.L.C. (Owego Creek), Towns of Owego and Tioga, Tioga County, N.Y. Application for surface water withdrawal of 3.000 mgd.

7. Project Sponsor: Sand Springs Development Corp. Project Facility: Sand Springs Golf Community, Butler Township, Luzerne County, Pa. Modification of groundwater withdrawal approval (Docket No. 20030406).

8. Project Sponsor and Facility: First Quality Tissue, LLC, City of Lock Haven, Clinton County, Pa. Applications for consumptive water use of up to 2.500 mgd and surface water withdrawal of 10.500 mgd.

9. Project Sponsor: Wynding Brook, Inc. Project Facility: Wynding Brook Golf Club (formerly Turbot Hills Golf Club), Turbot Township, Northumberland County, Pa. Applications for consumptive water use of up to 0.283 mgd and surface water withdrawal of 0.499 mgd, and rescission of Commission Docket No. 20020808.

10. Project Sponsor: Papetti's Hygrade Egg Products, Inc. Project Facility: Michael Foods Egg Products Co., Upper Mahanoy Township, Schuylkill County, Pa. Modification of consumptive water use and groundwater withdrawal approval (Docket No. 19990903).

11. Project Sponsor and Facility: Mountainview Thoroughbred Racing Association, Inc., East Hanover Township, Dauphin County, Pa. Application for groundwater withdrawal of 0.400 mgd.

12. Project Sponsor and Facility: Bottling Group, LLC, dba The Pepsi Bottling Group—Harrisburg, Lower Paxton Township, Dauphin County, Pa. Application for consumptive water use of up to 0.466 mgd, and settlement of an outstanding compliance matter.

13. Project Sponsor: Martin Limestone, Inc. Project Facility: Burkholder Quarry, Earl Township, Lancaster County, Pa. Modification of groundwater withdrawal approval (Docket No. 20040307).

14. Project Sponsor: Golf Enterprises, Inc. Project Facility: Valley Green Golf Course, Newberry Township, York County, Pa. Modification of groundwater withdrawal approval (Docket No. 20021019).

15. Project Sponsor: Springwood, LLC Project Facility: Springwood Golf Club, York Township, York County, Pa. Applications for consumptive water use of up to 0.350 mgd and surface water withdrawal of 0.400 mgd.

16. Project Sponsor and Facility: Port Deposit Water & Sewer Authority, Town of Port Deposit, Cecil County, Md. Application for surface water withdrawal of 1.500 mgd.

Public Hearing—Project Scheduled for Action Involving Diversions

1. Project Sponsor and Facility: Millennium Pipeline Company, L.L.C., Re: Nos. 2–6 above, Projects Scheduled for Action, Chemung, Tioga & Broome Counties, N.Y. A portion of the waters withdrawn by these projects (up to 3.230 mgd) will be diverted into the Delaware River Basin and the Great Lakes Basin, which will also constitute a consumptive use of water.

Public Hearing—Project Scheduled for Rescission Action

1. Project Sponsor and Facility: Walsh Construction (Docket No. 20050603), Fermanagh Township, Juniata County, Pa.

Opportunity To Appear and Comment

Interested parties may appear at the above hearing to offer written or oral comments to the Commission on any matter on the hearing agenda, or at the business meeting to offer written or oral comments on other matters scheduled for consideration at the business meeting. The chair of the Commission reserves the right to limit oral

statements in the interest of time and to otherwise control the course of the hearing and business meeting. Written comments may also be mailed to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pennsylvania 17102–2391, or submitted electronically to Richard A. Cairo, General Counsel, e-mail: *rcairo@srbc.net* or Deborah J. Dickey, Secretary to the Commission, e-mail: *ddickey@srbc.net*. Comments mailed or electronically submitted must be received prior to December 5, 2007 to be considered.

Authority: Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: February 22, 2008.

Thomas W. Beauduy,

Deputy Director.

[FR Doc. E8–3948 Filed 2–29–08; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice of Intent To Rule on Request To Release Surplus Airport Property at Shawnee Regional Airport, Shawnee, OK

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA is requesting public comment on the release of land at Shawnee Regional Airport under the provisions of Title 49, USC Section 47153(c).

DATES: Comments must be received on or before April 2, 2008.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Edward N. Agnew, Manager, Federal Aviation Administration, Southwest Region, Airports Division, Arkansas/Oklahoma Airports Development Office, ASW 630, Fort Worth, Texas 76193–0630. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James C. Collard, Shawnee City Manager, at the following address: City of Shawnee, P.O. Box 1448, Shawnee, OK 74802–1448.

FOR FURTHER INFORMATION CONTACT: Mr. Donald C. Harris, Senior Program Manager, Federal Aviation Administration, Arkansas/Oklahoma Airports Development Office, ASW–631, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0630. The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: On February 13, 2008, the FAA determined that the request to release property at Shawnee Regional Airport submitted by the City of Shawnee met the procedural requirements of the Federal Aviation Regulations, Part 155. The FAA may approve the request, in whole or in part, no later than March 31, 2008.

The following is a brief overview of the request: The City of Shawnee requests the release of 10.681 acres of airport property. The proceeds from the sale of property will provide $218,730 revenue for the construction of a new airport terminal facility.

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 application, notice and other documents germane to the application in person at the Shawnee Regional Airport.

Issued in Fort Worth, Texas on February 13, 2008.

Lacey D. Spriggs,

Acting Manager, Airports Division.

[FR Doc. 08–919 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Government/Industry Aeronautical Charting Forum Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting

SUMMARY: This notice announces the bi-annual meeting of the Federal Aviation Administration (FAA) Aeronautical Charting Forum (ACF) to discuss informational content and design of aeronautical charts and related products, as well as instrument flight procedures development policy and design criteria.

DATES: The ACF is separated in two distinct groups. The Instrument Procedures Group (IPG) will meet April 22, 2008, from 8:30 a.m. to 5 p.m. The Charting Group will meet April 23 and 24 from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be hosted by Advanced Management Technology, Incorporated (AMTI), 1515 Wilson Blvd. Suite 1100, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: For information relating to the Instrument Procedures Group, contact Thomas E. Schneider, FAA, Flight Procedures Standards Branch, AFS–420, 6500 South MacArthur Blvd., P.O. Box 25082, Oklahoma City, OK 73125; telephone (405) 954–5852; fax: (405) 954–2528.

For information relating to the Charting Group, contact John A. Moore, FAA, National Aeronautical Charting Group, Requirements and Technology Team, AJW–3521, 1305 East-West Highway, SSMC4-Station 5544, Silver Spring, MD 20910; telephone: (301) 713–2631, fax: (301) 713–1960.

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the FAA Aeronautical Charting Forum to be held from April 22 through April 24, 2008, from 8:30 a.m. to 5 p.m. at the Advanced Management Technologies, Incorporated (AMTI), 1515 Wilson Blvd., Suite 1100, Arlington, VA 22209.

The Instrument Procedures Group agenda will include briefings and discussions on recommendations regarding pilot procedures for instrument flight, as well as criteria, design, and development policy for instrument approach and departure procedures.

The Charting Group agenda will include briefings and discussions on recommendations regarding aeronautical charting specifications, flight information products, as well as new aeronautical charting and air traffic control initiatives.

Attendance is open to the interested public, but will be limited to the space available.

The public must make arrangements by April 4, 2008, to present oral statements at the meeting. The public may present written statements and/or new agenda items to the committee by providing a copy to the person listed in the **FOR FURTHER INFORMATION CONTACT** section by April 4, 2008. Public statements will only be considered if time permits.

Issued in Washington, DC, on February 27, 2008.

John A. Moore,

Co-Chair, Aeronautical Charting Forum.

[FR Doc. 08–920 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Tooele County, UT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS)

SUMMARY: FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for proposed transportation improvements in the Tooele Valley area of Tooele County, Utah.

FOR FURTHER INFORMATION CONTACT: Anthony Sarhan, Area Engineer, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, UT 84118, Telephone: (801) 963–0182; or Daniel Young, Utah Department of Transportation (UDOT) Region 2 Project Manager, 2010 South 2760 West, Salt Lake City, UT 84104. Telephone: (801) 975–4819.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with UDOT and Tooele County, will prepare an EIS on a proposal to address current and projected north-south traffic demand in the Tooele Valley area of Tooele County. The proposed project study area is bounded by Sheep Lane to the west, SR–36 to the east, the Tooele Army Depot (TEAD), SR–112, and Tooele City to the south, and I–80 to the north.

FHWA, UDOT, and Tooele County implemented an Environmental Assessment (EA), in May of 2007, in accordance with the National Environmental Policy Act (NEPA). During the EA, it was determined by the Joint-Lead Agencies to up-scope the study to an Environmental Impact Statement (EIS).

The EIS will conform to the environmental review process established in Section 6002 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (SAFETEA–LU). The Section 6002 environmental review process requires the following activities: the identification and invitation of cooperating and participating agencies; the establishment of a coordination plan; and opportunities for additional agency and public comment on the project's purpose and need, alternatives and methodologies for determining impacts. Additionally, a public hearing following the release of the draft EIS will also be provided. Public notice advertisements and direct mailings will notify interested parties of the time and place of public meetings and the public hearing.

The EIS will take into account all aspects of the study previously completed during the Environmental Assessment process. Scoping letters describing the proposed action and soliciting comments were sent to appropriate Federal, State, and local agencies, and to organizations and citizens who have previously expressed, or who are known to have, an interest in this proposal. A public scoping meeting to which agencies and the public were invited was held on June 13, 2007 in Tooele County. The public, as well as Federal, State, and local agencies, were invited to participate in a project scoping process. From this participation a number of alternatives were developed and environmental issues and resources identified.

FHWA will continue to study and consider a reasonable range of alternatives which meet the project purpose and needs. These alternatives include (1) Taking no action; (2) Using alternative travel modes; (3) Upgrading and adding lanes to the existing roadway network including SR–36; and (4) Constructing a highway/expressway on a new location through the project study area.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested agencies and parties. Cooperating and participating agency invitation letters will be sent out following the publication of the Notice of Intent. Comments and suggestions concerning this proposed action and the EIS should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20-.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: February 26, 2008.

Edward T. Woolford,

Environmental Program Manager, FHWA—Utah Division.

[FR Doc. E8–3981 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA Docket No. NHTSA–2007–0038]

Notice and Request for Information and Comment on Development and Application of Crash Warning Interface Metrics

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice and request for information and comment on development and application of crash warning interface metrics.

SUMMARY: During the NHTSA-led Human Factors Forum on Advanced Vehicle Safety Technologies in early 2007, participants from the automobile industry, government, and academia gathered to discuss the research necessary to ensure that future design and operation of these technologies are developed with an understanding of the driver's ability to use them. Underlying this objective is a requirement to have techniques and metrics to quantify how well drivers can use and benefit from the technologies. Without common, reliable, and safety-related metrics, it is difficult to develop, evaluate, and compare different systems as well as to determine the impact of non-standardized warning interfaces.

To address this issue, NHTSA is initiating a program to develop a set of standard metrics and test procedures to assess the Driver-Vehicle Interface (DVI) of Advanced Crash Warning Systems (ACWS). ACWS are technologies to assist drivers who may be unaware of impending collisions by alerting them of potential threats. Examples include forward collision warnings, lane departure warnings, and road departure warnings. The DVI is the means by which ACWS communicate with drivers to help them avoid a threat. In order for ACWS to achieve their intended safety benefits, drivers need to be able to quickly understand the ACWS threat information and respond appropriately without confusion. The warning timing, reliability, warning modes, device controls, and displays are examples of the DVI characteristics that can affect the ability of drivers to achieve the intended safety benefits without possible adverse consequences. Crash Warning Interface Metrics (CWIM) are derived from tests of drivers' performance using ACWS, indicating the compatibility of the DVI with drivers' capabilities and needs.

This notice invites comments, suggestions, and recommendations from all individuals and organizations that have an interest in the development and use of Crash Warning Interface Metrics. NHTSA requests comments to assist the agency in identifying, evaluating, and selecting CWIM and associated test methods for assessing the role of the DVI in influencing driver performance with ACWS.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than April 17, 2008. Late comments may be considered.

ADDRESSES: You may submit comments identified by DOT Docket ID Number NHTSA–2007–0038 by any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://wwww.regulations.gov*. Follow the online instructions for submitting comments.

• *Fax:* 202–493–2251.

• *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

• *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Eastern Time, Monday through Friday, except Federal holidays.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading in the **SUPPLEMENTARY INFORMATION** section of this document.

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).

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Eastern Time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Eric Traube, Office of Human Vehicle Performance Research, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone number: 202–366–5673; E-mail *Eric.Traube@dot.gov.*

SUPPLEMENTARY INFORMATION: One recent development in vehicle safety technology has been the introduction of Advanced Crash Warning Systems (ACWS). These systems alert drivers about emerging hazardous situations using auditory, visual, or haptic warnings. In some cases, limited vehicle control action, such as braking or steering, are initiated to alert drivers to respond. Systems that do not warn or provide some type of feedback to the driver would not be considered ACWS. Examples of ACWS include (but are not limited to) road departure warnings, lane change (blind spot) warnings, adaptive cruise control, curve speed warnings, and forward collision warnings.

While the implementation of ACWS in production vehicles appears to be increasing, the question remains as to whether ACWS will produce significant safety improvements or will introduce unforeseen problems, particularly if drivers are unfamiliar with ACWS warnings. The NHTSA-sponsored Human Factors Forum on Advanced Vehicle Safety Technologies was held in 2007 to begin to address this issue.

A key to ACWS effectiveness is the quality of its interface, which can affect the driver's performance as well as acceptance of the technology. The interface of an ACWS consists of the controls that drivers use to adjust the system operation and any visual, auditory, or haptic warnings as well as operational cues that can influence driver actions. Whether drivers will be able to effectively utilize this feedback to avoid crashes may be determined through tests that measure various aspects of driver/vehicle response, such as brake reaction time, gas pedal release time, brake force, threat recognition, response appropriateness, eye glance behaviors, etc. Because different manufacturers employ different test protocols, measures, and criteria to determine the design of the Driver-Vehicle Interface (DVI), a variety of interfaces have been proposed and in some cases deployed in production vehicles.

The Forum's focus on driver centered design highlighted the importance of these issues. Attendees stressed that future research should determine how to assess if drivers understand the system, if the system leads to appropriate driver reactions, and if drivers accept the new systems. Other discussion focused on the unintended consequences—understanding how inadequate mental models may affect safety and how design can strengthen those models. In addition, discussion addressed research needs related to integration of interfaces when several warning systems are installed. Other topics included the question of designing interfaces compatible with the capabilities of the majority of the driving population and compatible with each other. The later is where the topic of interface standardization was addressed as an approach to minimize driver confusion.

Without a meaningful basis for evaluating the driver/vehicle interface, the research topics suggested at the Forum would be difficult to resolve. In order to better evaluate and compare different ACWS interfaces, NHTSA has initiated a major research effort to develop human factors test protocols and related metrics of driver/system performance that will form the basis for a set of crash warning interface metrics (CWIM). The development of CWIM will benefit public safety by helping to identify effective ACWS. Secondly, CWIM will help to assess the whether lack of standardization of ACWS interface characteristics could confuse drivers and compromise system effectiveness. The issues of standardization and CWIM are interrelated because without metrics, the effects of non-standardized DVIs on driver performance cannot be objectively assessed. In addition, NHTSA may use results from the CWIM project to enhance test procedures developed under the Advanced Crash Avoidance Technology program and other ongoing activities.

NHTSA requests comments to assist the agency in identifying, evaluating, and selecting CWIM and associated test methods for assessing the role of the DVI in influencing driver performance with ACWS. The agency is interested in comments related to both the scientific merit of different metrics as well as the practical or institutional considerations for end users of CWIM.

While the research effort is making use of published research, guidelines, standards, and other materials, it will benefit greatly from the experience and opinion of various stakeholder groups, who face related issues. Therefore, we hope to receive comments that will reflect lessons learned, new ideas and approaches, criteria for optimal methods, practical concerns in application, and other information unlikely to be reflected in published literature. Responses to this notice may also help to provide greater consistency with current practice and assure maximum usefulness.

The following are some of the key issues that the agency would like commenters to address. In addition to general comments, the agency requests submission of documents, studies, test protocols, or references relevant to the issues.

A. Potential Measures and Procedures

(A1) What techniques, metrics, and criteria are now being used by vehicle manufacturers for developing and evaluating the human factor aspects of interface design and operation of ACWS at various stages of product development? What tools and environments (e.g. simulators, test

tracks, etc.) are used to evaluate DVIs? Are there ''lessons learned'' regarding their use, practicality, or acceptance? What measures and procedures are the most predictive of relevant safety parameters?

(A2) To what extent are DVI assessment techniques shared industry-wide and to what extent are these methods proprietary? What performance requirements, standards or guidance documents have been used by vehicle manufacturers and/or system suppliers to address the human factors aspects of the design and evaluation of CWIM for ACWS? Are they helpful? What are their limitations?

(A3) If various functions (e.g., Adaptive Cruise Control (ACC), Frontal Crash Warning (FCW), Lane Departure Warning (LDW)) are packaged together as an integrated in-vehicle system, can CWIM be applied individually to each function or is there a need to treat each function in the context of the other functions present as well as other aspects of vehicle design? How can or should this be done? Are there common metrics and protocols that can be used to assess several ACWS?

B. Evaluation of CWIM

(B1) What criteria should be used to determine the most sensitive, reliable, relevant, and useful metrics?

(B2) If consumers are annoyed or otherwise dislike the system, they may turn it off or not purchase it. How should consumer acceptance or driver annoyance be evaluated with respect to their influence on system effectiveness?

(B3) Driver response to ACWS can vary from person to person. Even the same person can vary in performance depending on their state of mind, e.g., drowsy or distracted. What subsets of the population need to be included in developing criteria for CWIM? How should their needs and capabilities be integrated into the assessment?

(B4) What type of evaluation of the DVI is being done or should be done to follow up on driver performance with production systems and its implication for the validity of CWIM?

C. Applying CWIM

(C1) CWIM may be used by suppliers, vehicle manufacturers, and the Government to design, evaluate, and compare usability and potential safety implications of ACWS. However, protocols that are too complicated or costly may be difficult to implement. Protocols that are perceived as invalid or not sensitive to different characteristics of interface design may not be used. What are the practical considerations that need to be factored into the development of metrics and related test protocols to make them useful and also acceptable to those who must apply the methods? What factors should be considered in the choice of test equipment (e.g., simulators, test tracks, vehicle instrumentation) needed to collect driver data?

(C2) As the number of ACWS increases in the vehicle fleet, the lack of standardization of the DVI among different vehicle makes and models may increase the likelihood of driver confusion in responding to the warning information intended to assist the driver. This lack of standardized design and operation of ACWS may reduce the safety benefits of these technologies. What mechanism (e.g., voluntary standards promulgated by SAE, ISO, or NHTSA or mandatory standards set forth in the FMVSS, etc.) should be used to standardize CWIM? How can standardization be balanced against restricting innovation? What test procedures and metrics can be applied to objectively evaluate the need for standardization? What criteria should be used to judge the need for standardization?

(C3) How should the criteria for acceptability be determined; that is, what determines if a DVI is ''good enough''? Also, how should the metrics be calibrated to determine if differences between measured values are of practical significance?

D. Research Needs

(D1) What research or other steps are required to identify CWIM and establish their validity as a basis for assessment?

(D2) What is the best way to encourage and coordinate international harmonized research on CWIM?

Public Participation

A. How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your primary comments must not be more than 15 pages long. (49 CFR 553.21). However, you may attach additional documents to your primary comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Comments may also be submitted to the docket electronically on the *Federal eRulemaking Portal* at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

B. How can I be sure my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

C. How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, send three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Include a cover letter supplying the information specified in our confidential business information regulation (49 CFR part 512).

In addition, send two copies from which you have deleted the claimed confidential business information to Docket Management at the address given above under **ADDRESSES**, or submit them electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.*

D. Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

E. How can I read the comments submitted by other people?

You may read the comments received by the Docket Management at the address given under **ADDRESSES**. The hours of the Docket are indicated above in the same location. To read the comments on the Internet, go to *http://www.regulations.gov.* Follow the online instructions for accessing the docket.

Please note that even after the comment closing date, we will continue to file relevant information on the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the docket for new material.

Issued on February 26, 2008.

Joseph N. Kanianthra,

Associate Administrator for Vehicle Safety Research.

[FR Doc. E8–4004 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–69–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2007–28734; Notice 2]

DaimlerChrysler Corporation, Grant of Petition for Decision of Inconsequential Noncompliance

DaimlerChrysler Corporation (DCC) [1] has determined that certain model year (MY) 2007 motor vehicles do not comply with paragraph S4.3(d) of 49 CFR 571.110, Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims for Motor Vehicles With a GVWR of 4,536 Kilograms (10,000 pounds) or Less.* DCC filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports* identifying approximately 3,037 MY 2007 Dodge Dakota (Dakota) pickup trucks produced between May 8, 2006 and March 16, 2007 that do not comply with the paragraph of FMVSS No. 110 cited above.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, DCC has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day public comment period, on October 4, 2007 in the **Federal Register** (72 FR 56824). No comments were received. To view the petition and all supporting documents, log on to the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2007–28734.''

For further information on this decision, contact Mr. John Finneran, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–0645, facsimile (202) 366–7097.

Paragraph S4.3(d) of FMVSS No. 110 requires in pertinent part that:

S4.3 Placard. Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in S4.3 (a) through (g), * * *

(d) Tire size designation, indicated by the headings ''size'' or ''original tire size'' or ''original size,'' and ''spare tire'' or ''spare,'' for the tires installed at the time of the first purchase for purposes other than resale. For full size spare tires, the statement ''see above'' may, at the manufacturer's option replace the tire size designation. If no spare tire is provided, the word ''none'' must replace the tire size designation; * * *

By way of background, DCC explains that MY 2006 Dakotas were equipped with five P265/65R17 tires—the four tires installed on the vehicle at time of sale and the spare tire. The vehicle placard on the MY 2006 Dakota accurately reflected the sizes of the tires. DCC further explained that they decided to equip the subsequent MY 2007 Dakota with P265/60R18 tires. However, prior to the actual launch of the MY 2007 vehicles, DCC discovered that a P265/60R18 tire would not fit properly in the spare tire location on the vehicle. Therefore, DCC decided to retain the P265/65R17 tire as the spare tire, while going forward with the decision to use P265/60R18 tires as in-service original equipment. Unfortunately, the vehicle placards affixed to the subject MY 2007 Dakotas were not revised to reflect the decision to use the P265/65R17 spare tire; therefore, the vehicles do not comply with S4.3(d).

DCC argues that the noncompliance, the erroneous designation of the size of the spare tire on the vehicle placard, does not have any adverse safety impact. In DCC's estimation, the P265/60R18 tire and the P265/65R17 tire are equivalent. It supports this estimation by stating that the recommended cold tire inflation pressure specified on the vehicle placard—240 kPa (35 psi)—is appropriate for either P265/60R18 or P265/65R17 tires when mounted for service on the Dakota, and that the *Tire & Rim Association Handbook* confirms that the P265/65R17 spare tire supplied with the vehicles can carry more weight at 35 psi (2,124 pounds) than the P265/60R18 tire referred to on the erroneous vehicle placard (2,064 pounds).

DCC states that all other information provided on the 2007 Dakota vehicle placard is correct.

In summation, DCC states that it has corrected the problem that caused these errors so that they will not be repeated in future production and that it believes that because the noncompliance is inconsequential to motor vehicle safety that no corrective action is warranted.

NHTSA Decision

NHTSA agrees with DCC that the erroneous designation of the size of the spare tire on the placard affixed to the subject vehicles does not have any adverse safety implications. The intent of FMVSS No. 110 is to ensure that vehicles are equipped with tires appropriate to handle maximum vehicle loads and prevent overloading. The subject 2007 Dodge Dakota pickup trucks are equipped with four P265/60R18 tires that have a load rating of 2,064 pounds (de-rated by 1.1 when inflated to the recommended inflation pressure of 35 psi listed on the vehicle placard required by FMVSS No. 110). As required by FMVSS No. 110, these tires are appropriate for the vehicle's stated front and rear gross axle weight ratings. The same P265/60R18 tire size is listed on the placard for the spare tire. The actual spare tire provided with the vehicle is a P265/65R17. This tire has more load carrying capability, 2,124 pounds (de-rated by 1.1 at 35 psi), than the P265/60R18 tires. Both the actual provided spare tire and the spare tire indicated on the vehicle placard meet the FMVSS No. 110 loading requirements at the recommended cold inflation pressure of 35 psi. DCC is not aware of any customer complaints or field reports relating to this issue and stated that it has corrected the problem that caused these errors so that they will not be repeated in future production.

In consideration of the foregoing, NHTSA has decided that DCC has met its burden of persuasion that the labeling noncompliances described are inconsequential to motor vehicle safety. Accordingly, DCC's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliances under 49 U.S.C. 30118 and 30120.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 26, 2008.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E8–4045 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–59–P

[1] Now known as Chrysler, LLC.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2007–28769; Notice 2]

Ford Motor Company, Grant of Petition for Decision of Inconsequential Noncompliance

Ford Motor Company (Ford) has determined that approximately 180,603 seat belt replacement assemblies for 2000 through 2004 model year Ford Focus passenger cars and 191,352

service seat belt assemblies for 2001 through 2004 model year Ford Escape multipurpose passenger vehicles did not comply with paragraphs S4.1(k) and S4.1(l) of 49 CFR 571.209, Federal Motor Vehicle Safety Standard (FMVSS) No. 209, *Seat Belt Assemblies.* The assemblies for the Focus passenger cars were sold from July 1999 through May 17, 2007, and the assemblies for the Escape multipurpose passenger vehicles were sold from June 2000 through April 18, 2007. Ford has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Ford has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day public comment period, on October 4, 2007 in the **Federal Register** (72 FR 56825). No comments were received. To view the petition and all supporting documents, log on to the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2007–28769.''

For further information on this decision, contact Ms. Claudia Covell, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5293, facsimile (202) 366–7002.

Paragraphs S4.1(k) and S4.1(l) of FMVSS No. 209 require:

(k) Installation instructions. A seat belt assembly, other than a seat belt assembly installed in a motor vehicle by an automobile manufacturer, shall be accompanied by an instruction sheet providing sufficient information for installing the assembly in a motor vehicle. The installation instructions shall state whether the assembly is for universal installation or for installation only in specifically stated motor vehicles, and shall include at least those items specified in SAE Recommended Practice J800c, ''Motor Vehicle Seat Belt Installations,'' November 1973. If the assembly is for use only in specifically stated motor vehicles, the assembly shall either be permanently and legibly marked or labeled with the following statement, or the instruction sheet shall include the following statement:

This seat belt assembly is for use only in [insert specific seating position(s), e.g., ''front right''] in [insert specific vehicle make(s) and model(s)].

(l) Usage and maintenance instructions. A seat belt assembly or retractor shall be accompanied by written instructions for the proper use of the assembly, stressing particularly the importance of wearing the assembly snugly and properly located on the body, and on the maintenance of the assembly and periodic inspection of all components. The instructions shall show the proper manner of threading webbing in the hardware of seat belt assemblies in which the webbing is not permanently fastened. Instructions for a nonlocking retractor shall include a caution that the webbing must be fully extended from the retractor during use of the seat belt assembly unless the retractor is attached to the free end of webbing which is not subjected to any tension during restraint of an occupant by the assembly. Instructions for Type 2a shoulder belt shall include a warning that the shoulder belt is not to be used without a lap belt.

Ford's Data, Views, and Arguments

Ford explains that the subject seat belt assemblies were sold in the United States and federalized territories without the installation, usage, and maintenance instructions required by paragraphs in S4.1(k) and S4.1(1) of FMVSS No. 209.

Ford makes the argument that the service seat belt assemblies in question are only made available to Ford authorized dealerships for their use or subsequent resale and that the Ford parts ordering process used by Ford dealers clearly identifies the correct service part required by model year, model, and seating position. By way of example, Ford further explains that an order for a driver's-side front buckle assembly for a 2002 model year Focus would be filled by the components specifically designed to be installed in that particular position in that specific vehicle. This is because Ford's service seat belt assemblies are designed to be installed properly only in their intended application.

Ford additionally states that technicians at Ford dealerships that replace seat belts have access to the installation instruction information available in workshop manuals. Installers other than Ford dealership technicians also have seat belt installation information available because all workshop manual information, including seat belt replacement information, is made available to the general public on the Ford Motorcraft Web site and through aftermarket service information compilers such as Mitchell and Alldata.

Ford additionally argues that a significant portion of paragraph S4.1(k) appears to address a concern with proper installation of aftermarket seat belts into vehicles that were not originally equipped with these restraints. Ford also notes that SAE J800c which is cited in the regulation involves installation of ''universal type seat belt assemblies,'' particularly where no seat belt had previously been installed, and that these concerns do not apply to the service seat belts. The vehicles involved in the instant petition have uniquely designed seat belt components, and replacement seat belt assemblies are installed into the identical location from which the original parts were removed.

Ford also states that proper seat belt usage instructions are clearly laid out in the Owner Guide that is included with each new vehicle. There are no requirements for scheduled maintenance on the seat belt assemblies in the subject vehicles. Information concerning periodic inspection for wear and function of the seat belts, as well as for their proper usage is included in the vehicle Owner Guide and this information applies as equally to service seat belt assemblies as it does to the original equipment belts. All Ford Owner Guides, including those for the 2000 through 2004 Focus and 2001 through 2004 Escape, are also available to the public, free of charge on the Ford Motorcraft Web site.

Ford is not aware of any customer or field reports of service seat belt assemblies being incorrectly installed in the subject applications as a result of installation instructions not accompanying the service part. Ford also is not aware of any reports requesting installation instructions, which it believes to be indicative of the availability of this information from the sources listed above.

In summation, Ford states that it has corrected the problem that caused these errors so that they will not be repeated in future production and that it believes that because the noncompliances are inconsequential to motor vehicle safety that no corrective action is warranted.

NHTSA Decision

To help ensure proper selection, installation, usage, and maintenance of seat belt assemblies, paragraph S4.1(k) of FMVSS No. 209 requires that installation, usage, and maintenance instructions be provided with seat belt assemblies, other than those installed by an automobile manufacturer.

First, we note that the subject seat belt assemblies are only made available to Ford authorized dealerships for their use or subsequent resale. Because the parts ordering process used by Ford authorized dealerships clearly identifies the correct service part required by model year, model, and seating position, NHTSA believes that there is little likelihood that an inappropriate seat belt assembly will be provided for a

specific seating position within a Ford vehicle.

Second, we note that technicians at Ford dealerships have access to the seat belt assembly installation instruction information in workshop manuals. In addition, installers other than Ford dealership technicians can access the installation instructions on the Ford Motorcraft Web site and through other aftermarket service information compilers. We also believe that Ford is correct in stating that the seat belt assemblies are designed to be installed properly only in their intended application. Thus, we conclude that sufficient safeguards are in place to prevent the installation of an improper seat belt assembly.

NHTSA recognizes the importance of having installation instructions available to installers and use and maintenance instructions available to consumers. The risk created by this noncompliance is that someone who purchased an assembly is unable to obtain the necessary installation information resulting in an incorrectly installed seat belt assembly. However, because the seat belt assemblies are designed to be installed properly only in their intended application and the installation information is widely available to the public, it appears that there is little likelihood that installers will not be able to access the installation instructions. Furthermore, we note that Ford has stated that they are not aware of any customer field reports of service seat belt assemblies being incorrectly installed in the subject applications, nor aware of any reports requesting installation instructions. These findings suggest that it is unlikely that seat belts have been improperly installed.

In addition, although 49 CFR Part 571.209 paragraph S4.1(k) requires certain instructions specified in SAE Recommended Practice J800c be included in seat belt replacement instructions, that requirement applies to seat belts intended to be installed in seating positions where seat belts do not already exist. The subject seat belt assemblies are only intended to be used for replacement of original equipment seat belts, therefore the instructions do not apply to the subject seat belt assemblies.[1]

With respect to seat belt usage and inspection instructions, we note that this information is available in the Owner Guides that are included with each new vehicle as well as free of charge on the Ford Motorcraft Web site and apply to the replacement seat belt assemblies installed in these vehicles. Thus, with respect to usage and maintenance instructions, it appears that Ford has met the intent of S4.1(l) of FMVSS No. 209 for the subject vehicles using alternate methods for notification.

NHTSA has granted similar petitions for noncompliance with seat belt assembly installation and usage instruction standards. Refer to Subaru of America, Inc. (65 FR 67471, November 9, 2000); Bombardier Motor Corporation of America, Inc. (65 FR 60238, October 10, 2000); TRW, Inc. (58 FR 7171, February 4, 1993); and Chrysler Corporation, (57 FR 45865, October 5, 1992). In all of these cases, the petitioners demonstrated that the noncompliant seat belt assemblies were properly installed, and due to their respective replacement parts ordering systems, improper replacement seat belt assembly selection and installation would not be likely to occur.

In consideration of the foregoing, NHTSA has decided that Ford has met its burden of persuasion that the seatbelt installation and usage instruction noncompliances described are inconsequential to motor vehicle safety. Accordingly, Ford's application is granted, and it is exempted from providing the notification of noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120. All products manufactured or sold on and after June 26, 2007, must comply fully with the requirements of FMVSS No. 209.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 25, 2008.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E8–4043 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–59–P

[1] Subaru of America, Inc.; Grant of Application for Decision of Inconsequential Non-Compliance (65 FR 67472)

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2007–28735; Notice 2]

Mazda North American Operations, Grant of Petition for Decision of Inconsequential Noncompliance

Mazda North American Operations (Mazda) has determined that an unspecified quantity of replacement seat belt assemblies that it delivered prior to June 25, 2007 did not comply with paragraphs S4.1(k) and S4.1(l) of 49 CFR 571.209, Federal Motor Vehicle Safety Standard (*FMVSS*) No. 209 *Seat Belt Assemblies*. Mazda has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Mazda has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day public comment period, on October 4, 2007 in the **Federal Register** (72 FR 56826). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/*. Then follow the online search instructions to locate docket number ''NHTSA–2007–28735.''

For further information on this decision, contact Ms. Claudia Covell, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5293, facsimile (202) 366–7002.

Paragraphs S4.1(k) and S4.1(l) of FMVSS No. 209 require:

(k) Installation instructions. A seat belt assembly, other than a seat belt assembly installed in a motor vehicle by an automobile manufacturer, shall be accompanied by an instruction sheet providing sufficient information for installing the assembly in a motor vehicle. The installation instructions shall state whether the assembly is for universal installation or for installation only in specifically stated motor vehicles, and shall include at least those items specified in SAE Recommended Practice J800c, ''Motor Vehicle Seat Belt Installations,'' November 1973. If the assembly is for use only in specifically stated motor vehicles, the assembly shall either be permanently and legibly marked or labeled with the following statement, or the instruction sheet shall include the following statement:

This seat belt assembly is for use only in [insert specific seating position(s), e.g., ''front right''] in [insert specific vehicle make(s) and model(s)].

(l) Usage and maintenance instructions. A seat belt assembly or retractor shall be accompanied by written instructions for the proper use of the assembly, stressing particularly the importance of wearing the assembly snugly and properly located on the body, and on the maintenance of the assembly and periodic inspection of all components. The instructions shall show the proper manner of threading webbing in the hardware of seat belt assemblies in which the webbing is not permanently fastened. Instructions for a nonlocking retractor shall include a caution that the webbing must be

fully extended from the retractor during use of the seat belt assembly unless the retractor is attached to the free end of webbing which is not subjected to any tension during restraint of an occupant by the assembly. Instructions for Type 2a shoulder belt shall include a warning that the shoulder belt is not to be used without a lap belt.

Mazda's Data, Views, and Arguments

Mazda explains that three possible situations apply to the subject replacement seat belt assemblies.

In the first instance, the seat belt assembly instruction sheets included with the replacement assemblies appropriate for Mazda B-series pickup trucks and Mazda Navajo multipurpose passenger vehicles only identified the assemblies as applicable to the Ford Ranger pickup trucks or Ford Explorer multipurpose passenger vehicles, respectively. Although other information provided was accurate for the Mazda vehicles, the incorrect vehicle reference fails to comply with S4.1(k) of the standard.

Second, replacement seat belt assemblies produced for use in the following vehicles did not include either the installation instructions or the instructions for the proper use and maintenance of the replacement seat belt assemblies. This fails to comply with both paragraph S4.1(k) and paragraph S4.1(l) of the standard:

1992–1995 MY Mazda 929, delivered from 1991 to 2007
1990–2002 MY Mazda 626, delivered from 1989 to 2007
1994–1995 MY Mazda MX–3, delivered from 1993 to 2007
1994–2007 MY Mazda MX–5, delivered from 1993 to 2007
1988–1997 MY Mazda MX–6, delivered from 1987 to 2007
1993–1995 MY Mazda RX–7, delivered from 1992 to 2007
1999–2003 MY Mazda Protege, delivered from 1998 to 2007
2001–2008 MY Mazda Tribute, delivered from 2000 to 2007
2004–2007 MY Mazda Mazda6, delivered from 2003 to 2007
2006–2007 MY Mazda 5, delivered from 2005 to 2007
2007 MY Mazda CX–9, delivered from 2006 to 2007
2007 MY Mazda B-Series Truck, delivered from 2006 to 2007

And finally, all remaining replacement seat belt assemblies produced for use in the United States and its territories did not include the instructions for the proper use and maintenance of the replacement seat belt assemblies. This fails to comply with S4.1(l) of the standard.

Mazda makes the argument that the Mazda parts ordering system used by Mazda dealers clearly identifies the correct service seat belt components for any given model/model year seat position combination. The parts are unique to each belt and are designed to assemble properly only in their intended application. When ordering Mazda replacement seat belt parts, the dealer must refer to the Mazda parts catalog to identify the ordering part number with the information on the specific vehicle model type, location and model year. Each replacement seat belt assembly is packaged individually with a specific part number label to ensure shipping the correct parts. Then, the dealer routinely checks to confirm that the part received matches the one ordered. Given the ordering system and process, the dealers could select, order, and obtain the correct parts. Also, installation instructions for seat belts are readily available in the Mazda workshop manuals and on the internet. Therefore, the seat belt parts can be successfully installed with the information already available even though installation instructions did not accompany the replacement seat belt assemblies.

Mazda further argues that since the instruction for proper use and maintenance is described in the owner's manual which is installed in the vehicle, incorrect usage and maintenance by the vehicle owner is highly unlikely.

Mazda is not aware of any customer or field reports of service seat belt assemblies being incorrectly installed in the subject applications as a result of installation instructions not accompanying the service part.

Mazda also stated that it is not aware of any reports requesting installation instructions, which it believed to be related to the noncompliances.

Upon discovery of the subject noncompliance, Mazda took action to ensure that all replacement seat belt assemblies shipped in the future are packaged with the required installation instructions. Mazda has also corrected all the replacement seat belt assemblies in the inventory for shipment to dealers.

In summation, Mazda states that it has corrected the problem that caused these errors so that they will not be repeated in future production and that it believes that because the noncompliances are inconsequential to motor vehicle safety that no corrective action is warranted.

NHTSA Decision

To help ensure proper selection, installation, usage, and maintenance of seat belt assemblies, paragraph S4.1(k) of FMVSS No. 209 requires that installation, usage, and maintenance instructions be provided with seat belt assemblies, other than those installed by an automobile manufacturer.

First, NHTSA believes that installers who receive seat belt assemblies having instructions that reference an incorrect vehicle will either return the part, determine that the part is correct for the appropriate Mazda vehicle based on the specific part number label located on the seat belt assembly, or install the part in the vehicle listed on the accompanying instruction sheet. In any of these scenarios, the assembly will be installed in the correct vehicle and seating position resulting in no safety risk.

Second, we note that the subject seat belt assemblies are only made available to Mazda authorized dealerships for their use or subsequent resale. Because the parts ordering process used by Mazda authorized dealerships clearly identifies the correct service part required by model year, model, and seating position, NHTSA believes that there is little likelihood that an inappropriate seat belt assembly will be provided for a specific seating position within a Mazda vehicle.

Third, we note that technicians at Mazda dealerships have access to the seat belt assembly installation instruction information in workshop manuals. In addition, installers other than Mazda dealership technicians can access the installation instructions on the Internet. We also believe that Mazda is correct in stating that the seat belt assemblies are designed to assemble properly only in their intended application. Thus, we conclude that sufficient safeguards are in place to prevent the installation of an improper seat belt assembly.

NHTSA recognizes the importance of having installation instructions available to installers and use and maintenance instructions available to consumers. The risk created by this noncompliance is that someone who purchased an assembly is unable to obtain the necessary installation information resulting in an incorrectly installed seat belt assembly. However, because the seat belt assemblies are designed to be assembled properly only in their intended application and the installation information is widely available to the public, it appears that there is little likelihood that installers will not be able to access the installation instructions. Furthermore, we note that Mazda has stated that they are not aware of any customer or field reports of service seat belt assemblies being incorrectly installed in the subject applications, nor aware of any reports requesting installation instructions.

These findings suggest that it is unlikely that seat belts have been improperly installed.

In addition, although 49 CFR Part 571.209 paragraph S4.1(k) requires certain instructions specified in SAE Recommended Practice J800c be included in seat belt replacement instructions, that requirement applies to seat belts intended to be installed in seating positions where seat belts do not already exist. The subject seat belt assemblies are only intended to be used for replacement of original equipment seat belts, therefore the instructions do not apply to the subject seat belt assemblies.[1]

With respect to seat belt usage and inspection instructions, we note that this information is available in the owner's manual which is installed in the vehicle. Thus, with respect to usage and maintenance instructions, it appears that Mazda has met the intent of S4.1(l) of FMVSS No. 209 for the subject vehicles using alternate methods for notification.

NHTSA has granted similar petitions for noncompliance with seat belt assembly installation and usage instruction standards. Refer to Subaru of America, Inc. (65 FR 67471, November 9, 2000); Bombardier Motor Corporation of America, Inc. (65 FR 60238, October 10, 2000); TRW, Inc. (58 FR 7171, February 4, 1993); and Chrysler Corporation, (57 FR 45865, October 5, 1992). In all of these cases, the petitioners demonstrated that the noncompliant seat belt assemblies were properly installed, and due to their respective replacement parts ordering systems, improper replacement seat belt assembly selection and installation would not be likely to occur.

In consideration of the foregoing, NHTSA has decided that Mazda has met its burden of persuasion that the installation and usage instruction noncompliances described are inconsequential to motor vehicle safety. Accordingly, Mazda's application is granted, and it is exempted from providing the notification of noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120. All products manufactured or sold on and after June 26, 2007, must comply fully with the requirements of FMVSS No. 209.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8.

[1] Subaru of America, Inc.; Grant of Application for Decision of Inconsequential Non-Compliance (65 FR 67472).

Issued on: February 26, 2008.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E8–4012 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2008–0036]

Notice of Receipt of Petition for Decision That Nonconforming 2006 and 2007 Subaru Forester Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2006 and 2007 Subaru Forester passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2006 and 2007 Subaru Forester passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 2006 and 2007 Subaru Forester passenger car), and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is April 2, 2008.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

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

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. 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*.

How To Read Comments Submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Federal Docket Management System (FDMS) Web page *http://www.regulations.gov*.

(2) On that page, click on ''Advanced Docket Search.''

(3) On the next page select ''NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION'' from the drop-down menu in the Agency field and enter the Docket ID number shown at the heading of this document.

(4) After entering that information, click on ''submit.''

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see. You may download the comments. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused

admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC, of Baltimore, Maryland (JK)(Registered Importer 90–006) has petitioned NHTSA to decide whether nonconforming 2006 and 2007 Subaru Forester passenger cars are eligible for importation into the United States. The vehicles which JK believes are substantially similar are 2006 and 2007 Subaru Forester passenger cars that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified 2006 and 2007 Subaru Forester passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

JK submitted information with its petition intended to demonstrate that non-U.S. certified 2006 and 2007 Subaru Forester passenger cars, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2006 and 2007 Subaru Forester passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect*, 103 *Windshield Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch System*, 116 *Motor Vehicle Brake Fluids*, 124 *Accelerator Control Systems*, 135 *Passenger Car Brake Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Mounting*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 225 *Child Restraint Anchorage Systems*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

In addition, the petitioner claims that the vehicles comply with the Bumper Standard found in 49 CFR Part 581.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: installation of a U.S.-model instrument cluster that has been reprogrammed to reflect the correct mileage on the vehicle.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model front sidemarker lamps; (b) installation of U.S.-model headlamps; and (c) installation of U.S.-model taillamp assemblies which incorporate rear U.S.-model sidemarker lamps.

Standard no. 110 *Tire Selection and Rims:* installation of vehicle placard.

Standard No. 111 *Rearview Mirrors:* installation of a U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection:* installation of U.S. version software to meet the requirements of this standard.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems:* installation of U.S.-version software to meet the requirements of this standard.

Standard No. 208 *Occupant Crash Protection:* (a) installation of U.S.-version software to ensure that the seat belt warning system meets the requirements of this standard, and (b) inspection of all vehicles and replacement of any non-U.S.-model components needed to achieve conformity with this standard with U.S.-model components.

The petitioner states that the European version of the subject vehicle does not meet the requirements of FMVSS No. 208. According to the petitioner, the passenger occupant detection system must be added, the driver's and front passenger's seat belt buckle switch must be replaced, and the Control ECU must be reprogrammed. The petitioner also states that on account of regulatory differences around the world parts of the occupant protection system must be inspected to verify that U.S.-model seat belts and control units are installed.

The agency is especially interested in obtaining comments concerning the subject vehicle's capability of being readily altered to conform to the advanced air bag requirements of this standard. For example, the agency wishes to know whether U.S.-model components can be readily installed in the subject vehicle and be readily calibrated to interface with that vehicle in such a way as to assure its conformity with the air bag low risk deployment and air bag automatic suppression performance requirements of the standard. The agency is willing to consider all information relating to this issue, be it test information or otherwise.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR Part 565.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 26, 2008.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. E8–4026 Filed 2–29–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF VETERANS AFFAIRS

Genomic Medicine Program Advisory Committee; Notice of Renewal

The Department of Veterans Affairs (VA) gives notice that the Genomic Medicine Program Advisory Committee has been renewed for a two year period.

The Committee provides advice to the Secretary of Veterans Affairs on the scientific and ethical issues related to the development and operation of VA's genomic medicine program. The Committee is guided by the goal of

using genetic information to optimize clinical care of veterans and to enhance the study and development of diagnostic tests and treatments for diseases of particular relevance to veterans.

Dated: February 22, 2008.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 08–910 Filed 2–29–08; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Minority Veterans will be held on March 31–April 3, 2008 at the following locations: Fayetteville, Salisbury, and Winston-Salem, North Carolina. The sessions will be open to the public.

The purpose of the Committee is to advise the Secretary on the administration of VA benefits and services to minority veterans, to assess the needs of minority veterans and to evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities.

On March 31, 2008, the Committee will meet from 9 a.m. to 4:15 p.m. at the Fayetteville VA Medical Center (VAMC), 2300 Ramsey Street, Fayetteville, North Carolina. The Committee will hold panel discussions with key staff members from the VAMC and with local Veterans Service Organizations (VSOs) on services and benefits delivery challenges, successes, and concerns affecting Fayetteville area veterans. Additionally, the Committee will hold a town hall meeting at the Holiday Inn I-95 located at 1944 Cedar Creek Road in Fayetteville beginning at 6:30 p.m.

On April 1, 2008, the Committee will meet from 9 am. to 12 noon at the Womack Army Medical Center (AMC) located in Building 4–2817 at Ft. Bragg for a briefing from the Womack AMC leadership, a tour of the facility, and to visit with patients. Following this visit, the Committee will depart for the Lumbee Tribe of North Carolina to meet with tribal representatives at 2709 Union Chapel Road, Pembroke, North Carolina from 2:30 p.m. to 5:30 p.m.

On April 2, 2008, the Committee will meet from 10:45 a.m. to 12:30 p.m. at the Salisbury National Cemetery, 501 Statesville Blvd, Salisbury, North Carolina for a tour and briefing. The Committee will then depart at 12:45 p.m. for Winston-Salem, North Carolina. The Committee will meet from 2 p.m. to 4 p.m. at the Winston-Salem VA Regional Office at the Federal Building, 251 North Main Street, in Winston-Salem. The Committee will hold discussions with key staff members from the Winston-Salem VA Regional Office on services and benefits, delivery challenges, and successes. Additionally, the Committee will hold a second town hall meeting at the Winston-Salem Marriott (460 N. Cherry Street) beginning at 6:30 p.m. to hear comments from the Winston-Salem area veterans. The town hall meeting will adjourn at 8:30 p.m.

On April 3, 2008, the Committee will meet from 10 a.m. to 5 p.m. at the Holiday Inn I-95, Conference Room Section III, 1944 Cedar Creek Road, Fayetteville, North Carolina. The Committee will conduct an exit briefing with each of the VA teams involved in the Committee's activities on March 31–April 2. The Committee will also work on its annual report.

The Committee will accept written comments from interested members of the public on issues outlined in the meeting agenda, as well as other issues affecting minority veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

For additional information about the meeting, please contact Ms. Juanita Mullen or Mr. Ronald Sagudan at (202) 461–6191.

Dated: February 27, 2008.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 08–922 Filed 2–29–08; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Monday,
March 3, 2008

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Parts 1212 and 1240

Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order; Referendum Procedures; Final Rule and Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1212

[Docket No. AMS–FV–06–0176; FV–03–704–FR–2B]

RIN 0581–AC37

Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order; Referendum Procedures

AGENCY: Agricultural Marketing Service, Agriculture, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes procedures which the Department of Agriculture (USDA or the Department) will use in conducting a referendum to determine whether the issuance of the proposed Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order (Order) is favored by first handlers and importers of honey or honey products. The Order will be implemented if it is approved by a majority of the eligible first handlers and importers voting in the referendum, which also represents a majority of the volume of honey and honey products handled and imported during the representative period. These procedures will also be used for any subsequent referendum under the Order, if it is approved in the initial referendum. The proposed Order is being published separately in this issue of the **Federal Register**. This proposed program would be implemented under the Commodity Promotion, Research, and Information Act of 1996.

DATES: *Effective Date:* March 4, 2008.

FOR FURTHER INFORMATION CONTACT: Kathie M. Notoro, Marketing Specialist, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, Room 0632-S, 1400 Independence Avenue, SW., Washington, DC 20250–0244; telephone 202–720–9915 or (888) 720–9917 (toll free) or e-mail *kathie.notoro@usda.gov*.

SUPPLEMENTARY INFORMATION: A referendum will be conducted among eligible first handlers and importers of honey or honey products to determine whether they favor issuance of the proposed Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order (Order) [7 CFR part 1212]. The program will be implemented if it is approved by a majority of the first handlers and importers voting in the referendum, which also represents a majority of the volume of honey and honey products handled and imported during the representative period. The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 (Act) [7 U.S.C. 7411–7425]. It would cover domestic first handlers and importers of honey and honey products of 250,000 pounds or more. A proposed rule and referendum order is being published separately in this issue of the **Federal Register**.

Prior documents: Proposed rules on both the Order [72 FR 30923] and the Referendum Procedures [72 FR 30940] were published in the **Federal Register** on June 4, 2007, with a 60-day comment period.

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by OMB.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect.

Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under Section 519 of the Act, a person subject to an order may file a petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and may request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall be the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of entry of USDA's final ruling.

Final Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agency is required to examine the impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such action so that small businesses will not be disproportionately burdened.

The Act, which authorizes the Department to consider industry proposals for generic programs of promotion, research, and information for agricultural commodities, became effective on April 4, 1996. The Act provides for alternatives within the terms of a variety of provisions.

Paragraph (e) of Section 518 of the Act provides three options for determining industry approval of a new research and promotion program: (1) By a majority of those persons voting; (2) by persons voting for approval who represent a majority of the volume of the agricultural commodity; or (3) by a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity. In addition, Section 518 of the Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within three years after assessments first begin under an order. The National Honey Packers and Dealers Association (Association) has recommended that the Department conduct a referendum in which approval of an order would be based on a majority of the first handlers and importers voting who also represent a majority of the volume voting in the referendum. The Department is conducting a referendum prior to the proposed Order going into effect.

This rule establishes the procedures under which first handlers and importers of honey or honey products will vote on whether they want a honey promotion, research, and information program to be implemented. This rule adds a new subpart which establishes procedures to conduct initial and future referenda. The subpart covers definitions, voting instructions, use of subagents, ballots, the referendum report, and confidentiality of information.

There are approximately 45 first handlers and 30 importers of honey and honey products who would be subject to the program and eligible to vote in the first referendum. The Small Business Administration [13 CFR 121.201] defines small agricultural service firms as those having annual receipts of $6.5 million or less. First handlers and importers would be considered agricultural service firms. Using these criteria, most first handlers would be considered small businesses while most importers would not.

National Agricultural Statistic Service (NASS) data reports that U.S.

production of honey, from producers with five or more colonies, totaled 155 million pounds in 2006. The top ten producing States in 2006 included North Dakota, South Dakota, California, Florida, Minnesota, Montana, Texas, Wisconsin, Idaho, and New York. To avoid disclosing data for individual operations, NASS statistics do not include Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, Oklahoma, Rhode Island, and South Carolina. NASS reported the value of honey sold in 2006 was $161,314,000. Honey prices increased during 2006 to 104.2 cents, up 14 percent from 91.8 cents in 2005.

There is a current Honey Research, Promotion, and Consumer Information Program in effect (7 CFR part 1240). Based on the assessment reports in connection with the current honey program, four countries account for 72 percent of the honey and honey products imported into the United States. These countries and their share of the imports are: China (28%); Argentina (21%); Vietnam (13%); and Canada (10%). Other countries combined totaled 28 percent of honey and honey products imported to the United States. In 2006, 155 million pounds of honey were produced in the United States, 279.4 million pounds were imported and 7.6 million pounds were exported.

This rule provides the procedures under which first handlers and importers of honey or honey products will vote on whether they want the Order to be implemented. In accordance with the provisions of the Act, subsequent referenda may be conducted, and it is anticipated that these procedures will apply. There are approximately 45 first handlers and 30 importers who will be eligible to vote in the first referendum. First handlers and importers of less than 250,000 pounds of honey and honey products annually would be exempt from assessments and not eligible to vote in the referendum.

USDA will keep these individuals informed throughout the program implementation and referendum process to ensure that they are aware of and are able to participate in the program implementation process. USDA will also publicize information regarding the referendum process so that trade associations and related industry media can be kept informed.

Voting in the referendum is optional. However, if first handlers and importers choose to vote, the burden of voting will be offset by the benefits of having the opportunity to vote on whether or not they want to be covered by the program.

The information collection requirements contained in this rule are designed to minimize the burden on first handlers and importers. This rule provides for a ballot to be used by eligible first handlers and importers to vote in the referendum. The estimated annual cost of providing the information by an estimated 45 first handlers and for an estimated 30 importers would be $45.00 for all first handlers or $1.00 per first handler and $30.00 for all importers or $1.00 per importer.

USDA considered requiring eligible voters to vote in person at various USDA offices across the country. USDA also considered electronic voting, but the use of computers is not universal. Conducting the referendum from one central location by mail ballot will be more cost effective and reliable. USDA will provide easy access to information for potential voters through a toll free telephone line.

With the exception of the Current Order's referendum rules, there are no federal rules that duplicate, overlap, or conflict with this rule.

Paperwork Reduction Act

In accordance with the OMB regulation [5 CFR 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the referendum ballot, which represents the information collection and recordkeeping requirements that may be imposed by this rule, was submitted to OMB for approval and will be approved under OMB Number 0581–NEW.

Title: Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order.

OMB Number: 0581–NEW.

Expiration Date of Approval: 3 years from OMB date of approval.

Type of Request: New information collection for research and promotion programs.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the Order. The ballot is needed for the referendum that will be held to determine whether first handlers and importers are in favor of the program. The information collected is used by USDA to determine whether a majority of the eligible first handlers and importers voting in a referendum, who also represent a majority of the volume of honey and honey products approve of this program.

Referendum Ballot

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hours per response for each first handler and importer.

Respondents: First handlers and importers.

Estimated Number of Respondents: 75.

Estimated Number of Responses per Respondent: 1 every 5 years (0.2).

Estimated Total Annual Burden on Respondents: 3.75 hours.

The ballot will be added to the other information collections approved for use under OMB Number 0581–NEW.

The estimated annual cost of providing the information by an estimated 45 first handlers would be $45.00 or $1.00 per first handler and for an estimated 30 importers would be $30.00 or $1.00 per importer.

Background

The Act, which became effective on April 4, 1996, authorizes the Department to establish a national research and promotion program covering domestic and imported honey and honey products. The Association submitted a proposed Order on March 17, 2006. After a number of modifications were made by AMS to the Association's petition, a proposed rule requesting comments was published in the **Federal Register** [7 CFR 30923] on June 4, 2007. A second proposal addressing the comments received is being published in this issue of the **Federal Register**.

The proposed Order would provide for the development and financing of an effective and coordinated program of promotion, research, and consumer and industry information for honey and honey products in the United States. The program would be funded by an assessment levied on first handlers and importers (to be collected by United States Customs and Border Protection, referred to as U.S. Customs Service, at time of entry into the United States) at an initial rate of 1 cent per pound. First handlers and importers of less than 250,000 pounds of honey and honey products per year would be exempt from paying assessments. The assessments would be used to pay for promotion, research, and consumer and industry information; administration, maintenance, and functioning of the Honey Packers and Importers Board; and expenses incurred by the Department in implementing and administering the Order, including referendum costs.

Section 1206 of the Act requires that a referendum be conducted among

eligible first handlers and importers of honey or honey products to determine whether they favor implementation of the Order. That section also requires the Order to be approved by a majority of the first handlers and importers voting, who also represent a majority of the volume of honey and honey products handled and imported during the representative period.

This final rule establishes the procedures under which first handlers and importers of honey or honey products will vote on whether they want the honey packer and importer promotion, research, and information program to be implemented. There are approximately 75 eligible voters.

This action adds a new subpart establishing procedures to be used in this and future referenda. This subpart covers definitions, voting, instructions, and use of subagents, ballots, the referendum report, and confidentiality of information.

Proposed referendum procedures were published in the **Federal Register** on June 4, 2007, [72 FR 30940]. Copies of the rule were made available by USDA and the Office of the Federal Register, and was also available via the Internet at *www.regulations.gov.* The rule provided a 60-day comment period ending on August 3, 2007. There were no comments received by the deadline. A nonsubstantive change has been made to the proposed regulation for clarity concerning the U.S. Customs Service.

It is found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because given the existence of the Current Program, a referendum should be conducted as soon as possible.

List of Subjects in 7 CFR Part 1212

Administrative practice and procedure, Advertising, Consumer Education, Honey and Honey products, Marketing agreements, Promotion, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, Title 7, Chapter XI of the Code of Federal Regulations is amended by adding part 1212 to read as follows:

PART 1212—HONEY PACKERS AND IMPORTERS RESEARCH, PROMOTION, CONSUMER EDUCATION AND INDUSTRY INFORMATION ORDER

Subpart A—[Reserved]

Subpart B—Referendum Procedures

Sec.

1212.100 General.
1212.101 Definitions.
1212.102 Voting.
1212.103 Instructions.
1212.104 Subagents.
1212.105 Ballots.
1212.106 Referendum report.
1212.107 Confidential information.
1212.108 OMB control number.

Authority: 7 U.S.C. 7411–7425

Subpart B—Referendum Procedures

§ 1212.100 General.

Referenda to determine whether eligible first handlers and importers of honey and honey products favor the issuance, continuance, amendment, suspension, or termination of the Honey Packers and Importers Research, Promotion, Consumer Education, and Industry Information Order shall be conducted in accordance with this subpart.

§ 1212.101 Definitions.

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to re-delegate, or any officer or employee of the U.S. Department of Agriculture to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(b) *Department* means the U.S. Department of Agriculture or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

(c) *Eligible first handler* means any person (excluding a common or contract carrier) who handled 250,000 or more pounds of domestic honey and honey products during the representative period, who first buys or takes possession of honey or honey products from a producer for marketing. If a producer markets the honey directly to consumers, the producer shall be considered the first handler with respect to the honey produced by the producer.

(d) *Eligible importer* means any person who imports 250,000 or more pounds of honey and honey products into the United States as a principal or as an agent, broker, or consignee of any person who produces or handles honey or honey products outside of the United States for sale in the United States, and who is listed as the importer of record for such honey or honey products that are identified in the Harmonized Tariff Schedule of the United States by the numbers 0409.00.00 and 2106.90.9988, during the representative period. Importation occurs when honey or honey products originating outside of the United States are released from custody by the United States Customs and Border Protection, referred to as the U.S. Customs Service, and introduced into the stream of commerce in the United States. Included are persons who hold title to foreign produced honey or honey products immediately upon release by the U.S. Customs Service, as well as any persons who acts on behalf of others, as agents or brokers, to secure the release of honey or honey products from the U.S. Customs Service when such honey or honey products are entered or withdrawn for consumption in the United States.

(e) *Handle* means to process, package, sell, transport, purchase or in any other way place honey or honey products, or cause them to be placed, in commerce. This term includes selling unprocessed honey that will be consumed without further processing or packaging. This term does not include the transportation of unprocessed honey by the producer to a handler or transportation by a commercial carrier of honey, whether processed or unprocessed for the account of the first handler or producer.

(f) *Honey* means the nectar and saccharine exudations of plants that are gathered, modified, and stored in the comb by honeybees, including comb honey.

(g) *Honey products* mean products where honey is a principal ingredient. For purposes of this subpart, a product shall be considered to have honey as a principal ingredient, if the product contains at least 50 percent honey by weight.

(h) *Order* means the Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order.

(i) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity. For the purpose of this definition, the term ''partnership'' includes, but is not limited to:

(1) A husband and a wife who have title to, or leasehold interest in, honey bee colonies or beekeeping equipment as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property; and

(2) So-called ''joint ventures'' wherein one or more parties to an agreement, informal or otherwise, contributed land and others contributed capital, labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the production, handling, or importation of honey or honey products for market and the authority to transfer title to the honey or honey products so produced, handled or imported.

(j) *Referendum agent* or *agent* means the individual or individuals designated by the Department to conduct the referendum.

(k) *Representative period* means the period designated by the Department.

(l) *United States or U.S.* means collectively the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

§ 1212.102 Voting.

(a) Each eligible first handler and eligible importer of honey or honey products shall be entitled to cast only one ballot in the referendum.

(b) Proxy voting is not authorized, but an officer or employee of an eligible corporate first handler or importer, or an administrator, executor, or trustee or an eligible entity may cast a ballot on behalf of such entity. Any individual so voting in a referendum shall certify that such individual is an officer or employee of the eligible entity, or an administrator, executive, or trustee of an eligible entity and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) All ballots are to be cast by mail, as instructed by the Department.

§ 1212.103 Instructions.

(a) *Referenda.* The Order shall not become effective unless the Department determines that the Order is consistent with and will effectuate the purposes of the Act; and for initial and subsequent referenda the Order is favored by a majority of eligible persons voting in the referendum and a majority of volume voting in the referendum who, during a representative period determined by the Department, have been engaged in the handling or importation of honey or honey products and are subject to assessments under this Order and excluding those exempt from assessment under the Order.

(b) The referendum agent shall conduct the referendum, in the manner provided in this subpart, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions of this subpart, to govern the procedure to be followed by the referendum agent. Such agent shall:

(1) Determine the period during which ballots may be cast.

(2) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter.

(3) Give reasonable public notice of the referendum:

(i) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(ii) By such other means as the agent may deem advisable.

(4) Mail to eligible first handlers and importers whose names and addresses are known to the referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the proposed Order. No person who claims to be eligible to vote shall be refused a ballot.

(5) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of a third party authorized to monitor the referendum process.

(6) Prepare a report on the referendum.

(7) Announce the results to the public.

§ 1212.104 Subagents.

The referendum agent may appoint any individual or individuals necessary or desirable to assist the agent in performing such agent's functions of this subpart. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

§ 1212.105 Ballots.

The referendum agent and subagents shall accept all ballots cast. However, if an agent or subagent deems that a ballot should be challenged for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reasons therefore, the results of any investigations made with respect thereto, and the disposition thereof. Ballots invalid under this subpart shall not be counted.

§ 1212.106 Referendum report.

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to the analysis of the referendum and its results.

§ 1212.107 Confidential information.

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the Order and the voter list shall be strictly confidential and shall not be disclosed.

§ 1212.108 OMB control number.

The control number assigned to the information collection requirement in this subpart by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35 is OMB control number 0505–0001, OMB control number 0581–0217, and OMB control number 0581-[NEW, to be assigned by OMB].

Dated: February 26, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 08–899 Filed 2–26–08; 3:31 pm]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1212 and 1240

[Docket No. AMS–FV–06–0176; FV–03–704–PR–2A]

RIN 0581–AC37

Establishment of Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order and Termination of the Honey Research, Promotion, and Consumer Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and Referendum Order.

SUMMARY: This rule proposes a new industry-funded research, promotion, consumer education, and information order for honey and honey products under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act). The proposed Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order (Proposed Order) was submitted to the Department of Agriculture (Department) by the National Honey Packers and Dealers Association (Association). The Department is conducting an initial referendum to ascertain whether the persons to be covered by and assessed under the Proposed Order favor the Proposed Order prior to it going into effect. The Proposed Order would replace the existing Honey Research, Promotion, and Consumer Information Order (Current Order) for honey and honey products and the Current Order would be terminated. The Current Order is issued under the Honey Research, Promotion, and Consumer Information Act (Honey Act). In addition, USDA is announcing that a referendum will be conducted among eligible honey first handlers and importers to determine whether they favor the implementation of the Proposed Order. The Proposed Order would be implemented if it is approved by a majority of the eligible first handlers and importers voting in a referendum and by a majority of the volume of those voting in the referendum. A separate final rule on referendum procedures is being published in this issue of the **Federal Register**.

DATES: The voting period is April 2, 2008 through April 16, 2008. To be eligible to vote, importers and first handlers must have imported or handled 250,000 or more pounds of honey or honey products during the representative period from January 1, 2007 through December 31, 2007. Ballots will be mailed to all known first handlers and importers of honey or honey products on or before April 2, 2008.

Ballots must be received by the referendum agents no later than the close business (Eastern time) on April 16, 2008, to be counted.

ADDRESSES: Copies of the Order may be obtained from: Referendum Agent, Research and Promotion Branch (RPB), Fruit and Vegetable Programs (FVP), Agricultural Marketing Service (AMS), USDA, Stop 0244, Room 0632–S, 1400 Independence Avenue, SW., Washington, DC 20250–0244; Fax (202) 205–2800; Toll Free (888) 720–917 or at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kathie Notoro, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244, Room 0632–S, 1400 Independence Ave., SW., Washington, DC 20250–0244; telephone (202) 720–9915 or (888)720–9917 (toll free), Fax: (202) 205–2800 or e-mail *kathie.notoro@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425) and under the Honey Research, Promotion, and Consumer Information Act (Honey Act) (7 U.S.C. 4601–4613). The Current Order appears at 7 CFR part 1240.

Pursuant to the 1996 Act, it is hereby directed that a referendum be conducted to determine whether eligible first handlers and importers of honey or honey products favor issuance of the Proposed Order. The Proposed Order is authorized under the 1996 Act.

The representative period for establishing voter eligibility for the referendum shall be the period from January 1, 2007, through December 31, 2007. First handlers and importers who have handled more than 250,000 pounds of honey or honey products, respectively, during the period from January 1, 2007, through December 31, 2007, are eligible to vote. The referendum shall be conducted by mail ballot from April 2, 2008 through April 16, 2008. Ballots must be received by the referendum agent no later than April 16, 2008, to be counted.

Section 518 of the 1996 Act provides to the Department the authority to conduct a referendum prior to the Order's effective date. The Order shall become effective only if it is determined that the Order has been approved by a majority of those eligible persons voting for approval who also represent a majority of the volume of honey or honey products.

In accordance with the OMB regulation [5 CFR 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. 35], the referendum ballot, which represents the information collection and recordkeeping requirements that may be imposed by this rule, was submitted to OMB for approval and appeared under OMB Number 0581–NEW.

A proposed rule with the Proposed Order was published in the **Federal Register** on June 4, 2007 [72 FR 30924], with a 60-day comment period which closed on August 3, 2007.

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

Section 524 of the 1996 Act provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under both section 519 of the 1996 Act and section 10 of the Honey Act, a person subject to an order may file a petition with the Department stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with the law, and requesting a modification of the order or an exemption from the order. Any such petition must be filed within two years after the effective date of an order, provision or obligation subject to challenge. The petitioner would have the opportunity for a hearing on the petition. Thereafter, the Department would issue a ruling on the petition. The 1996 Act and the Honey Act provide that the district court of the United States for any district in which the petitioner resides or conducts business shall be the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of entry of the Department's final ruling.

In deciding whether a proposal for an order is consistent with and will effectuate the purpose of the 1996 Act, the Secretary may consider the existence of other federal research and

promotion programs issued under other laws. Taking into account the duplicative nature of the Proposed Order with the Current Order, the Department proposed that the Current Order be terminated.

Similar to the Current Order, the goals of the Proposed Order are to: (1) Develop and finance an effective and coordinated research, promotion, industry information, and consumer education program for honey and honey products; (2) strengthen the position of the honey industry; and (3) develop, maintain, and expand existing markets for honey and honey products.

Background

While both the Current and the Proposed Order have the same goal in terms of making positive strides for the honey industry, some of the main provisions within each order vary significantly between the two orders. Below is a discussion of some of the differences between the Current Order and the Proposed Order submitted by the Association. This comparison is not exhaustive, but it is intended to allow interested persons a way to distinguish between the two orders.

Current Order: Honey Research, Promotion, and Consumer Information Order (Part 1240)

The Current Order, authorized by the Honey Act [7 U.S.C. 4601–4613], became effective on July 21, 1986, after honey producers and importers voted in favor of the Order. A 12-member board consisting of seven producers, two handlers, two importers, one officer of a marketing cooperative, and their alternates, administers the program. Under the Honey Act, at least 50 percent of the members of the Board must be honey producers. The Act also provides for the establishment of a National Honey Nominations Committee consisting of state members for nominating producer members to the Board. The State members are nominated by state beekeeper associations. Nominations for handler and importer members are made by qualified national organizations representing handler and importer interests, respectively. The national honey marketing cooperative representative is nominated by a qualified national honey marketing cooperative. Board reconstitution is every five years, subject to certain statutory considerations and restrictions.

Under the Current Order, assessments are collected on honey and honey products produced in or imported into the 50 States, Puerto Rico, and the District of Columbia. The funds are collected from producers and importers and are used by the National Honey Board for market research and development, advertising and promotion of honey and honey products, and consumer information. This is done under the oversight of AMS. The current assessment rate is $0.01 per pound. First handlers are responsible for collection of producer assessments and payment to the National Honey Board. The U.S. Customs Service collects the importer assessments.

Producers and importers marketing less than 6,000 pounds of honey per year are exempt from paying assessments. In addition, producers who operate under an approved National Organic Program (NOP) (7 CFR part 205) system plan, produce only products eligible to be labeled as 100 percent organic under the NOP, and are not a split operation, are exempt from the paying assessments. Similarly, importers who import only products eligible to be labeled as 100 percent organic under the NOP, and are not a split operation, are exempt from paying assessments.

Under the Current Order, approximately 2,700 entities are assessed and approximately $3.6 million is collected annually.

Under the Current Order, handlers, importers, producers, and producer-packers are required to report certain specified information to the Board. Persons who have an exemption from assessments also must report to the Board information.

The Honey Act provides for a number of permissive terms that may be included in an order. For example, the Honey Act provides authority to establish minimum purity standards for honey and honey products that are designed to maintain a positive and wholesome marketing image for honey and honey products. An inspection and monitoring system and a voluntary quality assurance program is authorized in connection with the minimum purity standards. Only a voluntary quality assurance program has been approved by referendum and therefore appears in the Current Order.

The Honey Act requires a referendum to establish an order as well as to authorize a number of order provisions, including handler representation on the Board, reconstitution of the Board, an alternative assessment rate as provided by statute on honey producers, producer-packers, handlers and importers, and an inspection and monitoring system of a voluntary quality assurance program. Approval is by a majority vote by number and volume for producers, importers and when applicable, handlers.

Proposed Order: Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order (Part 1212)

This rule proposes the implementation of a Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order (Proposed Order). The Department received the proposal for a new order from the National Honey Packers and Dealers Association (Association).

The Proposed Order is authorized under the 1996 Act, instead of the Honey Act, which provides the statutory authority for the Current Order. The 1996 Act varies from the Honey Act in several ways.

The 1996 Act authorizes the Department, under a generic authority, to establish agricultural commodity research and promotion orders, which may include a combination of promotion, research, industry information, and consumer information activities funded by mandatory assessments. These programs are designed to maintain and expand markets and uses for agricultural commodities. The Proposed Order, similar to the Current Order, would provide for the continued development and financing of a coordinated program of research, promotion, and information for honey and honey products.

The 1996 Act provides for a number of optional provisions that allow the tailoring of orders to the needs of different commodity groups. Section 516 of the 1996 Act contains permissive terms that may be included in the orders. For example, § 516 authorizes an order to provide for exemption of *de minimis* quantities of an agricultural commodity; different payment and reporting schedules; coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity covered by the order in both domestic and foreign markets; provision for reserve funds; provision for credits for generic and branded activities; and assessment of imports.

Section 518 of the 1996 Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within 3 years after assessments first begin to be collected under an order. An order also may provide for its approval in a referendum based upon different voting patterns. In accordance with § 518(e) of the 1996

Act, the results of the referendum must be determined in one of three ways: (1) By a majority of those persons voting; (2) by persons voting for approval who represent a majority of the volume of the agricultural commodity; or (3) by a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity.

Section 518 provides for the Department to: (1) Conduct an initial referendum, preceding a proposed order's effective date, among persons who would pay assessments under the proposed order; or (2) implement a proposed order, pending the conduct of a referendum, among persons subject to assessments, within three years after assessments first begin.

For the Proposed Order, the Department is recommending a referendum be conducted, preceding the Proposed Order's effective date, to ascertain whether the persons to be covered and assessed favor the Proposed Order going into effect. Implementation of the Proposed Order would require the approval of a majority of the first handlers and importers voting in the referendum, which also represent a majority of the volume of honey and honey products handled and imported during the representative period by those voting in the referendum. Specific procedures to be followed in such referendum are published separately in this issue of the **Federal Register**.

In addition, § 518 requires the Department to conduct subsequent referenda: (1) Not later than seven years after assessments first begin under the proposed order; or (2) at the request of the proposed board established under the proposed order; or (3) at the request of ten percent or more of the number of persons eligible to vote. In addition to these criteria, the 1996 Act provides that the Department may conduct a referendum at any time to determine whether persons eligible to vote favor the continuation, suspension, or termination of an order or a provision of an order. Expenses incurred by the Department in implementing and administering the proposed order, including referenda costs, would be paid from assessments.

Order Assessments

A major difference between the Current and Proposed Orders is that the Proposed Order provides for assessments to be paid by first handlers and importers of honey or honey products instead of producers and importers of such products. The number of entities assessed under the Proposed Order would be around 75, as compared to the 2,700 presently under the Current Order. The funds generated through the mandatory assessments on domestically handled and imported honey or honey products would be used, as it is under the Current Order, to pay for promotion, research, and consumer and industry information as well as the administration, maintenance, and functioning of the Board.

Under the Proposed Order, ''first handler'' would be defined to mean the first person who handles honey or honey products, and would include a producer who handles his or her own production. In addition, ''handle'' would be defined to mean process, package, sell, transport, purchase or in any other way place honey or honey products, or cause them to be placed, in commerce. This term would include selling unprocessed honey that will be consumed without further processing or packaging, but would not include the transportation of unprocessed honey by the producer to a handler or transportation by a commercial carrier for the account of the first handler or producer.

The Proposed Order would provide that each first handler pay an assessment to the proposed Board at the rate of $0.01 per pound of domestically produced honey or honey products that the handler handles. Under the Current Order, producers must pay an assessment rate of $0.01 per pound of honey produced. The Proposed Order establishes that each first handler responsible for remitting assessments shall pay the Board the amount due on a monthly basis no later than the fifteenth day of the month following the month in which the honey or honey products were marketed.

The Proposed Order would define ''importer'' to mean any person who imports honey or honey products from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee for any person. An importer is also listed in the import records as the importer of record for such honey or honey products with the United States Customs and Border Protection (Customs).

Section 516(f) of the 1996 Act allows assessments on imports at a rate comparable to the rate for domestics. The Proposed Order treats importers in the same manner as they are treated under the Current Order in terms of the assessment rate and collection of assessments: Each importer would pay an assessment to the Board at the rate of $0.01 per pound of honey or honey products the importer imports into the United States. An importer must pay the assessment to the Board through Customs when the honey or honey products being assessed enter the United States. If Customs does not collect an assessment from an importer, the importer would be responsible for paying the assessment directly to the Board.

The assessment levied on domestically handled and imported honey and honey products would be used to pay for promotion, research, and consumer education and industry information as well as the administration, maintenance, and functioning of the Board. Expenses incurred by the Department in implementing and administering the Proposed Order, including referenda costs, also would be paid from assessments.

Persons failing to remit total assessments due in a timely manner may also be subject to actions under Federal debt collection procedures as set forth in 7 CFR 3.1 through 3.36 for all research and promotion programs administered by the Department [60 FR 12533, March 7, 1995]. Persons also would have to pay interest and late payment charges on late assessments as prescribed in the Proposed Order.

Under the Proposed Order, a first handler who handles less than 250,000 pounds of honey or honey products per year or an importer who imports less than 250,000 pounds of honey or honey products per year, would be exempt from paying assessments.

In addition, a first handler who operates under an approved NOP system plan, handles only products eligible to be labeled as 100 percent organic under the NOP, and is not a split operation, is exempt from paying assessments under the Proposed Order. An importer who imports only products eligible to be labeled as 100 percent organic under the NOP, and is not a split operation, also is exempt from paying assessments.

The Proposed Order allows the Board to recommend to the Secretary for approval an increase or decrease to the assessment, as it deems appropriate by at least a two-thirds vote of members present at a meeting of the Board. The Board may not recommend an increase in the assessment of more than $0.02 per pound of honey or honey products and may not increase the assessment by more than $0.0025 in any single fiscal year.

Although the 1996 Act allows for credits of assessments for generic and branded activities, the Association who proposed the new Order did not elect to include it.

As the Proposed Order establishes that first handlers and importers will be

responsible for paying assessments, the Order states that these two groups will also be responsible for filing specific reports and maintaining records regarding the amount of honey and honey products brought to the market. This is different than the Current Order in which reporting and record maintenance requirements are broader.

First handlers would be required to file reports and maintain records on the total quantity of honey and honey products acquired during the reporting period, the quantity of honey processed for sale from the handler's own production, and the quantity of honey purchased from a handler or importer responsible for paying the assessment due. The Board would recommend to the Department specific reporting periods and dates when such reports are due to the Board.

Unless provided by Customs, importers would be required to report the total quantity of honey and honey products imported during each reporting period, and keep a record of each lot of honey and honey products imported during such period, including the quantity, date, country of origin, and port of entry. Under the Proposed Order, Customs would collect assessments on imported honey and honey products and remit the funds to the Board.

Each first handler and importer, including those who would be exempt from paying assessments under the Proposed Order, would be required to maintain any books and records necessary to carry out the provisions of the Proposed Order for two years beyond the fiscal period to which they apply. This would include the books and records necessary to verify any required reports. These books and records would be made available to the Board's or Department's employees or agents during normal business hours for inspection if necessary.

Both the Current and Proposed Order provide that all officers, employees, and agents of the Department and of the Board are required to keep confidential all information obtained from persons subject to the Order. This information would be disclosed only if the Department considers the information relevant, and the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Department or to which the Department or any officer of the Department is a party.

However, the issuance of general statements based on reports or on information relating to a number of persons subject to the Order would be permitted, if the statements do not identify the information furnished by any person. Finally, the publication, by direction of the Department, of the name of any person violating the Order and a statement of the particular provisions of the Order violated by the person would be allowed.

It is anticipated that 95 percent of the assessment dollars presently collected under the Current Order would be collected under the Proposed Order. This is because the Proposed Order would exempt first handlers handling and importers importing less than 250,000 pounds of honey or honey products per year. In contrast, under the Current Order, about 95 percent of current assessment dollars are collected from approximately 2,700 producers and importers. Producers and importers who handle less than 6,000 pounds of honey or honey products are exempt from the assessment under the Current Order. It is estimated that revenue for the Proposed Order will be around or slightly more than $3 million. Of this amount, about 64 percent would be generated by assessments on imported honey and honey products.

It is also believed that the assessment of only first handlers and importers rather than producers and importers would reduce program administrative expenses as fewer entities would be paying assessments and filing reports.

Establishment of the Honey Packers and Importers Board

Section 515 of the 1996 Act provides for the establishment of a Board consisting of producers, first handlers, and others in the marketing chain, as appropriate. The Department would appoint members to the Board from nominees submitted in accordance with a Proposed Order. The Proposed Order would provide for the establishment of a Honey Packers and Importers Board to administer the Proposed Order under AMS oversight. The Association has proposed that the Board be composed of ten members; including three first handler representatives, two importer representatives, one importer-handler representative, one national honey marketing cooperative representative, and three producer representatives and their alternates.

The Current Board consists of 12 members; seven producers, two handlers, two importers, one officer of a marketing cooperative, and their alternates.

On the Proposed Board, the importer representatives must import at least 75 percent of the honey or honey products they market in the United States. The importer-handler representative must also import at least 75 percent of the honey or honey products they market in the United States and must handle at least 250,000 pounds annually. In addition, the producer representatives must produce a minimum of 150,000 pounds of honey in the United States annually based on the best three year average of the most recent five calendar years.

Each term of office on the Board would end on December 31, with new terms of office beginning on January 1, with the exception of the initial Board's term of office, as opposed to the Current Order in which a term of office begins on April 1.

First handlers, producers, and a national honey marketing cooperative representative would represent those entities in the United States. Board members from each of these groups would be nominated by national organizations representing each of them respectively. The United States would be defined to include collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States. Honey is produced in almost all of the 50 States. The top ten producing States in 2006 included North Dakota, South Dakota, California, Florida, Minnesota, Montana, Texas, Wisconsin, Idaho, and New York.

Importers and the importer-handler on the Board would be nominated by national organizations representing importers. Such importers and the importer-handler would represent those individuals who import for sale honey or honey products into the United States as a principal or as an agent, broker, or consignee for any person who produces honey or honey products outside the United States. The importer-handler member of the Board would be required to import at least 75 percent of the honey or honey products they market in the United States and must handle at least 250,000 pounds annually. All qualified national organizations representing first handlers, producers, importers and honey-marketing cooperatives would have the opportunity to participate in a nomination caucus for the purposes of preparing a slate of candidates for the above positions submitted to the Department for consideration.

Eligible organizations must submit nominations to the Department six months before a new term of office begins. To become a qualified national organization representing first handlers, importers, or producers under the Proposed Order, each such organization would be required to meet the following criteria: (1) The majority of its voting membership must consist of first

handlers, importers or producers of honey, respectively; (2) it must have a history of stability and permanency and have been in existence for more than 1 year; (3) its primary purpose must be to promote honey first handlers', importers' or producers' welfare; (4) it must derive a portion of its operating funds from first handlers, importers, or producers; and(5) it must demonstrate it is willing and able to further the 1996 Act's purposes. Further, any organization representing first handlers or producers must represent a substantial number of first handlers or producers who market or produce a substantial volume of honey or honey products in at least 20 States. Any organization representing importers must represent at least a majority of the volume of honey or honey products imported into the United States.

To be eligible as a qualified national honey-marketing organization, the Department must certify that an entity qualifies as a cooperative, as defined in proposed section 1212.42(d). Such entity shall not be eligible for certification as a qualified national organization representing producer interests.

If the Department determines that there are no qualified national organizations representing first handlers, importers, producers, and honey-marketing cooperatives interests, individuals who have paid their assessments to the Board in the most recent fiscal year could submit nominations for those positions specified.

The nomination process in the Proposed Order varies from that in the Current Order. Under the Current Order, the National Honey Nominations Committee (Committee), consisting of individuals nominated by state beekeeper associations and appointed by the Secretary, is the entity that nominates members and alternates for the Board and submits such nominations to the Secretary for approval. The Committee picks producer members from seven regions established based on the production of honey. The Committee picks handler, importer, and cooperative members based on recommendations from qualified national organizations representing each of these groups' individual interests.

Just as in the Current Order, the Proposed Order indicates that the Board may recommend to the Department that a member be removed from office if the member consistently refuses to perform his or her duties or engages in dishonest acts or willful misconduct. The Department may remove the member if the Department finds that the Board's recommendation demonstrates cause.

The 1996 Act provides that to ensure fair and equitable representation, the composition of a board shall reflect the geographic distinction of the production of the agriculture commodity in the United States and the quantity or value of the agriculture commodity imported into the United States.

Under the Proposed Order at least once every five years, but not more frequently than once in each three year period, the Board would review the geographical distribution in the United States of the production of honey covered by the Order and quantity or value of honey and honey products imported into the United States. The review, based on a three-year average, would enable the Board to evaluate whether the Board membership is reflective of the composition of the honey industry.

Under the Current Order, every five years the Board reviews the geographical distribution of domestically produced honey and the quantity of honey imported. The Board then makes recommendations based on the five-year average annual assessments excluding the two years containing the highest and lowest disparity between the proportion of assessments owed from the imported and domestic honey and honey products.

Just as under the Current Order, Board members could serve terms of three years and be able to serve a maximum of two consecutive terms under the Proposed Order. When the Board is first established, one producer, one first handler, one importer, and the representative of a national honey cooperative would serve a two-year term. One producer, one first handler, and the importer-handler representative would serve a three-year term of office. One producer, one first handler, and one importer would serve a four-year term of office. This would allow the terms to be staggered on the Board. No member or alternate may serve more than two consecutive terms, excluding any initial two-year term of office. Determination of which of the initial members and their alternates would serve two year, three year or four year terms, would be designated by the Department.

In the event that any member or alternate of the Board ceases to be a member of the category of members from which the member was appointed to the Board, such position shall become vacant.

Whereas under the Current Order, a quorum is met if there are a majority of members and at least 50% are producers, under the Proposed Order, a quorum is met if a majority of members are present and at least one first handler and one importer are present. Also, under the Proposed Order, there is a 2/3 vote requirement for recommendations of a change in assessment.

Other Order Provisions

In addition to differences in the entities assessed and the makeup of the Board, there are other comparative changes between the Proposed Order and the Current Order.

There are number of terms not used in the Current Order that are part of the Proposed Order, including ''first handler'' and ''importer-handler representative.'' Also, the definition of ''honey products'' was expanded from the Current Order to state that such a product shall be considered to have honey as a principal ingredient if the product contains at least 50% honey by weight.

The Proposed Order provides that 5% of the Board's anticipated revenue must be set aside for production research, while the Current Order states generally that funding for such research shall be part of the budget.

The provisions regarding referendum procedures in the Proposed Order provide for a referendum every seven years. In the Current Order, a referendum occurs every five years.

The Department modified the Association's proposal to make it consistent with the 1996 Act and to provide clarity, consistency, and correctness with respect to word usage and terminology. The Department also changed the proposal to make it consistent with other similar national research and promotion programs. Some of the changes made by the Department to the Association's proposal were: (1) To remove the term ''handler'' and adopt ''first handler'' as the term to be used throughout the Proposed Order to be consistent with the 1996 Act; (2) to add criteria under nominations if a member or alternate is no longer affiliated with the organization he or she was nominated to represent; (3) to specify the initial terms of office for the Board to stagger the terms for future years; (4) to remove any references to the Current Board or Order; (5) to describe in more detail the powers and duties of the Board; (6) to add a new section describing reports that need to be provided by the Board on its financial position; (7) to add a section on independent evaluation of the effectiveness of any plan or program conducted by the Board; (8) to add a

section on patents, copyrights, inventions, product formulation and publication to specify that these would become the property of the U.S. government; (9) to add authority to collect first handler and importer tax identification numbers; (10) to revise referendum requirements; (11) to add a section on amendments to the Proposed Order; (12) to add a section to exempt from assessments handlers/importers who operate under an approved National Organic Program; (13) to delete references to a standards of identity program or a testing program for honey as these programs are not authorized under the 1996 Act; and (14) to clarify the membership on the Board.

While the proposal set forth below has not received the approval of the Department, it is determined that the Proposed Order is consistent with and will effectuate the purposes of the 1996 Act.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS is required to examine the impact of the proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses would not be disproportionately burdened.

The 1996 Act authorizes generic promotion, research, and information programs for agricultural commodities. Development of such programs under this authority are in the national public interest and vital to the welfare of the agricultural economy of the United States and to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, government-supervised, generic commodity promotion programs.

The Association submitted this Proposed Order to: (1) Develop and finance an effective and coordinated program of research, promotion, industry information, and consumer education regarding honey and honey products; (2) strengthen the position of the honey industry; and (3) maintain, develop, and expand existing markets for honey and honey products.

The goals of the Current Order are similar. Therefore, taking into account the duplicative nature of the Proposed Order with the Current Order, the Department is proposing that the Current Order be terminated. It is USDA's intention to have an operational program in effect under either the Current or Proposed Order.

The Proposed Order is authorized under Commodity Promotion, Research, Information Act of 1996, while the Current Order is authorized under the Honey Research, Promotion, and Consumer Information Act. A major difference between the Current Order and the Proposed Order is that the Proposed Order provides for assessments to be paid by first handlers and importers of honey or honey products rather than producers and importers.

Administrative expenses under the Proposed Order should be reduced because the number of entities to be assessed under the Proposed Order would also be reduced. Approximately 2,700 entities are assessed under the Current Order, while only about 75 entities would be assessed under the Proposed Order. Administrative costs would be reduced with fewer entities paying assessments and filing reports, and the assessment collection process would be simplified.

First handlers, importers, and producers would have the opportunity to serve on the proposed 10 member Board. Each member would have an alternate. The Board would consist of three first handler representatives, three honey producers, two importer representatives, one importer-handler representative and one representative from a national honey marketing cooperative. The Secretary would appoint members to the Board from nominees submitted in accordance with the Proposed Order. Twelve members serve on the Current Board.

Section 518 of the 1996 Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within 3 years after assessments first begin under the order. An initial referendum will be conducted prior to putting this Proposed Order in effect. A referendum order is published herein. The Proposed Order also provides for approval in a referendum to be based upon: (1) Approval by a majority of those persons voting; and (2) persons voting for approval that represent a majority of the volume of honey and honey products of those voting in the referendum. Every seven years, the Department shall conduct a referendum to determine whether first handlers and importers of honey or honey products favor the continuation, suspension, or termination of the Order. In addition, the Department could conduct a referendum at any time; at the request of 10 percent or more of the first handlers and importers required to pay assessments; or at the request of the Board.

There are approximately 45 first handlers and 30 importers of honey or honey products that would pay assessments under the Proposed Order. Under the Current Order, approximately 2,000 producers and 659 importers pay assessments. Under the Current Order, entities in the Board member nomination process include qualified national organizations representing handler and importer interests, a national honey market cooperative and state beekeeper associations. The Current Honey Board consists of 12 members; seven producers, two handlers, two importers, and one marketing cooperative member. Under the Proposed Order entities in the Board member nomination process would include, qualified national organizations representing first handlers, importers, producers, and cooperative interests. The Proposed Board would consist of 10 members; three first handlers, two importers, one importer-handler, three producers, and one marketing cooperative member.

The Proposed Order also provides for first handlers and importers to file reports to the Board. In addition, the Proposed Order requires that qualified national organizations and nominated producers provide information for the nomination and appointment process to the Proposed Board. While the Proposed Order would impose certain recordkeeping requirements on first handlers, importers, and any producers who seek nomination and appointment to the Board, information required under the Proposed Order could be compiled from records currently maintained and would involve existing clerical or accounting skills. The forms require the minimum information necessary to effectively carry out the requirements of the Proposed Order, and their use is necessary to fulfill the intent of the 1996 Act. An estimated 118 respondents would provide information to the Board. They would be: 45 first handlers, 30 importers, 6 producers (for nominations purposes), 10 certified organizations (for nomination purposes), 25 handlers/importers exempt under the program, and 2 organic handlers/importers (for exemption purposes). The estimated total cost of providing information to the Board by all respondents would be $11,550. This total has been estimated by multiplying 350 total hours required for reporting and recordkeeping by $33, the average mean hourly earnings of various occupations involved in keeping this information. Data for computation of this hourly rate was obtained from the U.S. Department of Labor Statistics. In contrast, under the Current Order, 2,700 respondents need a total of 7,776

hours for reporting and recordkeeping for a total cost of $129,459.

The Small Business Administration [13 CFR 121.201] defines small agricultural producers as those having annual receipts of $750,000 or less annually and small agricultural service firms as those having annual receipts of $6.5 million or less. Using these criteria under both the Current and the Proposed Order, most producers, first handlers, cooperative organizations and other nominating organizations would be considered small businesses, while most importers would not.

National Agricultural Statistic Service (NASS) data reports that U.S. production of honey, from producers with five or more colonies, totaled 155 million pounds in 2006. The top ten producing States in 2006 included North Dakota, South Dakota, California, Florida, Minnesota, Montana, Texas, Wisconsin, Idaho, and New York. To avoid disclosing data for individual operations, NASS statistics do not include Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, Oklahoma, Rhode Island, and South Carolina. NASS reported the value of honey sold in 2006 was $161,314,000. Honey prices increased during 2006 to 104.2 cents, up 14 percent from 91.8 cents in 2005.

Based on the assessment reports in connection with the Current Order and recorded by Customs, four countries account for 72 percent of the honey and honey products imported into the United States. These countries and their share of the imports are: China (28%); Argentina (21%); Vietnam (13%); and Canada (10%). Other countries combined totaled 28 percent of honey and honey products imported to the United States. Assessment revenue collected from importers of honey or honey products for 2006 under the Current Order were approximately $2.3 million.

At the initial rate, revenue for the Proposed Order would be approximately $3 million. This amount is comparable to assessments collected under the Current Order. In 2006, $3.6 million of assessment income was collected from the honey industry, of which 36 percent was from domestic production and 64 percent from imports. In 2006, 155 million pounds of honey or honey products were produced in the United States, 279.4 million pounds were imported and 7.6 million pounds were exported. The value of production in 2006 was $161.3 million. The average price for honey in the U.S. in 2006 was 104.2 cents per pound. Therefore, the estimated assessment revenue as a percentage of total grower revenue (using 2006 as a model) could be estimated at 1.8 percent.

The honey industry and consumers would benefit from additional information that may be conveyed through the plans and projects regarding honey and honey products. Another benefit to first handlers and importers of honey or honey products would be that they would have more representation on the Board and have additional input into Board decisions regarding the plans and programs under the Proposed Order.

Associations and related industry media would receive news releases and other information regarding the implementation of the Proposed Order, termination of the Current Order, and the referendum process. Furthermore, all information would be available electronically.

The Board could develop guidelines for compliance with the Proposed Order. The Board could recommend changes in the assessment rate, programs, plans, projects, budgets, and any rules and regulations that might be necessary for the administration of the program. The administrative expenses of the Board are limited by the 1996 Act to no more than 15 percent of assessment income. This does not include USDA costs for program oversight.

With regard to alternatives, the 1996 Act itself provides for authority to tailor a program according to the individual needs of an industry. Provision is made for permissive terms in an order in § 516 of the 1996 Act, and other sections provide for alternatives. In tailoring the program to industry needs, a decision also must be made about the termination or retention of the Current Order.

Similar to the Current Order, the Proposed Order is designed to: (1) Develop and finance an effective and coordinated research, promotion, industry information, and consumer education program for honey and honey products; (2) strengthen the position of the honey industry; and (3) maintain, develop, and expand existing markets for honey and honey products. Additionally, the Proposed Order would require first handlers of honey or honey products, instead of honey producers, to pay assessments to the Board that administers the program. While assessments would impose some additional costs on first handlers, the reporting requirements are minimal because handlers under the Current Order already report to the Honey Board. Also, the costs are minimal and uniform on all first handlers. These costs should be offset by the benefits derived by the operation of the Proposed Order. Under the Proposed Order importers would continue to pay assessments and be responsible for reporting and recordkeeping.

Section 516 authorizes an order to provide for exemption of *de minimis* quantities (the Association has proposed 250,000 pounds or less as a *de minimis* quantity) of an agricultural commodity; different payment and reporting schedules; coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for reserve funds; provision for credits for generic and branded activities; and assessment of imports.

Also, under authority provided by 7 U.S.C. 7401, the Proposed Order exempts first handlers who operate under an approved National Organic Program (NOP) (7 CFR part 205) system plan, handle only products that are eligible to be labeled as 100 percent organic under the NOP, and are not a split operation, from paying assessments. The Proposed Order also states that importers who import only products that are eligible to be labeled as 100 percent organic under the NOP, and are not a split operation, shall be exempt from paying assessments.

The Proposed Order includes provisions for domestic market expansion and improvement, reserve funds, and a referendum to be conducted prior to implementation of the Proposed Order. Approval would be based upon a majority of those persons voting for approval who also represent a majority of the volume of the honey and honey products of those voting in the referendum. Termination of the Current Order also is proposed.

If the Current Order is terminated and the Proposed Order implemented, there would be a decrease in the reporting and recordkeeping burden cost from $129,459 under the Current Order to $11,550 under the Proposed Order. The reduced cost is due to a reduction in the total of individuals required to report. If the Current Order is not terminated, it would duplicate some of the provisions proposed under the Proposed Order.

With the exception of the Current Order, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

We received comments as a result of the publication of the initial Regulatory Flexibility Analysis (RFA). Five comments were received raising concern over small entity representation on the Board, and a commenter

questioned the RFA in this regard. These comments are discussed in the comments section of this proposal.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), AMS announces its intention to request an approval of a new information collection for the Proposed Honey Program.

Title: Advisory Committee and Research and Promotion Board Background Information.

OMB Number for background form AD–755: (Approved under OMB No. 0505–0001).

Expiration Date of approval: March 31, 2009.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number: 0581–NEW.

Expiration Date of Approval: 3 years from approval date.

Type of Request: New information collection for research and promotion programs.

Abstract: The information collection requirements in the request are essential to carry out the intent of the 1996 Act.

Under the Proposed Order, first handlers would be required to pay assessments to and file reports with the Board. While the Proposed Order would impose certain recordkeeping requirements on first handlers, information required under the Proposed Order could be compiled from records currently maintained by such handlers. Such records would be retained for at least two years beyond the marketing year of their applicability.

Under the Proposed Order importers are responsible to pay assessments. Unless provided by Customs, importers must report the total quantity of product imported during the reporting period and a record of each importation of such product during such period, giving quantity, date, and port of entry. Under the Proposed Order, Customs would collect assessments on imported honey and honey products and remit the funds to the Board.

An estimated 118 respondents would provide information to the Board. They would be: 45 first handlers, 30 importers, 6 producers (for nominations purposes), 10 certified organizations (for nomination purposes), 25 handlers/importers exempt under the program, and 2 organic handlers/importers (for exemption purposes). The estimated total cost of providing information to the Board by all respondents would be $11,550. This total has been estimated by multiplying 350 total hours required for reporting and recordkeeping by $33, the average mean hourly earnings of various occupations involved in keeping this information. Data for computation of this hourly rate was obtained from the U.S. Department of Labor Statistics.

The Proposed Order's provisions have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements, including efforts to utilize information already submitted under other honey programs administered by the Department.

The proposed forms would require the minimum information necessary to effectively carry out the requirements of the Proposed Order, and their use is necessary to fulfill the intent of the 1996 Act. Such information can be supplied without data processing equipment or outside technical expertise. In addition, there are no additional training requirements for individuals filling out reports and remitting assessments to the Board. The forms would be simple, easy to understand, and place as small a burden as possible on the person required to file the information.

Collecting information monthly during the production season would coincide with normal industry business practices. The timing and frequency of collecting information are intended to meet the needs of the industry while minimizing the amount of work necessary to fill out the required reports. The requirement to keep records for two years is consistent with normal industry practices. There is no practical method for collecting the required information without the use of these forms.

If the Current Order is terminated and the Proposed Order implemented, there would be a decrease in the reporting and recordkeeping burden cost from $129,459 under the Current Order to $11,550 under the Proposed Order. The reduced cost is due to a reduction in the total of individuals required to report from 2,700 under the Current Order to 118 under the Proposed Order.

Information collection requirements that are included in this proposal include:

(1) A BACKGROUND INFORMATION FORM AD–755 (Approved under OMB Form No. 0505–0001).

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.5 hours per response for each Board nominee.

Respondents: First handlers, importers, producers and cooperative organizations.

Estimated Number of Respondents: 40 for initial nominations, 13 in subsequent years.

Estimated Number of Responses per Respondent: 1 every 3 years. (0.3)

Estimated Total Annual Burden on Respondents: 20 hours for the initial nominations and 6 hours annually thereafter.

(2) AN EXEMPTION APPLICATION FOR FIRST HANDLERS AND IMPORTERS WHO WOULD BE EXEMPT FROM ASSESSMENTS.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hours per response for each exempt first handler and importer.

Respondents: Exempt First handlers and importers.

Estimated Number of Respondents: 25.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 6.25 hours.

(3) MONTHLY REPORT BY EACH FIRST HANDLER OF HONEY.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per each first handler reporting on honey handled.

Respondents: First handlers.

Estimated Number of Respondents: 45.

Estimated Number of Responses per Respondent: 12.

Estimated Total Annual Burden on Respondents: 270 hours.

(4) A REQUIREMENT TO MAINTAIN RECORDS SUFFICIENT TO VERIFY REPORTS SUBMITTED UNDER THE ORDER.

Estimate of Burden: Public recordkeeping burden for keeping this information is estimated to average 0.5 hours per recordkeeper maintaining such records.

Respondents: First handlers and importers.

Estimated Number of Respondents: 118.

Estimated Total Annual Burden of Respondents: 59 hours.

(5) APPLICATION FOR REIMBURSEMENT OF ASSESSMENT.

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hours per request for reimbursement.

Respondents: First handler and importers.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 5 hours.

(6) APPLICATION FOR CERTIFICATION OF ORGANIZATIONS.

Estimate of Burden: Public recordkeeping burden for this collection

of information is estimated to average 0.5 hours per application.

Respondents: First handlers, importers, producers and marketing cooperatives.

Estimated Number of Respondents: 10.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 5 hours.

(7) NOMINATION APPOINTMENT FORM.

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.5 hours per application.

Respondents: First handlers, importers, producers and marketing cooperatives.

Estimated Number of Respondents: 10.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 5 hours.

(8) ORGANIC EXEMPTION FORM.

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.5 hours per exemption form.

Respondents: First handlers and importers.

Estimated Number of Respondents: 2.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1 hour.

Comments were invited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the Proposed Order and the Department's oversight of the Proposed Order, including whether the information would have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. No comments were received on the collection of information part of this rule.

Comments

A 60-day comment period was provided to allow interested persons to respond to this proposal. Seventy-six comments were received on the Proposed Order by the August 3, 2007, deadline. Comments were received from honey producers, handlers, importers, industry associations, state beekeepers associations, a honey co-op, and other interested parties. Comments received were varied in terms of support for the Proposed Order and the benefits of it or opposition, representation on the Proposed Order, transition between the Current Board and the Proposed Board, voting and termination of the Current Order, extension of the comment period, suggested modifications, impact if the rule on small entities, and other miscellaneous comments.

Twenty-one commenters supported the Proposed Order and stated that the Current Order has been an invaluable asset to the industry but that due to changes in support it may be voted out in the next referendum. The commenters also mentioned that the Current Order was approved in the last two referendums because the importers were assured that a Proposed Order would be implemented in the near future. The commenters also stated that a board composed of handlers and importers is the only way to ensure the long-term survival of the industry.

Three commenters that supported the Proposed Order, stated that with new challenges such as food safety and international market issues, the industry needs the Proposed Order more than ever to continue activities in these areas. Four supportive commenters stated that that the industry wants to continue a true marketing and promotion board focusing on the sale of honey.

Five supportive commenters stated that importers and handlers do not want to continue to take part in the disagreements between the producer associations and that implementing this Proposed Order would diminish the conflict because producers would not have to pay into the Proposed Program.

Three commenters that supported the Proposed Order stated that by transferring the financial burden of paying assessments to the handlers, the companies closest to the consumer, they are able to participate in the funding of the programs that most directly benefit their businesses. One supportive commenter stated that it would be beneficial to have handlers assessed and occupy seats on the board as this is demonstrated by handler's involvement in the Current Program.

Twenty-two commenters stated that the new program provides for improved cost efficiencies and easier administration. For example, by decreasing the number of assessment payers, the administrative cost will decrease, according to the commenters. Also, a simplification of the nomination process would save on travel costs. Commenters stated that the Proposed Order will have the same funds as the Current Order but the assessment payers will go from 4,000 currently to 100 under the Proposed Order.

Nine commenters that supported the Proposed Order stated that approximately 70 percent of the assessments paid under the Current Order are paid by importers and that the importers carried the vote in the last two referendums in order to maintain the Current Order. Four commenters also stated their support for the increased importer representation on the Proposed Board based on their belief that honey production is labor intensive, and that domestic production will decrease and imports will increase.

Eight commenters stated that the Proposed Order will be a true honey board with participation from all segments of the industry. Two commenters pointed out that under the Current Order, producers pay around 30 percent of the assessments but represent 58 percent of the seats on the Current Board. The commenters further stated that under the Proposed Order, 30 percent of the Board would be producers without having to pay assessments.

Three commenters were in favor of the Proposed Order but did not provide any further information.

Eight commenters stated that the Current Order worked well and did not believe a new order was necessary, and seven of those eight commenters suggested streamlining the Current Order instead of developing a new order. The proposal for a new program was submitted by an association that represents industry participants and with that proposal, the Department proposed termination of the Current Order. Because the Department has determined that the proposal is consistent with and will effectuate the purposes of the 1996 Act, it has initiated rulemaking to consider the Proposed Order. Further, the proponents of the Proposed Order have indicated that the intention is to continue the programs implemented under the Current Order in the Proposed Order, if approved. In addition, a referendum will be conducted to determine if this Proposed Order has the industry's support.

One commenter stated that the Proposed Order would result in less scrutiny of fair labeling, less promotion, reduced resources for research, restricted fair trade, and reduced food safety for consumers. One commenter stated that under the Proposed Order, there would be less money for bee research. The Proposed Order, as the

Current Order, authorizes programs of promotion, research, and information. Under the Proposed Order, the intent is to continue the same level of programs. In addition, as two commenters in support of the Proposed Order stated, five percent of the total assessments collected under the Proposed Order would be earmarked for research. According to the commenters, this would benefit the industry as a whole.

Thirteen commenters stated that representation on the Proposed Board minimizes producer representation and that it will result in producers losing their influence on setting policy and direction on the honey industry unless beekeepers of all sizes are represented. Five commenters stated that the requirement of a producer to produce over 150,000 pounds of honey to be eligible to serve would eliminate many producers from serving on the Proposed Board. The commenters raised concerns over small producer representation on the Board, and a commenter questioned the RFA in this regard. The number of producer members under the Proposed Order (three), is in fact less than the number under the Current Order (seven). The Proposed Board represents a cross section of the entire honey industry. The Board includes three first handler representatives, two importer representatives, one importer-handler representative, three producer representatives, and one marketing cooperative representative. However, under the Proposed Order, only handlers and importers will pay assessments to the Proposed Board, and producers will not. The Proposed Order goal is to maintain and expand markets for honey and honey products. Finally, Small producers, as well as the entire honey industry, will benefit from the Proposed Order. Accordingly, the Department believes that the producer representation as proposed is appropriate.

Four commenters stated their concern for filling handler and importer positions on the Proposed Board as there have been challenges in the past with finding handlers and importers willing to serve on the Current Board. There are approximately 45 handlers and 30 importers that would be covered under the Proposed Order. The Proposed Order requires that three handlers and two importers be appointed to the Proposed Board. The Department believes that there is a reasonable number of individuals that would be covered under the Proposed Order from which nominees for appointments to Board positions may be obtained.

Three commenters stated that allowing the Proposed Order to take over all the promotional materials of the Current Order would put honey producers at a disadvantage. Three commenters stated that the Proposed Order would support more importation of honey and not support the American beekeepers and domestic honey production, unlike the Current Order which they believe promotes honey generically and not one side over the other. The 1996 Act, under which the Proposed Order is authorized, like the Honey Act, requires that all promotions be generic in nature. Accordingly, the Proposed Order would promote honey and honey products generically.

Two commenters stated their concern that the definition of, and ability of consumers to purchase, pure honey will be lost if the Proposed Order and Board are implemented. Another commenter stated that eliminating the Current Program and starting a new program would create a gap related to the purity of honey that would be detrimental to the industry. Under the Current Order, the board is authorized to develop and carry out a voluntary quality assurance program concerning purity standards for honey and honey products. However, there is no authority for such a program under the 1996 Act.

One commenter stated that the assessment rate of $0.01 per pound will actually be paid by the producers anyway as packers will pass it on to the producers. The assessment will be imposed on first handlers and importers who would pay assessments under the Proposed Order. Business decisions on how to manage assessments, including whether to pass back the cost of assessments to producers, are made by handlers and importers based on their respective business practices and are not within the scope of this rule.

Three commenters expressed appreciation for the Current Order's staff work, and the research and market development programs conducted under it. Two commenters stated that the Current Order is doing a great job at honey promotion and consumer education and that it should stay the same.

Four commenters stated their concern that there would not be a seamless transition between the Current Order and the Proposed Order, which would leave the honey industry vulnerable without a program for four to six months. Five commenters raised concerns about the future of the Current Order, the staff, the funds available, and assets that would be lost if the Current Order is terminated, or what would happen if a crisis arises during the transition between the Current Order and the Proposed Order.

It is the Department's intention to make the transition between the Current Order and the Proposed Order, if approved in referendum, as smooth as possible. Section 1240.63 of the Current Order states that upon termination of the Order, the current board shall recommend to the Secretary not more than five of its members to serve as trustees for the purpose of liquidating the affairs of the board. Those individuals, upon designation by the Secretary, would become trustees of all funds and property of the board. It is expected that the trustees of the Current Order would continue operations until the Proposed Order is in place, making the transition as seamless as possible.

Seven commenters who supported the Proposed Order stated that it is very important to have a quick and smooth transition from the Current Order to the Proposed Order in order to maintain the experienced staff, assets of the board, and existing programs. The same type of programs can continue under the Proposed Order. However, Current Order assets cannot be transferred over to the Proposed Order Program. Staff decisions concerning the Proposed Program will be made by the Proposed Order's Board. One commenter requested that the Current Board collect all the necessary domestic and importing statistical data that would be needed by the Proposed Board to help ensure a smoother transition.

Seven commenters also stated that all major honey associations support the transition to the Proposed Order.

One commenter supported the Proposed Order if the assets and programs of the Current Order are transferred to the Proposed Order. The commenter was also in favor of a U.S. honey producer program. As stated previously, the same types of programs can continue under the Proposed Order, however, Current Order assets cannot be transferred to the Proposed Order Program. It is the trustee's task to dispose of funds and assets of the Current Board in accordance with the Act and the Order.

One commenter proposed to: Redesign the nominations committee, assess producers $0.02 per pound, eliminate importers assessments under the Current Order and create a U.S. honey board. The proposed rule published in the **Federal Register** did not request comments on changes to the Current Order. However, the Department is considering a proposed program for U.S. honey that would address the concerns in this comment.

One commenter requested that if the Board is to request a $0.01 per pound assessment, then co-op members should get a rebate. The 1996 Act provides authority for credits for farmer cooperatives branded activities. Under the Proposed Program, this authority was not executed.

One commenter stated that the Secretary should convene representatives of the two proposed honey programs into a negotiated rulemaking session with the goal of considering a single honey research and promotion board to serve the entire industry. The Department disagrees with these comments given the state of the current rulemaking effort.

Five commenters stated their objection to the fact that producers will not vote on whether to continue or terminate the Current Order but instead packers and importers will vote on whether to implement the Proposed Order. Taking into account the duplicative nature of the Proposed Program with the Current Program, the Department has determined that the Current Order be terminated if the Proposed Order is approved in referendum.

Six commenters stated that the U.S. honey producers submitted a proposal for a U.S. honey program and that it should be voted on by the industry at the same time as the Proposed Order in this rule. However, the proposal for a U.S. honey program is under consideration by the Department at this time.

Six commenters requested that the comment period on this rule be extended because beekeepers do not read the **Federal Register**, the major honey publications have not announced the Proposed Order comment period, the Current Board only sent a notification to a select group, and the comment period came during one of the beekeepers' busiest times of the year.

The proposal to terminate the Current Order and implement a new Order has been under discussion by the industry for over three years and has been discussed at several Board and industry meetings, and the Current Board did send information to all assessment payers under the Current Program. In addition, the Department issued a news release to industry publications. Furthermore, the July/August issue of the American Beekeeping Federation newsletter contained a lengthy article about the proposed rule and invited beekeepers to comment on the rule. Finally, a 60-day comment period was provided for all interested parties to submit comments on this proposal. Based on all these points, the Department did not extend the comment period.

Eight commenters stated that there is no need to extend the comment period on the Proposed Order and that doing so would potentially harm the industry. The commenters also stated that the industry had ample time to evaluate the proposal and asked the Department to stay with the original schedule. Another commenter stated that the industry received a great deal of information on this Proposed Order and that a steering committee was formed to address issues of concern. In addition, according to the commenter, the Proposed Order has been a topic of discussion at every annual meeting of every group in the industry for several years.

One commenter expressed food safety concerns regarding imported honey. Under the Proposed Order, activities for food safety are limited to research and information. There is no authority for the development of food safety standards for honey under the 1996 Act.

The commenter also expressed concern regarding the effect of pesticides on honeybees. Extensive research is being done regarding the decline of honeybees in the U.S. under the Current Order and the proponents of the Proposed Order indicated that such research would be continued under that Order.

One commenter stated that honey is too expensive and that the price needs to be reduced. One commenter stated that the Current Order is not doing anything to stop imported honey that is priced well below the U.S. market value for honey. The purpose of the Current Order as well as the Proposed Order is to maintain and expand markets for honey and honey products and does not regulate price. Accordingly, these comments are not within the scope of this rule.

One commenter stated that the Current Order does not help the farmers with disaster payments and pest research. Under the Current and Proposed Orders, there is authority to conduct pest research if proposed by the Board and approved by the Secretary. In fact, the Current Board has allocated funds to conduct research related to Colony Collapse Disorder in the past years. Under the Proposed Order, five percent of assessments collected would be allocated to research projects. However, programs for disaster payments are not authorized and therefore are not within the scope of this rule.

One commenter provided a comment on the Occupational Safety Health Administration's proposed rule on explosives. This comment was intended for another regulation and it is outside the scope of this rule.

No comments were received related to the information collection requirement of this Proposed Order.

The Department made a nonsubstantive change to the Proposed Order to clarify that the Secretary has the authority to receive assessments and invest them on behalf of the Board if the Board is not in place by the date the first assessments are due.

The Proposed Order is summarized as follows: Section 1212.1 through Section 1212.32 of the Proposed Order define certain terms, such as honey, first handler, and importer.

Sections 1212.40 through 1212.48 of the Proposed Order include provisions relating to the Honey Packers and Importers Board. These provisions cover establishment and membership; term of office; nominations and appointments; removal and vacancies; procedure, reimbursement and attendance; powers; duties; and reapportionment of the Honey Packers and Importers Board, which is the governing body authorized to administer the Proposed Order through the implementation of programs, plans, projects, budgets, contracts to promote and disseminate information about honey, subject to oversight by the Department.

Sections 1212.50 through 1212.55 cover budget review and approval; financial statements; authorize the collection assessments; specify how assessments would be used; specify who pays the assessment and how; exemptions; and authorize the imposition of a late-payment charge on past-due assessments.

The Association recommends a proposed assessment rate of $0.01 per pound for domestic honey and imported honey and honey products. The assessment rate will be reviewed and may be modified with the approval of the Department, after the first referendum is conducted as stated in section 1212.81(a)(1). Persons failing to remit total assessments due in a timely manner may also be subject to actions under federal debt collections procedures as set forth in 7 CFR 3.1 through 3.36 for all research and promotion programs administered by USDA [60 FR 12533, March 7, 1995].

Sections 1212.60 through 1212.62 address programs, plans, and projects; require the Honey Packers and Importers Board to periodically conduct an independent review of its overall program; and address patents, copyrights, trademarks, information, publications, and product formulations developed through the use of assessment funds.

Sections 1212.70 through 1212.72 concern reporting and recordkeeping requirements for persons subject to the Proposed Order and protect the confidentiality of information from such books, records, or reports.

Sections 1212.80 through 1212.88 describe the rights of the Secretary of Agriculture (Secretary); address referenda; authorize the Secretary to suspend or terminate the Proposed Order when deemed appropriate; prescribe proceedings after suspension or termination; and address personal liability, separability, amendments, and the OMB control number.

The Department has determined that this Proposed Order is consistent with and will effectuate the purposes of the 1996 Act.

For the Proposed Order to become effective, it must be approved by a majority of the eligible importers and first handlers voting in the referendum and by a majority of the volume of those voting in the referendum.

Referendum Order

Sonia Jimenez, Marlene Betts, and Kathie Notoro, of the USDA, AMS, Research and Promotion Branch, are designated as the referendum agents to conduct this referendum. The referendum procedures [7 CFR 1212.100 through 1212.108], which were issued pursuant to the Act, shall be used to conduct the referendum.

The referendum agents will mail registration instructions to all known eligible first handlers and importers in advance of the referendum. Any first handler or importer who does not receive registration instructions should contact the referendum agent cited under the ''for further information'' section no later than one week before the end of the registration period. Prior to the first day of the voting period, the referendum agents will mail the ballots to be cast in the referendum and voting instructions to all eligible voters. Persons who are first handlers and importers during the representative period are eligible to vote. Any eligible first handler and importer who does not receive a ballot should contact the referendum agent cited under the ''For Further Information'' section no later than one week before the end of the voting period. Ballots must be received by the referendum agents by the close of business (Eastern Time) on or before April 16, 2008, to be counted.

List of Subjects in 7 CFR Parts 1212 and 1240

Administrative practice and procedure, Advertising, Consumer Education, Honey and Honey products, Marketing agreements, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that Title 7, Chapter XI of the Code of Federal Regulations be amended as follows:

1. Part 1212 is amended by adding subpart A to read as follows:

PART 1212—HONEY PACKERS AND IMPORTERS RESEARCH, PROMOTION, CONSUMER EDUCATION AND INDUSTRY INFORMATION ORDER

Subpart A—Honey Packers and Importers Research, Promotion, Consumer Education, and Industry Information Order

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Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

Subpart A—Honey Packers and Importers Research, Promotion, Consumer Education, and Industry Information Order

Definitions

§ 1212.1 Act.

''Act'' means the Commodity Promotion, Research, and Information Act of 1996, (7 U.S.C. 7411–7425), and any amendments to that Act.

§ 1212.2 Board.

''Board'' or ''Honey Packers and Importers Board'' means the administrative body established pursuant to § 1212.40, or such other name as recommended by the Board and approved by the Department.

§ 1212.3 Conflict of interest.

''Conflict of interest'' means a situation in which a member or employee of the Board has a direct or indirect financial interest in a person who performs a service for, or enters into a contract with, the Board for anything of economic value.

§ 1212.4 Department.

''Department'' means the United States Department of Agriculture, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1212.5 Exporter.

''Exporter'' means any person who exports honey or honey products from the United States.

§ 1212.6 First handler.

''First handler'' means the first person who buys or takes possession of honey or honey products from a producer for marketing. If a producer markets honey or honey products directly to consumers, that producer shall be considered to be the first handler with respect to the honey produced by the producer.

§ 1212.7 Fiscal period.

''Fiscal period'' means a calendar year from January 1 through December 31, or such other period as recommended by the Board and approved by the Secretary.

§ 1212.8 Handle.

''Handle'' means to process, package, sell, transport, purchase or in any other way place honey or honey products, or cause them to be placed, in commerce. This term includes selling unprocessed honey that will be consumed without further processing or packaging. This term does not include the transportation of unprocessed honey by the producer to a handler or transportation by a commercial carrier of honey, whether processed or unprocessed for the account of the first handler or producer.

§ 1212.9 Honey.

''Honey'' means the nectar and saccharine exudations of plants that are gathered, modified, and stored in the comb by honeybees, including comb honey.

§ 1212.10 Honey products.

''Honey products'' mean products where honey is a principal ingredient. For purposes of this subpart, a product shall be considered to have honey as a principal ingredient if the product contains at least 50% honey by weight.

§ 1212.11 Importer.

''Importer'' means any person who imports for sale honey or honey products into the United States as a principal or as an agent, broker, or consignee of any person who produces honey or honey products outside the United States for sale in the United States, and who is listed in the import records as the importer of record for such honey or honey products.

§ 1212.12 Importer-Handler Representative.

''Importer-Handler Representative'' means any person who is an importer and first handler, who must import at least 75 percent of the honey they market in the United States and must handle at least 250,000 pounds annually.

§ 1212.13 Information.

''Information'' means activities or programs designed to develop new and existing markets, new and existing marketing strategies and increased efficiency and activities to enhance the image of honey and honey products. These include:

(a) Consumer education, which means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes, and care of honey and honey products; and

(b) Industry information, which means information and programs that will lead to the development of new markets, new marketing strategies, or increased efficiency for the honey industry, and activities to enhance the image of the honey industry.

§ 1212.14 Market or marketing.

(a) ''Marketing'' means the sale or other disposition of honey or honey products in any channel of commerce.

(b) ''Market'' means to sell or otherwise dispose of honey or honey products in interstate, foreign, or intrastate commerce.

§ 1212.15 Order.

''Order'' means the Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order.

§ 1212.16 Part and subpart.

''Part'' means the Honey Packers and Importers Research, Promotion, Consumer Education, and Industry Information Order (Order) and all rules, regulations, and supplemental orders issued pursuant to the Act and the Order. The Order shall be a ''subpart'' of such part.

§ 1212.17 Person.

''Person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1212.18 Plans and programs.

''Plans and programs'' means those research, promotion and information programs, plans, or projects established pursuant to this Order.

§ 1212.19 Producer.

''Producer'' means any person who is engaged in the production and sale of honey in any State and who owns, or shares the ownership and risk of loss of the production of honey or a person who is engaged in the business of producing, or causing to be produced, honey beyond personal use and having value at first point of sale.

§ 1212.20 Promotion.

''Promotion'' means any action, including paid advertising and public relations that presents a favorable image for honey or honey products to the public and food industry with the intent of improving the perception and competitive position of honey and stimulating sales of honey or honey products.

§ 1212.21 Qualified national organization representing first handler interests.

''Qualified national organization representing first handler interests'' means an organization that the Secretary certifies as being eligible to nominate first handler and alternate first handler members of the Board under § 1212.42.

§ 1212.22 Qualified national organization representing importer interests.

''Qualified national organization representing importer interests'' means an organization that the Secretary certifies as being eligible to nominate importer, importer-handler, and alternate importer and importer-handler members of the Board under § 1212.42.

§ 1212.23 Qualified national organization representing producer interests.

''Qualified national organization representing producer interests'' means an organization that the Secretary certifies as being eligible to nominate producer and alternate producer members of the Board under § 1212.42.

§ 1212.24 Qualified national organization representing cooperative interests.

''Qualified national organization representing cooperative interests'' means an organization that the Secretary certifies as being eligible to nominate cooperative and alternate cooperative members of the Board under § 1212.42.

§ 1212.25 Referendum.

''Referendum'' means a referendum to be conducted by the Secretary pursuant to the Act whereby first handlers and importers shall be given the opportunity to vote to determine whether the implementation of or continuance of this part is favored by a majority of eligible persons voting in the referendum and a majority of volume voting in the referendum.

§ 1212.26 Research.

''Research'' means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of honey and honey products, including research relating to nutritional value, cost of production, new product development, and testing the effectiveness of market

development and promotion efforts. Such term shall also include studies on bees to advance the cost effectiveness, competitiveness, efficiency, pest and disease control, and other management aspects of beekeeping, honey production, and honey bees.

§ 1212.27 Secretary.

''Secretary'' means the Secretary of Agriculture of the United States, or any other officer or employee of the Department to whom the Secretary delegated the authority to act on his or her behalf.

§ 1212.28 Suspend.

''Suspend'' means to issue a rule under § 553 of U.S.C. title 5 to temporarily prevent the operation of an order or part thereof during a particular period of time specified in the rule.

§ 1212.29 State.

''State'' means any of the fifty States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

§ 1212.30 Terminate.

''Terminate'' means to issue a rule under § 553 of U.S.C. Title 5 to cancel permanently the operation of an order beginning on a date certain specified in the rule.

§ 1212.31 United States.

''United States'' means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

§ 1212.32 United States Customs Service.

''United States Customs Service'' or ''Customs'' means the United States Customs and Border Protection, an agency of the Department of Homeland Security.

Honey Packers and Importers Board

§ 1212.40 Establishment and membership.

The Honey Packers and Importers Board is established to administer the terms and provisions of this part. The Board shall have ten members, composed of three first handler representatives, two importer representatives, one importer-handler representative, three producer representatives, and one marketing cooperative representative. The importer-handler representative must import at least 75 percent of the honey or honey products they market in the United States and handle at least 250,000 pounds annually. In addition, the producer representatives must produce a minimum of 150,000 pounds of honey in the United States annually based on the best three year average of the most recent five calendar years, as certified by producers. The Secretary will appoint members to the Board from nominees submitted in accordance with § 1212.42. The Secretary shall also appoint an alternate for each member.

§ 1212.41 Term of office.

With the exception of the initial Board, each Board member and alternate will serve a three-year term or until the Secretary selects his or her successor. No member or alternate may serve more than two consecutive terms, excluding any initial two-year term of office. The terms of the initial Board members shall be staggered for two, three, and four-year terms. For the initial Board, one producer, one first handler, one importer, and the representative of a national honey cooperative will serve a two-year term of office. One producer, one first handler, and the importer-handler representative, will serve a three-year term of office. One producer, one first handler, and one importer will serve a four-year term of office. Determination of which of the initial members and their alternates shall serve two year, three year or four year terms, shall be designated by the Secretary. Thereafter, each of these positions will carry a full three-year term. Members serving initial terms of two or four years will be eligible to serve a second term of three years. Each term of office will end on December 31, with new terms of office beginning on January 1. If this part becomes effective on a date such that the initial period is less than six months in duration, then the tolling of time for purposes of this subsection shall not begin until the beginning of the first 12-month fiscal period.

§ 1212.42 Nominations and appointments.

All nominations to the Board will be made as follows:

(a) All qualified national organizations representing first handler interests will have the opportunity to participate in a nomination caucus and will, to the extent practical, submit as a group a single slate of nominations to the Secretary for the first handler positions and the alternate positions on the Board. If the Secretary determines that there are no qualified national organizations representing first handler interests, individual first handlers who have paid assessments to the Board in the most recent fiscal period may submit nominations. For the initial Board, persons that meet the definition of first handlers as defined in this subpart will certify such qualification and upon certification, if qualified, may submit nominations.

(b) All qualified national organizations representing importer interests will have the opportunity to participate in a nomination caucus and will, to the extent practical, submit as a group a single slate of nominations to the Secretary for importer positions, for the importer-handler position and for the alternate positions on the Board. If the Secretary determines that there are no qualified national organizations representing importer interests, individual importers who have paid assessments to the Board in the most recent fiscal period may submit nominations. For the initial Board, persons that meet the definition of importer as defined in this subpart will certify such qualification and upon certification, if qualified, may submit nominations.

(c) All qualified national organizations representing producer interests will have the opportunity to participate in a nomination caucus and will, to the extent practical, submit as a group a single slate of nominations to the Secretary for the producer positions and the producer alternate positions on the Board. If the Secretary determines that there are no qualified national organizations representing producer interests, individual producers may submit nominations to the Secretary. For the initial Board, persons that meet the definition of producer as defined in this subpart will certify such qualification and upon certification, if qualified, may submit nominations.

(d) For the purposes of this subpart, a national honey-marketing cooperative means any entity that is organized under the Capper-Volstead Act (7 U.S.C. 291) or state law as a cooperative and markets honey or honey products in at least 20 states. All national honey-marketing cooperatives that are first handlers will have the opportunity to participate in a nomination caucus and will, to the extent practical, submit as a group a single slate of nominations to the Secretary of persons who serve as an officer, director, or employee of a national honey marketing cooperative for the cooperative position and the alternate position on the Board.

(e) Eligible organizations, cooperatives, producers, first handlers, or importers must submit nominations to the Secretary six months before the new Board term begins. At least two nominees for each position to be filled must be submitted.

(f) Qualified national organization representing first handler interests. To be certified by the Secretary as a qualified national organization

representing first handler interests, an organization must meet the following criteria, as evidenced by a report submitted by the organization to the Secretary:

(1) The organization's voting membership must be comprised primarily of first handlers of honey or honey products;

(2) The organization must represent a substantial number of first handlers who market a substantial volume of honey or honey products in at least 20 states;

(3) The organization has a history of stability and permanency and has been in existence for more than one year;

(4) The organization must have as a primary purpose promoting honey first handlers' economic welfare;

(5) The organization must derive a portion of its operating funds from first handlers; and

(6) The organization must demonstrate it is willing and able to further the Act's purposes.

(g) Qualified national organization representing importer interests. To be certified as a qualified national organization representing importer interests, an organization must meet the following criteria, as evidenced by a report submitted by the organization to the Secretary:

(1) The organization's importer membership must represent at least a majority of the volume of honey or honey products imported into the United States;

(2) The organization has a history of stability and permanency and has been in existence for more than one year;

(3) The organization must have as a primary purpose promoting honey importers' economic welfare;

(4) The organization must derive a portion of its operating funds from importers; and

(5) The organization must demonstrate it is willing and able to further the Act's purposes.

(h) Qualified national organization representing producer interests. To be certified by the Secretary as a qualified national organization representing producer interests, an organization must meet the following criteria, as evidenced by a report submitted by the organization to the Secretary:

(1) The organization's membership must be comprised primarily of honey producers;

(2) The organization must represent a substantial number of producers who produce a substantial volume of honey in at least 20 states;

(3) The organization has a history of stability and permanency and has been in existence for more than one year;

(4) The organization must have as one of its primary purposes promoting honey producers' economic welfare;

(5) The organization must derive a portion of its operating funds from producers; and

(6) The organization must demonstrate it is willing and able to further the Act's purposes.

(i) To be certified by the Secretary as a qualified national organization representing first handler, producer or importer interests, an organization must agree to:

(1) Take reasonable steps to publicize to non-members the availability of open Board first handler, producer or importer positions; and

(2) Consider nominating a non-member first handler, producer or importer, if he or she expresses an interest in serving on the Board.

(j) National honey-marketing cooperative. The Secretary can certify that an entity qualifies as a national honey-marketing cooperative, as defined in § 1212.42(d). Such entity shall not be eligible for certification as a qualified national organization representing producer interests.

§ 1212.43 Removal and vacancies.

(a) In the event that any member or alternate of the Board ceases to be a member of the category of members from which the member was appointed to the Board, such position shall become vacant.

(b) The Board may recommend to the Secretary that a member be removed from office if the member consistently refuses to perform his or her duties or engages in dishonest acts or willful misconduct. The Secretary may remove the member if he or she finds that the Board's recommendation show adequate cause.

(c) A vacancy for any reason will be filled as follows:

(1) If a member position becomes vacant, the alternate for that position will serve the remainder of the member's term. In accordance with § 1212.42, the Secretary will request nominations for a replacement alternate and will appoint a nominee to serve the remainder of the term. The Secretary does not have to appoint a replacement if the unexpired term is less than six months.

(2) If both a member and alternate position become vacant, in accordance with § 1212.42, the Secretary will request nominations for replacements and appoint a member and alternate to serve the remainder of the term. The Secretary does not have to appoint a new member or alternate if the unexpired term for the position is less than six months.

(3) No successor appointed to a vacated term of office shall serve more than two successive three-year terms on the Board.

§ 1212.44 Procedure.

(a) A majority of the Board members will constitute a quorum so long as at least one of the members present is an importer member and one of the members present is a first handler member. An alternate will be counted for the purpose of determining a quorum only if a member from his or her membership class is absent or disqualified from participating. Any Board action will require the concurring votes of a majority of those present and voting; with the exception of the two-thirds vote requirement in § 1212.52(f). All votes at meetings will be cast in person. The Board must give timely notice of all Board and committee meetings to members and alternates.

(b) The Board may take action by any means of communication when, in the opinion of the Board chairperson, an emergency requires that action must be taken before a meeting can be called. Any action taken under this procedure is valid only if:

(1) All members and the Secretary are notified and the members are provided the opportunity to vote;

(2) Each proposition is explained accurately, fully, and substantially identically to each member;

(3) With the exception of the two-thirds vote requirement in § 1212.52(f), a majority of the members vote in favor of the action; and

(4) All votes are promptly confirmed in writing and recorded in the Board minutes.

§ 1212.45 Reimbursement and attendance.

Board members and alternates, when acting as members, will serve without compensation but will be reimbursed for reasonable travel expenses, as approved by the Board, that they incur when performing Board business. The Board may request that alternates attend any meeting even if their respective members are expected to attend or actually attend the meeting.

§ 1212.46 Powers.

The Board shall have the following powers subject to § 1212.80:

(a) Administer this subpart in accordance with its terms and provisions of the Act;

(b) Require its employees to receive, investigate, and report to the Secretary complaints of violations of this part;

(c) Recommend adjustments to the assessments as provided in this part;

(d) Recommend to the Secretary amendments to this part;

(e) Establish, issue, and administer appropriate programs for promotion, research, and information including consumer and industry information, and advertising designed to strengthen the honey industry's position in the marketplace and to maintain, develop, and expand domestic and foreign markets for honey and honey products; and

(f) Invest assessments collected and other funds received pursuant to the Order and use earnings from invested assessments to pay for activities carried out pursuant to the Order.

§ 1212.47 Duties.

The Board shall have, among other things, the following duties:

(a) To meet and organize, and to select from among its members a chairperson and such other officers as may be necessary; to select committees and subcommittees from its membership and other industry representatives; and to develop and recommend such rules, regulations, and by-laws to the Secretary for approval to conduct its business as it may deem advisable;

(b) To employ or contract with such persons as it may deem necessary and to determine the compensation and define the duties of each; and to protect the handling of Board funds through fidelity bonds;

(c) To prepare and submit to the Secretary for approval 60 days in advance of the beginning of a fiscal period, a budget of anticipated expenses in the administration of this part including the probable costs of all programs and plans and to recommend a rate of assessment with respect thereto.

(d) To investigate violations of this part and report the results of such investigations to the Secretary for appropriate action to enforce the provisions of this part.

(e) To establish, issue, and administer appropriate programs for promotion, research, and information including consumer and industry information, and advertising designed to strengthen the honey industry's position in the marketplace and to maintain, develop, and expand domestic and foreign markets for honey and honey products.

(f) To maintain minutes, books, and records and prepare and submit to the Secretary such reports from time to time as may be required for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it.

(g) To periodically prepare and make public and to make available to first handlers, producers, and importers reports of its activities and, at least once each fiscal period, to make public an accounting of funds received and expended.

(h) To cause its books to be audited by a certified public accountant at the end of each fiscal period and to submit a copy of each audit to the Secretary.

(i) To submit to the Secretary such information pertaining to this part or subpart as he or she may request.

(j) To give the Secretary the same notice of Board meetings and committee meetings that is given to members in order that the Secretary's representative(s) may attend such meetings, and to keep and report minutes of each meeting to the Secretary.

(k) To notify first handlers, importers, and producers of all Board meetings through press releases or other means.

(l) To appoint and convene, from time to time, working committees or subcommittees that may include first handlers, importers, exporters, producers, members of the wholesale or retail outlets for honey, or other members of the honey industry and the public to assist in the development of research, promotion, advertising, and information programs for honey and honey products.

(m) To develop and recommend such rules and regulations to the Secretary for approval as may be necessary for the development and execution of plans or activities to effectuate the declared purpose of the Act.

(n) To provide any patents, copyrights, inventions, product formulations, or publications developed through the use of funds collected under the provisions of this subpart shall be the property of the U.S. Government, as represented by the Board, and shall along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, trademarks, information, publications, or product formulations, inure to the benefit of the Board; shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board; and may be licensed subject to approval by the Department.

§ 1212.47 Reapportionment of Board membership.

At least once in each 5-year period, but not more frequently than once in each 3-year period, the Board shall:

(a) Review, based on a three-year average, the geographical distribution in the United States of the production of honey and the quantity or value of the honey and honey products imported into the United States; and

(b) If warranted, recommend to the Secretary the reapportionment of the Board membership to reflect changes in the geographical distribution of the production of honey and the quantity or value of the honey and honey products imported into the United States.

Expenses and Assessments

§ 1212.50 Budget and expenses.

(a) At least 60 days prior to the beginning of each fiscal period, and as may be necessary thereafter; the Board shall prepare and submit to the Department a budget for the fiscal period covering its anticipated expenses and disbursements in administering this subpart. The budget shall allocate five percent (5%) of the Board's anticipated revenue from assessments each fiscal period for production research and research relating to the production of honey. Each such budget shall include:

(1) A statement of objectives and strategy for each program, plan, or project;

(2) A summary of anticipated revenue, with comparative data or at least one preceding year (except for the initial budget);

(3) A summary of proposed expenditures for each program, plan, or project; and

(4) Staff and administrative expense breakdowns, with comparative data for at least one preceding year (except for the initial budget).

(b) Each budget shall provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in this subpart.

(c) Subject to this section, any amendment or addition to an approved budget must be approved by the Department, including shifting funds from one program, plan, or project to another. Shifts of funds which do not cause an increase in the Board's approved budget and which are consistent with governing bylaws need not have prior approval by the Department.

(d) The Board is authorized to incur such expenses, including provision for a reserve, as the Department finds reasonable and likely to be incurred by the Board for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from funds received by the Board.

(e) With approval of the Department, the Board may borrow money for the payment of administrative expenses, subject to the same fiscal, budget, and

audit controls as other funds of the Board. Any funds borrowed by the Board shall be expended only for startup costs and capital outlays and are limited to the first year of operation of the Board.

(f) The Board may accept voluntary contributions, but these shall only be used to pay expenses incurred in the conduct of programs, plans, and projects. Voluntary contributions shall be free from any encumbrance by the donor, and the Board shall retain complete control of their use.

(g) The Board shall reimburse the Department for all expenses incurred by the Department in the implementation, administration, enforcement and supervision of the Order, including all referendum costs in connection with the Order.

(h) The Board may not expend for administration, maintenance, and functioning of the Board in any calendar year an amount that exceeds 15 percent of the assessments and other income received by the Board for that calendar year. Reimbursements to the Department required under paragraph (g) of this section are excluded from this limitation on spending.

(i) The Board may also receive funds provided through the Department's Foreign Agricultural Service or from other sources, with the approval of the Secretary, for authorized activities.

§ 1212.51 Financial statements.

(a) The Board shall prepare and submit financial statements to the Department on a periodic basis. Each such financial statement shall include, but not be limited to, a balance sheet, income statement, and expense budget. The expense budget shall show expenditures during the time period covered by the report, year-to-date expenditures, and the unexpended budget.

(b) Each financial statement shall be submitted to the Department within 30 days after the end of the time period to which it applies.

(c) The Board shall submit annually to the Department an annual financial statement within 90 days after the end of the calendar year to which it applies.

§ 1212.52 Assessments.

(a) The Board will cover its expenses by levying in a manner prescribed by the Secretary an assessment on first handlers and importers.

(b) Each first handler shall pay an assessment to the Board at the rate of $0.01 per pound of domestically produced honey or honey products the first handler handles. A producer shall pay the Board the assessment on all honey or honey products for which the producer is the first handler.

(c) Each first handler responsible for remitting assessments under paragraph (b) of this section shall remit the amounts due to the Board's office on a monthly basis no later than the fifteenth day of the month following the month in which the honey or honey products were marketed.

(d) Each importer shall pay an assessment to the Board at the rate of $0.01 per pound of honey or honey products the importer imports into the United States. An importer shall pay the assessment to the Board through the United States Customs Service (Customs) when the honey or honey products being assessed enter the United States. If Customs does not collect an assessment from an importer, the importer is responsible for paying the assessment to the Board.

(e) The import assessment recommended by the Board and approved by the Secretary shall be uniformly applied to imported honey or honey products that are identified as HTS heading number 0409.00.00 and 2106.90.9988 by the Harmonized Tariff Schedule of the United States.

(f) The Board may recommend an increase or decrease in the assessment as it deems appropriate by at least a two-thirds vote of members present at a meeting of the Board with the approval of the Secretary. The Board may not recommend an increase in the assessment of more than $0.02 per pound of honey or honey products and may not increase the assessment by more than $0.0025 in any single fiscal year.

(g) In situations of late payment:

(1) The Board shall impose a late payment charge on any first handler or importer who fails to remit to the Board the total amount for which the first handler or importer is liable on or before the payment due date the Board establishes. The amount of the late payment charge shall be prescribed by the Department.

(2) The Board shall require any first handler or importer subject to a late payment charge to pay interest on the unpaid assessments for which the first handler or importer is liable. The rate of interest shall be prescribed by the Department.

(3) First handlers or importers who fail to remit total assessments in a timely manner may also be subject to actions under federal debt collection procedures.

(h) *Advance payment.* The Board may accept advance payment of assessments from first handlers or importers that will be credited toward any amount for which the first handlers or importers may become liable. The Board does not have to pay interest on any advance payment.

(i) If the Board is not in place by the date the first assessments are to be collected, The Secretary shall have the authority to receive assessments and invest them on behalf of the Board, and shall pay such assessments and any interest earned to the Board when it is formed.

§ 1212.53 Exemption from assessment.

(a) A first handler who handles less than 250,000 pounds of honey or honey products per calendar year or an importer who imports less than 250,000 pounds of honey or honey products per calendar year is exempt from paying assessments.

(b) A first handler who operates under an approved National Organic Program (NOP) (7 CFR part 205) system plan, handles only products that are eligible to be labeled as 100 percent organic under the NOP, and is not a split operation, shall be exempt from the payment of assessments. An importer who imports only products that are eligible to be labeled as 100 percent organic under the NOP, and is not a split operation, shall be exempt from the payment of assessments.

(c) A first handler or importer desiring an exemption shall apply to the Board, on a form provided by the Board, for a certificate of exemption. A first handler shall certify that the first handler will handle less than 250,000 of honey and honey products for the calendar year for which the exemption is claimed. An importer shall certify that the importer will import less than 250,000 pounds of honey and honey products during the calendar year for which the exemption is claimed.

(d) Upon receipt of an application, the Board shall determine whether an exemption may be granted. The Board will then issue, if deemed appropriate, a certificate of exemption to each person who is eligible to receive one. It is the responsibility of these persons to retain a copy of the certificate of exemption.

(e) Exempt importers shall be eligible for reimbursement of assessments collected by Customs. These importers shall apply to the Board for reimbursement of any assessment paid. No interest will be paid on the assessment collected by Customs. Requests for reimbursement shall be submitted to the Board within 90 days of the last day of the calendar year the honey or honey products were imported.

(f) If a person has been exempt from paying assessments for any calendar

year under this section and no longer meets the requirements for an exemption, the person shall file a report with the Board in the form and manner prescribed by the Board and begins to pay the assessment on all honey or honey products handled or imported.

(g) Any person who desires an exemption from assessments for a subsequent calendar year shall reapply to the Board, on a form provided by the Board, for a certificate of exemption.

(h) The Board may recommend to the Secretary that honey and honey products exported from the United States be exempt from this subpart and recommend procedures for refunding assessments paid on exported honey and honey products and any necessary safeguards to prevent improper use of this exemption.

§ 1212.54 Operating reserve.

The Board may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in any reserve so established: Provided that the funds in the reserve do not exceed one fiscal period's budget. Subject to approval by the Department, such reserve funds may be used to defray any expenses authorized under this part.

§ 1212.55 Prohibition on use of funds.

(a) The Board may not engage in, and shall prohibit the employees and agents of the Board from engaging in:

(1) Any action that is a conflict of interest;

(2) Except as otherwise provided in paragraph (b) using funds collected by the Board under the Order to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, state, national, and foreign governments, other than recommending to the Secretary amendments to the Order.

(3) A program, plan or project conducted pursuant to this subpart that includes false or misleading claims on behalf of honey or honey products.

(4) Any advertising, including promotion, research and information activities authorized that may be false or misleading or disparaging to another agricultural commodity.

(b) The prohibition in paragraph (a)(2) of this section shall not apply:

(1) To the development and recommendation of amendments to this subpart; or

(2) To the communication to appropriate government officials, in response to a request made by the officials, of information relating to the conduct, implementation, or results of promotion, research, consumer information, education, industry information, or producer information activities authorized under this subpart.

Promotion, Research, and Information

§ 1212.60 Programs, plans and projects.

(a) *Scope of activities.* The Board must develop and submit to the Secretary for approval plans and programs authorized by this section. The plans and programs may provide for:

(1) Establishing, issuing, and administering appropriate programs for promotion, research, and information including consumer and industry information, and advertising designed to strengthen the honey industry's position in the marketplace and to maintain, develop, and expand domestic and foreign markets for honey and honey products;

(2) Establishing and conducting research and development activities to encourage and expand the acquisition of knowledge about honey and honey products, their consumption and use, or to encourage, expand or improve the quality, marketing, and utilization of honey and honey products;

(3) Conducting activities that may lead to developing new markets or marketing strategies for honey and honey products;

(4) Conducting activities related to production issues or bee research activities; and

(5) Conducting activities designed to make the honey industry more efficient, to improve the quality of honey or to enhance the image of honey and honey products and the honey industry.

(b) No program, plan, or project shall be implemented prior to its approval by the Department. Once a program, plan, or project is so approved, the Board shall take appropriate steps to implement it.

(c) The Board must periodically evaluate each plan and program authorized under this part to ensure that it contributes to an effective and coordinated program of research, promotion and information. The Board must submit the evaluations to the Secretary. If the Board and the Secretary find that a plan or program does not further the purposes of the Act, then such plan or program should be terminated.

§ 1212.61 Independent evaluation.

The Board must authorize and fund not less than once every five years an independent evaluation of the effectiveness of this subpart and the plans and programs conducted by the Board under the Act. The Board must submit this independent evaluation to the Secretary and make the results available to the public.

§ 1212.62 Patents, copyrights, inventions, product formulations, and publications.

Except for a reasonable royalty paid by the Board to the inventor of a patented invention, any patents, copyrights, inventions, product formulations, or publications developed through the use of funds collected under the provisions of this subpart shall be the property of the U.S. Government, as represented by the Board, and shall along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, trademarks, information, publications, or product formulations, inure to the benefit of the Board; shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board; and may be licensed subject to approval by the Department. Upon termination of this Order, § 1212.83 shall apply to determine disposition of all such property.

Reports, Books, and Records

§ 1212.70 Reports.

(a) Each first handler or importer subject to this part must report to the Board, at the time and in the manner it prescribes, and subject to the approval of the Secretary, the information the Board deems necessary to perform its duties.

(b) First handlers must report:

(1) The total quantity of honey and honey products acquired during the reporting period;

(2) The total quantity of honey and honey products handled during the period;

(3) The quantity of honey processed for sale from the first handler's own production;

(4) The quantity of honey and honey products purchased from a first handler or importer responsible for paying the assessment due pursuant to this Order;

(5) The date that assessment payments were made on honey and honey products handled; and

(6) The first handler's tax identification number.

(c) Unless provided by Customs, importers must report:

(1) The total quantity of honey and honey products imported during the reporting period;

(2) A record of each lot of honey or honey products imported during such period, including the quantity, date, country of origin, and port of entry; and

(3) The importer of record's tax identification number.

(d) The Board may request any other information from first handlers and importers that it deems necessary to perform its duties under this subpart, subject to the approval of the Secretary.

(e) The Board, with the Secretary's approval, may request that persons claiming an exemption from assessments under § 1212.52 (b) or (d) must provide it with any information it deems necessary about the exemption, including, without limitation, the disposition of exempted honey or honey products.

§ 1212.71 Books and records.

Each first handler and importer, including those who are exempt under this subpart, must maintain any books and records necessary to carry out the provisions of this part, and any regulations issued under this part, including the books and records necessary to verify any required reports. Books and records must be made available during normal business hours for inspection by the Board's or Secretary's employees or agents. A first handler or importer must maintain the books and records for two years beyond the fiscal period to which they apply.

§ 1212.72 Confidential treatment.

All information obtained from books, records, or reports under the Act and this part shall be kept confidential by all persons, including all employees and former employees of the Board, all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Board members, first handlers, or importers. Only those persons having a specific need for such information to effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be disclosed by them, and then only in a judicial proceeding or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected thereof, which statements do not identify the information furnished by any person; and

(b) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this part, together with a statement of the particular provisions of this part violated by such person.

Miscellaneous

§ 1212.80 Right of the Secretary.

All fiscal matters, programs or projects, contracts, rules or regulations, reports, or other actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1212.81 Referenda.

(a) After the initial referendum, the Secretary shall conduct subsequent referenda;

(1) Every seven years, to determine whether first handlers and importers of honey or honey products favor the continuation, suspension, or termination of the Order. The Order shall continue if it is favored by a majority of first handlers and importers voting in the referendum and a majority of volume voting in the referendum who, during a representative period determined by the Secretary, have been engaged in the handling or importation of honey or honey products;

(2) At the request of the Board established in this Order;

(3) At the request of ten (10) percent or more of the number of persons eligible to vote under the Order; or

(4) Whenever the Department deems that a referendum is necessary.

(b) *Approval of order.* Approval in a referendum shall be established by a majority of eligible persons voting in the referendum and a majority of volume voting in the referendum who are first handlers or importers during the representative period by those voting as established by the Secretary.

(c) *Manner of conducting referenda.* A referendum conducted under this section shall be conducted in the manner determined by the Secretary to be appropriate.

§ 1212.82 Suspension or termination.

The Secretary shall suspend or terminate the operation of this part or subpart or any provision thereof, if the Secretary finds that this part or subpart or the provision obstructs or does not tend to effectuate the declared policy of the Act.

§ 1212.83 Proceedings after termination.

(a) If this subpart terminates, the Board shall recommend to the Secretary up to five of its members to serve as trustees for the purpose of liquidating the Board's affairs. Such persons, upon designation by the Secretary, will become trustees of any funds and property the Board possesses or controls at that time and any existing claims it has, including, without limitation, claims for any unpaid or undelivered funds or property.

(b) The trustees will:

(1) Serve until discharged by the Secretary;

(2) Carry out the Board's obligations under any contracts or agreements entered into pursuant to the Order;

(3) Account from time to time for all receipts and disbursements and deliver all property on hand, together with all the Board's and trustees' books and records to any person the Secretary directs; and

(4) Execute at the Secretary's direction any assignments or other instruments necessary or appropriate to vest in any person full title and right to all of the funds, property, and claims owned by the Board or the trustees under this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to the Order will be subject to the same obligations imposed upon Board and the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Department to be disposed of, to the extent practical, to one or more honey industry organizations in the interest of continuing honey promotion, research, and information programs.

§ 1212.84 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, terminating or amending this subpart or any regulation issued under it will not:

(a) Affect or waive any right, duty, obligation, or liability that arose or may arise in connection with any provision of this part;

(b) Release or extinguish any violation of this part; or

(c) Affect or impair any rights or remedies of the United States or any person with respect to any violation.

§ 1212.85 Personal liability.

No member, alternate member, or employee of the Board may be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as a member, alternate member, or employee, except for acts of dishonesty or willful misconduct.

§ 1212.86 Separability.

If any provision of this subpart is declared invalid or the applicability of it to any person or circumstance is held

invalid, the validity of the remainder of this subpart, or the applicability of it to other persons or circumstances will not be affected.

§ 1212.87 Amendments.

Amendments to this Order may be proposed from time to time by the Board or any interested person affected by the provisions of the Act, including the Department.

§ 1212.88 OMB control number.

The control number assigned to the information collection requirements in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, is OMB control number 0505–0001, OMB control number 0581–0217, and OMB control number 0581–[NEW, to be assigned by OMB].

PART 1240—[REMOVED]

2. Part 1240 is removed.

Dated: February 26, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 08–900 Filed 2–26–08; 3:31 pm]

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Federal Register

Monday,
March 3, 2008

Part III

Department of Education

Institute of Education Sciences; Overview Information; Education Research and Special Education Research Grant Programs; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009; Notice

DEPARTMENT OF EDUCATION

Institute of Education Sciences; Overview Information; Education Research and Special Education Research Grant Programs; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.305A, 84.305B, 305C, 305D, 305E, 84.324A, and 84.324B.

Summary: The Director of the Institute of Education Sciences (Institute) announces the Institute's FY 2009 competitions for grants to support education research and special education research. The Director takes this action under the Education Sciences Reform Act of 2002, title I of Public Law 107–279. The intent of these grants is to provide national leadership in expanding fundamental knowledge and understanding of education from early childhood education through postsecondary and adult education.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The central purpose of the Institute's research grant programs is to provide parents, educators, students, researchers, policymakers, and the general public with reliable and valid information about education practices that support learning and improve academic achievement and access to education opportunities for all students. In carrying out its grant programs, the Institute provides support for programs of research in areas of demonstrated national need.

Competitions in this Notice: The Institute will conduct nine research competitions in FY 2009 through two of its National Education Centers.

The National Center for Education Research (NCER) will hold six competitions: Two competitions for education research; one competition for education research training; one competition for education research and development centers; one competition for research on statistical and research methodology in education; and one competition for evaluation of State and district education programs and policies.

The National Center for Special Education Research (NCSER) will hold three competitions: Two competitions for special education research and one competition for special education research training.

National Center for Education Research Competitions

Education Research. Under the two education research competitions, NCER will consider only applications that address one of the following education research topics:

- Reading and Writing
- Mathematics and Science Education
- Cognition and Student Learning
- Teacher Quality—Reading and Writing
- Teacher Quality—Mathematics and Science Education
- Social and Behavioral Context for Academic Learning
- Education Leadership
- Education Policy, Finance, and Systems
- Early Childhood Programs and Policies
- Middle and High School Reform
- Interventions for Struggling Adolescent and Adult Readers and Writers
- Postsecondary Education
- Education Technology

Education Research Training. Under the education research training competition, NCER will consider only applications for:

- Postdoctoral Research Training
- Predoctoral Research Training

Education Research and Development Centers. Under the education research and development centers competition, NCER will consider only applications that address one of the following education research topics:

- Teacher Effectiveness
- Rural Education
- Turning Around Chronically Low Achieving Schools

Research on Statistical and Research Methodology in Education. Under this competition, NCER will consider only applications that address research on statistical and research methodology in education.

Evaluation of State and District Education Programs and Policies. Under this competition, NCER will consider only applications that address the evaluation of State and district education programs and policies.

National Center for Special Education Research Competitions

Special Education Research. Under the two special education research competitions, NCSER will consider only applications that address one of the following special education research topics:

- Early Intervention and Early Childhood Special Education
- Reading, Writing, and Language Development
- Mathematics and Science Education
- Social and Behavioral Outcomes to Support Learning
- Transition Outcomes for Special Education Secondary Students
- Cognition and Student Learning in Special Education
- Teacher Quality
- Related Services
- Systemic Interventions and Policies for Special Education
- Autism Spectrum Disorders

Special Education Research Training. Under the special education research training competition, NCSER will consider only applications for Postdoctoral Research Training.

Program Authority: 20 U.S.C. 9501 *et seq.*

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 77, 80, 81, 82, 84, 85, 86, 97, 98, and 99. In addition, 34 CFR part 75 is applicable, except for the provisions in 34 CFR 75.100, 75.101(b), 75.102, 75.103, 75.105, 75.109(a), 75.200, 75.201, 75.209, 75.210, 75.211, 75.217, 75.219, 75.220, 75.221, 75.222, and 75.230.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants and cooperative agreements.

Fiscal Information: Although Congress has not enacted a final appropriation for FY 2009, the Institute is inviting applications for these competitions now so that it may be prepared to make awards following final action on the Department's appropriations bill. The President's FY 2009 Budget for the Institute includes sufficient funding for all of the competitions included in this notice. The actual award of grants will depend on the availability of funds. The number of awards made under each competition will depend on the quality of the applications received for that competition. The size of the awards will depend on the scope of the projects proposed.

III. Eligibility Information

1. *Eligible Applicants:* Applicants that have the ability and capacity to conduct scientifically valid research are eligible to apply. Eligible applicants include, but are not limited to, non-profit and for-profit organizations and public and private agencies and institutions, such as colleges and universities.

2. *Cost Sharing or Matching:* These programs do not require cost sharing or matching.

IV. Application and Submission Information

1. *Request for Applications and Other Information:* Information regarding program and application requirements for the competitions will be contained in the NCER and NCSER Request for Applications (RFA) packages, which will be available at the following Web sites:

http://ies.ed.gov/funding/.

http://www.ed.gov/about/offices/list/ies/programs.html.

2. *Applications Available:* The RFAs for the education research, special education research, research on statistical and research methodology in education, and evaluation of State and district education programs and policies competitions will be available at the Web sites listed above on or before March 3, 2008. The dates on which applications for these competitions will be available are also indicated in the chart at the end of this notice.

The RFAs for the education research training, special education research training, and education research and development centers competitions will be available at the Web sites listed above on or before March 20, 2008.

Interested potential applicants should periodically check the Institute's Web site.

Information regarding selection criteria and review procedures for the competitions will be provided in the RFA packages.

3. *Deadline for Transmittal of Applications:* The deadline dates for transmittal of applications invited under this notice are indicated in the chart at the end of this notice and in the RFAs for the competitions.

4. *Submission Requirements:* Applications for grants under these competitions must be submitted electronically using the Grants.gov Apply site (Grants.gov). 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 this requirement, please refer to section V. a. *Submission of Applications* 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.

V. Submission of Applications

a. Electronic Submission of Applications

Applications for grants under the Education Research, Education Research Training, Education Research and Development Centers, Research on Statistical and Research Methodology in Education, and Evaluation of State and District Education Programs and Policies competitions, CFDA Numbers 84.305A, 84.305B, 84.305C, 84.305D, and 84.305E, and for grants under the Special Education Research and Special Education Research Training competitions, CFDA Numbers 84.324A and 84.324B, 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 applications for the Education Research, Education Research Training, Education Research and Development Centers, Research on Statistical and Research Methodology in Education, Evaluation of State and District Education Programs and Policies, Special Education Research, and Special Education Research Training competitions at *http://www.Grants.gov*. You must search for the downloadable application package for each competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.324, not 84.324A).

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 the competition 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 Assistance (SF 424 (R&R)) and the other R&R forms, including Project Performance Site Locations, Other Project Information, Senior/Key Person Profile, Research and Related Budget (Total Federal + Non-federal) and all necessary assurances and certifications.

• You must attach any narrative sections of your application as files in a .PDF (Portable Document) format. If you upload a file type other than the file type specified in this paragraph or submit a password-protected file, the Institute may choose not to 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: Elizabeth Payer, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 602C, Washington, DC 20208. Fax: (202) 219–1466.

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: [*Identify the CFDA number for the competition under which you are submitting an application.*]), 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: [*Identify the CFDA number for the competition under which you are submitting an application.*]), 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.

(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: [*Identify the CFDA number for the competition under which you are submitting an application.*]), 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—if not provided by the Department—in Item 10 of the SF 424 (R&R) 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.

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 Notice (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. *Grant Administration:* Applicants should budget for a three-day meeting for project directors to be held in Washington, DC.

4. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on grantee reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* To evaluate the overall success of its education research program, the Institute annually assesses the quality and relevance of newly funded research projects, as well as the quality of research publications that result from its funded research projects. External panels of qualified scientists review the quality of new research applications, and the percentage of newly funded projects that receive an average panel score of excellent or higher is determined. A panel of experienced education practitioners and administrators reviews descriptions of a randomly selected sample of newly funded projects and rates the degree to which the projects are relevant to educational practice. An external panel of eminent scientists reviews the quality of a randomly selected sample of new publications, and the percentage of new publications that are deemed to be of high quality is determined.

VII. Agency Contact

For Further Information Contact: The contact person associated with a particular research competition is listed in the chart at the end of this notice and in the RFA. The date on which applications will be available, the deadline for transmittal of applications, the estimated range of awards, and the project period are also listed in the chart and in the RFA that will be posted at the following Web sites:

http://ies.ed.gov/funding/.

http://www.ed.gov/about/offices/list/ies/programs.html.

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 in the chart at the end of 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: February 26, 2008.

Grover J. Whitehurst,

Director, Institute of Education Sciences.

BILLING CODE 4000–01–P

INSTITUTE OF EDUCATION SCIENCES

FY 2009 Grant Competitions to Support Education Research and Special Education Research

CFDA NUMBER AND NAME	APPLICATION AVAILABLE	DEADLINE FOR TRANSMITTAL OF APPLICATIONS	ESTIMATED RANGE OF AWARDS*	PROJECT PERIOD	FOR FURTHER INFORMATION CONTACT
84.305C Education Research & Development Centers ▪ Center on Teacher Effectiveness ▪ Center on Rural Education ▪ Center on Turning Around Chronically Low Performing Schools	March 20, 2008	October 2, 2008	$1,000,000 to $2,000,000	Up to 5 years	David Sweet David.Sweet@ed.gov
84.305E Evaluation of State and District Education Programs and Policies	March 3, 2008	October 2, 2008	$300,000 to $1,200,000	Up to 5 years	Allen Ruby Allen.Ruby@ed.gov
National Center for Special Education Research (NCSER)					
84.324A-1 Special Education Research ▪ Early Intervention and Early Childhood Special Education ▪ Reading, Writing, and Language Development ▪ Mathematics and Science Education ▪ Social and Behavioral Outcomes to Support Learning ▪ Transition Outcomes for Special Education Secondary Students ▪ Cognition and Student Learning in Special Education ▪ Teacher Quality ▪ Related Services ▪ Systemic Interventions and Policies for Special Education ▪ Autism Spectrum Disorders	March 3, 2008	June 26, 2008	$100,000 to $1,200,000	Up to 5 years	Kristen Lauer Kristen.Lauer@ed.gov
84.324A-2 Special Education Research ▪ Early Intervention and Early Childhood Special Education ▪ Reading, Writing, and Language Development ▪ Mathematics and Science Education ▪ Social and Behavioral Outcomes to Support Learning ▪ Transition Outcomes for Special Education Secondary Students ▪ Cognition and Student Learning in Special Education ▪ Teacher Quality ▪ Related Services ▪ Systemic Interventions and Policies for Special Education ▪ Autism Spectrum Disorders	March 3, 2008	October 2, 2008	$100,000 to $1,200,000	Up to 5 years	Kristen Lauer Kristen.Lauer@ed.gov

INSTITUTE OF EDUCATION SCIENCES

FY 2009 Grant Competitions to Support Education Research and Special Education Research

CFDA NUMBER AND NAME	APPLICATION AVAILABLE	DEADLINE FOR TRANSMITTAL OF APPLICATIONS	ESTIMATED RANGE OF AWARDS*	PROJECT PERIOD	FOR FURTHER INFORMATION CONTACT
84.305C Education Research & Development Centers ▪ Center on Teacher Effectiveness ▪ Center on Rural Education ▪ Center on Turning Around Chronically Low Performing Schools	March 20, 2008	October 2, 2008	$1,000,000 to $2,000,000	Up to 5 years	David Sweet David.Sweet@ed.gov
84.305E Evaluation of State and District Education Programs and Policies	March 3, 2008	October 2, 2008	$300,000 to $1,200,000	Up to 5 years	Allen Ruby Allen.Ruby@ed.gov
National Center for Special Education Research (NCSER)					
84.324A-1 Special Education Research ▪ Early Intervention and Early Childhood Special Education ▪ Reading, Writing, and Language Development ▪ Mathematics and Science Education ▪ Social and Behavioral Outcomes to Support Learning ▪ Transition Outcomes for Special Education Secondary Students ▪ Cognition and Student Learning in Special Education ▪ Teacher Quality ▪ Related Services ▪ Systemic Interventions and Policies for Special Education ▪ Autism Spectrum Disorders	March 3, 2008	June 26, 2008	$100,000 to $1,200,000	Up to 5 years	Kristen Lauer Kristen.Lauer@ed.gov
84.324A-2 Special Education Research ▪ Early Intervention and Early Childhood Special Education ▪ Reading, Writing, and Language Development ▪ Mathematics and Science Education ▪ Social and Behavioral Outcomes to Support Learning ▪ Transition Outcomes for Special Education Secondary Students ▪ Cognition and Student Learning in Special Education ▪ Teacher Quality ▪ Related Services ▪ Systemic Interventions and Policies for Special Education ▪ Autism Spectrum Disorders	March 3, 2008	October 2, 2008	$100,000 to $1,200,000	Up to 5 years	Kristen Lauer Kristen.Lauer@ed.gov
84.324B Special Education Research Training ▪ Postdoctoral Research Training	March 20, 2008	October 2, 2008	$160,000 to $200,000	Up to 4 years	Jacquelyn Buckley Jacquelyn.Buckley@ed.gov

*These estimates are annual amounts.

Note: The Department is not bound by any estimates in this notice.

[FR Doc. 08–911 Filed 2–29–08; 8:45 am]

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Federal Register

Monday,
March 3, 2008

Part IV

Department of Education

Office of Innovation and Improvement; Overview Information: School Leadership Grant Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008; Notice

DEPARTMENT OF EDUCATION

Office of Innovation and Improvement; Overview Information: School Leadership Grant Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008

Catalog of Federal Domestic Assistance (CFDA) Number: 84.363A.

Dates:

Applications Available: March 3, 2008.

Deadline for Notice of Intent to Apply: April 2, 2008.

Dates of Pre-Application Meetings: March 31, 2008.

Deadline for Transmittal of Applications: May 2, 2008.

Deadline for Intergovernmental Review: July 1, 2008.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The School Leadership program is designed to assist high-need local educational agencies (LEAs) in the development, enhancement, or expansion of innovative programs to recruit, train, and retain principals (including assistant principals) through such activities as:

- Providing financial incentives to aspiring new principals;
- Providing stipends to principals who mentor new principals;
- Carrying out professional development programs in instructional leadership and management; and
- Providing incentives that are appropriate for teachers or individuals from other fields who want to become principals and that are effective in retaining new principals.

Priorities: This competition includes one competitive preference priority and one invitational priority that are explained in the following paragraphs.

Competitive Preference 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). Under 34 CFR 75.105(c)(2)(i) we award up to an additional 15 points to an application, depending on how well the application meets this priority.

This priority is:

School Districts with Schools in Need of Improvement, Corrective Action, or Restructuring. Projects that help school districts implement academic and structural interventions in schools that have been identified for improvement, corrective action, or restructuring under section 1116 of Title I, part A, of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001.

Note: In addressing this priority, applicants are encouraged to describe how they will assess the specific instructional needs of the teachers and the academic needs of the student population in schools that have been identified for improvement, corrective action, or restructuring. Applicants are encouraged to use the information from the assessment and describe how the applicant will recruit, select, train, and support school leader candidates to address the teaching and learning challenges identified in the schools to be served by the project.

Invitational Priority: For FY 2008, this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets the invitational priority a competitive or absolute preference over other applications.

This priority is:

Projects that develop and implement or expand innovative programs that address the leadership needs specific to schools in the high-need LEAs to be served by the project and that lead to the certification, hiring, and retention of principals or assistant principals in those schools.

Background: The Department recognizes the important impact that effective school leaders can have on teaching and learning. We know that successful principals promote in their schools a culture of achievement for all students. These principals hold themselves and others accountable for improving their schools. They work to ensure that teachers and other instructional staff have the resources and other supports they need to foster high academic achievement in all students.

In the course of administering the School Leadership program over the last six years, we have found that high-need LEAs typically encounter a number of barriers to recruiting, selecting, and retaining high quality principals and assistant principals. The Secretary believes the School Leadership program should assist these LEAs in overcoming these barriers and enhance their ability to retain school leaders qualified to address how to improve student academic achievement and other school challenges.

One of the barriers high-need LEAs face is recruiting a sufficient number of qualified and talented school leaders to serve in their schools. Only a limited number of individuals who are certified to work as principals or assistant principals choose to take a school leadership position in high-need LEAs, much less schools in need of improvement or corrective action. Some reasons prospective candidates avoid leadership positions in high-need LEAs include the long hours required, reduced job security, stress, and high levels of accountability for student achievement. Many candidates also have limited understanding of how to work in schools with high poverty rates, racial isolation, and low salaries for school personnel. In addition, unless they are well aligned with the conditions of a high-need LEA and the demands of its school leadership positions, State-approved certification programs may not adequately prepare potential candidates to assume responsibility as instructional leaders of their schools and greater school communities for effectively promoting increased student achievement of all students.

Data reported in the annual performance reports submitted to the Department by FY 2002 and FY 2005 School Leadership program grantees indicate that projects demonstrating the greatest success in meeting their application objectives were closely aligned with the needs of the LEAs served. According to these data, projects were successful if their school leadership development strategy (1) considered the leadership skills needed in a particular school context, and then (2) designed program curriculum and other supports to help program participants develop those skills.

Finally, while somewhat limited in scope, several studies have produced compelling evidence showing that retention of school leaders is linked to (1) rigorous selection criteria, as well as (2) preparation that is both aligned with national, State, or local standards, and includes job-embedded training linked to a well-articulated and designed mentoring and coaching strategy. (Hess, F.M., & Kelly, A.P. (2005). Learning to Lead: What Gets Taught in Principal Preparation Programs. Cambridge: Harvard University.) (Levine, A. (2005, March). Educating School Leaders. New York: The Education Schools Project, Teachers College Columbia University.)

Given the importance of developing school leaders who have the skills needed to help all students in schools in high-need LEAs achieve to high academic standards, the Secretary specifically invites applications that propose projects that will—

(1) Conduct an assessment to identify the school leadership needs of schools that are not being met by existing applicant pools and existing school leadership training programs;

(2) Develop and implement, or expand, an innovative program leading to certification of school principals and assistant principals (or both) that includes recruitment, selection, and

training activities that address these unmet needs;

(3) Develop and implement innovative strategies to retain project participants in schools in need of improvement or corrective action; and

(4) Complete a high-quality project evaluation.

Program Authority: 20 U.S.C. 6651(b).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98 and 99. (b) The notice of final priorities for discretionary grant programs published in the **Federal Register** on October 11, 2006 (71 FR 60046).

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $14,300,000.

Estimated Range of Awards: $250,000–$750,000.

Estimated Average Size of Awards: $500,000.

Estimated Number of Awards: 24–30.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* High-need LEAs, consortia of high-need LEAs, or partnerships that consist of high-need LEAs, and nonprofit organizations (which may be a community- or faith-based organization), or institutions of higher education. Applicants are expected to identify and confirm in their applications that the participating LEA(s) meet the definition of ''high-need'' in section 2102(3) of the ESEA.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other Eligibility Information: Definition of ''High-Need LEA.''* An eligible application must propose a project that benefits one or more ''high-need LEAs.'' As defined in section 2102(3) of the ESEA, the term ''high-need LEA'' is an LEA—

(a)(1) That serves not fewer than 10,000 children from families with incomes below the poverty line, or (2) for which not less than 20 percent of the children served by the LEA are from families with incomes below the poverty line; and

(b) For which there is (1) a high percentage of teachers not teaching in the academic subjects or grade levels the teachers were trained to teach, or (2) a high percentage of teachers with emergency, provisional, or temporary certification or licensing.

So that the Department may be able to confirm the eligibility of the LEAs that projects propose to serve, applicants are expected to include information in their applications that demonstrates that each participating LEA in the project is a high-need LEA, as defined in section 2102(3) of the ESEA. Generally, this information should be based on the most recent available data on the number of children from families with incomes below the poverty line that the LEA serves. In this regard, when presenting evidence to support that each participating LEA meets the definition of a high-need LEA, an application should consider the following:

The Department is not aware of any consistent available LEA data—other than data periodically gathered by the U.S. Census Bureau—that would show that an LEA serves the required number or percentage of children (individuals ages 5 through 17) from families below the poverty line (as defined in section 9101(33) of the ESEA).

Note: The data that many LEAs collect on the number of children eligible for free- and reduced-priced meal subsidies may not be used to satisfy the requirements under component (a) of the statutory definition of high-need LEA. Those data do not reflect children from families with incomes below the poverty line, as that term is defined in section 9101(33) of the ESEA.

Therefore, absent a showing of alternative LEA data that reliably show the number of children from families with incomes below the poverty line that are served by the LEA, the Department expects that the eligibility of an LEA as a ''high-need LEA'' under component (a) will be determined on the basis of the most recent U.S. Census Bureau data. U.S. Census Bureau data are available for all school districts with geographic boundaries that existed when the U.S. Census Bureau collected its information. The link to the census data is: *http://www.census.gov/hhes/www/saipe/district.html.* The Department also makes these data available at its Web site at: *http://www.ed.gov/programs/lsl/eligibility.html.* (Although the Department posted this listing specifically for the Improving Literacy through School Libraries program, these same data apply to the definition of a ''high-need LEA'' used for purposes of eligibility under the School Leadership program.)

LEAs, such as newly formed school districts or charter school in States that accord them LEA status, are not included in Census Bureau poverty data. Eligibility of these particular LEAs will be determined on a case-by-case basis after review of information in the application that addresses as well as possible the poverty level of children these LEAs serve in relation to section 2102(3) of the ESEA.

With regard to component (b)(1) of the definition of ''high-need LEA'' in section 2102(3) of the ESEA, the Department interprets the phrase ''a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach'' as being equivalent to ''a high percentage of teachers teaching out of field.'' The Department expects that LEAs that rely on component (b)(1) of the definition will demonstrate that they have a high percentage of teachers teaching out of field. The Department is not aware of any specific data that would demonstrate a ''high percentage'' of teachers teaching out of field. Accordingly, the Department will review this aspect of an LEA's proposed eligibility on a case-by-case basis. To decrease the level of uncertainty, an applicant might choose instead to demonstrate that each participating LEA meets the eligibility test for a high-need LEA under component (b)(2) of the definition.

For component (b)(2) of the definition of ''high-need LEA,'' the data that LEAs likely will find most readily available on the percentage of teachers with emergency, provisional, or temporary certification or licensing are the data they provide to their States for inclusion in the reports on the quality of teacher preparation that the States provide to the Department in October of each year as required by section 207 of the Higher Education Act of 1965, as amended (HEA). In these reports, States provide the percentage of teachers in their LEAs teaching on waivers of State certification, both on a statewide basis and in high-poverty LEAs. The ''provisional'' HEA Title II accountability data for the national percentage of teachers on waivers to full State certification is 1.5 percent for the 2006–2007 reporting year.

Because the Department is in the process of certifying all data received in the October 2007 State HEA section 207 reports, the data in these reports, including the national average of teachers on waivers of State certification, are still provisional. However, to provide adequate time for the preparation and review of project applications and award of new grants,

the Department will use the 1.5 percent national average for purpose of this competition. Accordingly, an LEA will be considered to have met component (b)(2) of the definition if the data that it provided to the State for purpose of the State's October 2007 HEA section 207 report demonstrate that at least 1.5 percent of its teachers were on waivers of State certification requirements.

Consistent with the methodology the Department used in the FY 2007 competition under the Transition to Teaching program, in which participating LEAs were required to be ''high-need LEAs'' as defined in section 2102(3) of the ESEA, the Department will determine that an LEA with over 1.5 percent of its teachers having emergency, provisional, or temporary certification or licensing (i.e., teachers on waivers), as reflected in data the State uses to compile its October 2007 State report, has a ''high percentage'' of its teachers in this category. We expect that an LEA that chooses not to rely on the data provided to the State for purposes of October 2007 reporting required by section 207 of the HEA would provide other evidence that demonstrates that it meets the eligibility requirement under component (b)(2) of the statutory definition of ''high-need LEA.'' Moreover, should an LEA with a percentage of teachers on waivers of less than 1.5 percent believe it too has a ''high percentage'' of its teachers with emergency, provisional, or temporary certification or licensing, the Department will determine whether that LEA meets element (b)(2) of the definition of high-need LEA on a case-by-case basis.

IV. Application and Submission Information

1. *Address To Request Application Package:* Education Publications Center (ED Pubs), 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 package from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.363A.

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 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 III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. Applicants are strongly encouraged to limit the application narrative to the equivalent of no more than 25 pages, using the following standards:

- A ''page'' is 8.5″ x 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).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section (Part III).

3. *Submission Dates and Times:*

Applications Available: March 3, 2008.

Deadline for Notice of Intent To Apply: April 2, 2008.

Dates of Pre-Application Meetings: The Department will hold two pre-application meetings for prospective applicants on March 31, 2008. The first meeting will be held from 9:30 a.m. to 12:30 p.m. and the second meeting (a repeat of the morning meeting) will be held from 2:30 p.m. to 5:30 p.m. at the U.S. Department of Education, Barnard Auditorium, 400 Maryland Avenue, SW., Washington, DC. Interested parties are invited to participate in either meeting to discuss the purpose of the School Leadership Program, competitive and invitational priorities, selection criteria, application content, submission requirements, and reporting requirements.

Individuals interested in attending this meeting are encouraged to pre-register by e-mailing their name, organization, and contact information with the subject heading PRE-APPLICATION MEETING to *SLP@ed.gov.* There is no registration fee for attending this meeting. For further information contact Beatriz Ceja, U.S. Department of Education, Office of Innovation and Improvement, room 4W210, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 205–5009 or by e-mail: *SLP@ed.gov.*

Assistance to Individuals With Disabilities at the Pre-Application Meeting

The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request we receive after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Deadline for Transmittal of Applications: May 2, 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: July 1, 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 in 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 School Leadership Grant Program, CFDA Number 84.363A, 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 School Leadership Grant 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 84.363, not 84.363A).

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 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: Beatriz Ceja, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W210, Washington, DC 20202–5960. FAX: (202) 401–8466.

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 84.363A) 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 84.363A) 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.

(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 84.363A), 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 34 CFR 75.210. The maximum score for all of the selection criteria is 100 points. The maximum score for each criterion is indicated in parentheses. Each criterion also includes the factors that the reviewers will consider in determining how well an application meets the criterion. Any notes following a selection criterion are intended to provide guidance to help applicants in preparing their applications only, and are not statutory or regulatory requirements for this competition. The criteria are as follows:

A. *Quality of the project design* (40 points). The Secretary considers the quality of the design for the proposed project. In determining the quality of the design of the project, the Secretary considers the following factors:

1. The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

2. The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

3. The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

4. The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

Note: The Secretary encourages applicants to address this criterion by discussing the overall project model, including such key elements as the project's research base, proposed participants, participant recruitment and selection strategies, plans for using incentives for teachers or individuals from other fields who want to become principals and assistant principals, activities to prepare and certify principals and

assistant principals, program delivery strategies, plans for implementing on-site or school-based work experiences, activities for participant placement, and retention strategies that include follow-up support.

B. *Quality of the project evaluation* (25 points). The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

1. The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

2. The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Note: The Secretary encourages applicants to consider how this criterion may affect both their annual performance reports and the final evaluation submitted under 34 CFR 75.590. In addition, the Secretary encourages applicants to address this criterion by including proposed benchmarks for assessing both short- and long-term progress toward the specific project objectives and outcome measures they would use to assess the project's impact on teaching and learning or other important outcomes for project participants. Applicants may consider the use of logic models to identify the project's inputs, outputs, and outcomes.

The Secretary also encourages applicants to describe the qualifications of that evaluator as well as

- The types of data that will be collected;
- When these various types of data will be collected;
- What methods of data collections will be used;
- What evaluation instruments will be developed and when;
- How the data will be analyzed;
- When reports of evaluation results and outcomes will be available; and
- How the applicant will use the information collected through the evaluation to monitor progress of the funded project and to provide accountability information both about the success at the initial site or sites and about effective strategies for replication in other settings.

Applicants are encouraged to devote an appropriate level of resources to project evaluation.

C. *Quality of project services* (20 points). The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers one or more of the following factors;

1. The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

2. The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

3. The likelihood that the services to be provided by the proposed project will lead to improvements in the achievement of students as measured against rigorous academic standards.

4. The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

Note: The Secretary encourages applicants to describe how the proposed services will be responsive to the leadership needs of the LEAs served by the project and how they will be different from or will strengthen current leadership programs, and how the proposed services will prepare, certify, place, and support highly qualified school leaders who are able to address the needs of the schools in which they will be placed.

D. *Quality of the management plan* (15 points). The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

1. 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.

2. The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

3. The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

Note: The Secretary encourages applicants to address this criterion by providing specific information such as—

- The name, title, and time commitment of each key person, and the responsibilities of each individual working to help implement the project's goals and objectives;
- A year-to-year timeline for undertaking important project activities, with benchmarks for determining whether the project is achieving its stated goals and objectives; and
- The strategies for monitoring whether or not the project is meeting its goals and objectives, and for making mid-course corrections, as appropriate.

2. *Applicant's Past Performance and Compliance History:* In accordance with 34 CFR 75.217(d)(3)(ii), the Secretary may consider an applicant's past performance and compliance history when evaluating applications and in making funding decisions.

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 Notice (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. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Secretary has established two performance measures for assessing the effectiveness of the School Leadership Program: (1) the percentage of participants who become certified principals or assistant principals who are then placed and retained in schools

in high-need LEAs, and (2) the percentage of principals or assistant principals who participate in professional development activities and show an increase in their pre-post scores on a standardized measure of principal skills and who are retained in their positions in schools in high-need LEAs for at least two years. Grantees will be expected to provide data on each component of the two measures.

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Beatriz Ceja, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W210, Washington, DC 20202–5960. Telephone: (202) 205–5009 or or by e-mail: *SLP@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: February 27, 2008.

Morgan S. Brown,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. E8–4044 Filed 2–29–08; 8:45 am]

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Federal Register

Monday,
March 3, 2008

Part V

The President

Proclamation 8221—American Red Cross Month, 2008

Proclamation 8222—Save Your Vision Week, 2008

Federal Register
Vol. 73, No. 42
Monday, March 3, 2008

Presidential Documents

Title 3—

The President

Proclamation 8221 of February 28, 2008

American Red Cross Month, 2008

By the President of the United States of America

A Proclamation

In 1881, Clara Barton established the American Red Cross, and for years afterward, she led that organization in its noble cause to provide healing, comfort, and hope to those in need. Today, her legacy lives on through the millions of individuals who have answered the timeless call to serve others. During American Red Cross Month, we honor this charitable organization, and we reflect on its remarkable achievements and contributions to our country.

The American Red Cross exemplifies the good heart of this Nation by leading humanitarian efforts at home and around the world. This past year the American Red Cross provided food, comfort, and medical assistance to the victims of the tragic bridge collapse in Minnesota, the devastating wildfires in California, and the tornadoes that affected several Southern States. From the mountains of Peru to the lowlands of Bangladesh, the American Red Cross and its partners helped to provide relief abroad to those affected by natural disasters and humanitarian emergencies.

The American Red Cross also helps provide vital assistance by organizing blood drives, teaching health and safety programs, and providing lifesaving supplies. By compassionately supporting our men and women in uniform and their families, it helps to lift the spirits of our wounded warriors. During this month, we send our heartfelt gratitude to the volunteers and staff of the American Red Cross.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America and Honorary Chairman of the American Red Cross, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 2008 as American Red Cross Month. I commend the dedicated efforts of the American Red Cross, and I encourage all Americans to help make our world a better place by volunteering their time, energy, and talents for others.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of February, 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. 08–940
Filed 2–29–08; 8:58 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8222 of February 28, 2008

Save Your Vision Week, 2008

By the President of the United States of America

A Proclamation

Early diagnosis and proper treatment of eye disease can help preserve the gift of sight. During Save Your Vision Week, we encourage Americans to receive routine vision screenings and to understand the importance of keeping their eyes healthy and safe.

Today, millions of Americans live with some form of eye disease, such as glaucoma, corneal disease, macular degeneration, or diabetic eye disease. Individuals can help to avoid these diseases and maintain healthy eyes by following good eating habits, using appropriate protective eyewear, and maintaining a healthy lifestyle. Citizens should discuss with their physician the dangers of eye disease and see that their children are tested before their first year of school.

My Administration will continue to seek better ways to prevent and treat eye diseases. The National Eye Institute's website, www.nei.nih.gov, provides many resources to help Americans find information on eye disease and on where to find local eye-care professionals. By being proactive, Americans can help prevent vision loss and live healthier lives.

The Congress, by joint resolution approved December 30, 1963, as amended (77 Stat. 629; 36 U.S.C. 138), has authorized and requested the President to proclaim the first week in March of each year as ''Save Your Vision Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim March 2 through March 8, 2008, as Save Your Vision Week. I encourage all Americans to learn more about eye care and eye safety and to take measures to help ensure a lifetime of healthy vision.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of February, 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. 08–941
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Federal Register

Vol. 73, No. 42

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CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 3, 2008

COMMERCE DEPARTMENT

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Defense Acquisition Regulations System

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Codification and Modification of Berry Amendment; published 3-3-08

Mandatory Use of Wide Area WorkFlow; published 3-3-08

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HEALTH AND HUMAN SERVICES DEPARTMENT

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Optional State plan case management services; published 12-4-07

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Hampton Roads, VA; published 1-31-08

Drawbridge Operation Regulations:

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INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants:

Tidewater Goby; Critical Habitat Designation Revision; published 1-31-08

INTERIOR DEPARTMENT

National Indian Gaming Commission

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Priority Mail Large Flat-Rate Box; Domestic APO/FPO; published 2-1-08

Priority Mail Large Flat-Rate Box; International; published 2-1-08

SOCIAL SECURITY ADMINISTRATION

Amendment to Attorney Advisor Program; published 3-3-08

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Agricultural Marketing Service

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COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

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ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Forms, Statements, and Reporting Requirements for Electric Utilities and Licensees Revisions; comments due by 3-14-08; published 1-29-08 [FR E8-01385]

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National Indian Gaming Commission

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 1216/P.L. 110–189

Cameron Gulbransen Kids Transportation Safety Act of 2007 (Feb. 28, 2008; 122 Stat. 639)

H.R. 5270/P.L. 110–190

Airport and Airway Extension Act of 2008 (Feb. 28, 2008; 122 Stat. 643)

H.R. 5264/P.L. 110–191

Andean Trade Preference Extension Act of 2008 (Feb. 29, 2008; 122 Stat. 646)

H.R. 5478/P.L. 110–192

To provide for the continued minting and issuance of certain $1 coins in 2008. (Feb. 29, 2008; 122 Stat. 648)

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CFR CHECKLIST

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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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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
100–135	(869–062–00159–2)	45.00	July 1, 2007
136–149	(869–062–00160–6)	61.00	July 1, 2007
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
425–699	(869–062–00167–3)	61.00	July 1, 2007
700–789	(869–062–00168–1)	61.00	July 1, 2007
790–End	(869–062–00169–0)	61.00	July 1, 2007
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
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	(869–062–00175–4)	32.00	Oct. 1, 2007
414–429	(869–062–00176–2)	32.00	Oct. 1, 2007
430–End	(869–062–00177–1)	64.00	Oct. 1, 2007
43 Parts:			
1–999	(869–062–00178–9)	56.00	Oct. 1, 2007
1000–end	(869–062–00179–7)	62.00	Oct. 1, 2007
44	(869–062–00180–1)	50.00	Oct. 1, 2007
45 Parts:			
1–199	(869–062–00181–9)	60.00	Oct. 1, 2007
200–499	(869–060–00182–7)	34.00	[11] Oct. 1, 2007
500–1199	(869–062–00183–5)	56.00	Oct. 1, 2007
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	(869–062–00187–8)	14.00	Oct. 1, 2007
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	(869–062–00191–6)	46.00	Oct. 1, 2007
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	(869–062–00195–9)	46.00	Oct. 1, 2007
40–69	(869–062–00196–7)	40.00	Oct. 1, 2007
70–79	(869–062–00197–5)	61.00	Oct. 1, 2007
80–End	(869–062–00198–3)	61.00	Oct. 1, 2007
48 Chapters:			
1 (Parts 1–51)	(869–062–00199–1)	63.00	Oct. 1, 2007
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
3–6	(869–062–00202–5)	34.00	Oct. 1, 2007

Title	Stock Number	Price	Revision Date
7–14	(869–062–00203–3)	56.00	Oct. 1, 2007
15–28	(869–062–00204–1)	47.00	Oct. 1, 2007
29–End	(869–062–00205–0)	47.00	Oct. 1, 2007
49 Parts:			
1–99	(869–062–00206–8)	60.00	Oct. 1, 2007
100–185	(869–062–00207–6)	63.00	Oct. 1, 2007
186–199	(869–062–00208–4)	23.00	Oct. 1, 2007
200–299	(869–062–00208–1)	32.00	Oct. 1, 2007
300–399	(869–062–00210–6)	32.00	Oct. 1, 2007
400–599	(869–062–00210–3)	64.00	Oct. 1, 2007
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	(869–062–00215–7)	11.00	Oct. 1, 2007
17.1–17.95(b)	(869–062–00216–5)	32.00	Oct. 1, 2007
17.95(c)–end	(869–062–00217–3)	32.00	Oct. 1, 2007
17.96–17.99(h)	(869–062–00218–1)	61.00	Oct. 1, 2007
17.99(i)–end and 17.100–end	(869–062–00219–0)	47.00	[10] Oct. 1, 2007
18–199	(869–062–00226–3)	50.00	Oct. 1, 2007
200–599	(869–062–00221–1)	45.00	Oct. 1, 2007
600–659	(869–062–00222–0)	31.00	Oct. 1, 2007
660–End	(869–062–00223–8)	31.00	Oct. 1, 2007
CFR Index and Findings Aids	(869–062–00050–2)	62.00	Jan. 1, 2007
Complete 2007 CFR set		1,499.00	2008
Microfiche CFR Edition:			
Subscription (mailed as issued)		406.00	2008
Individual copies		4.00	2008
Complete set (one-time mailing)		332.00	2007
Complete set (one-time mailing)		332.00	2006

[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.

[11] No amendments to this volume were promulgated during the period October 1, 2006, through October 1, 2007. The CFR volume issued as of October 1, 2006 should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—MARCH 2008

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Date of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
March 3	Mar 18	Apr 2	Apr 17	May 2	Jun 2
March 4	Mar 19	Apr 3	Apr 18	May 5	Jun 2
March 5	Mar 20	Apr 4	Apr 21	May 5	Jun 3
March 6	Mar 21	Apr 7	Apr 21	May 5	Jun 4
March 7	Mar 24	Apr 7	Apr 21	May 6	Jun 5
March 10	Mar 25	Apr 9	Apr 24	May 9	Jun 9
March 11	Mar 26	Apr 10	Apr 25	May 12	Jun 9
March 12	Mar 27	Apr 11	Apr 28	May 12	Jun 10
March 13	Mar 28	Apr 14	Apr 28	May 12	Jun 11
March 14	Mar 31	Apr 14	Apr 28	May 13	Jun 12
March 17	Apr 1	Apr 16	May 1	May 16	Jun 16
March 18	Apr 2	Apr 17	May 2	May 19	Jun 16
March 19	Apr 3	Apr 18	May 5	May 19	Jun 17
March 20	Apr 4	Apr 21	May 5	May 19	Jun 18
March 21	Apr 7	Apr 21	May 5	May 20	Jun 19
March 24	Apr 8	Apr 23	May 8	May 23	Jun 23
March 25	Apr 9	Apr 24	May 9	May 27	Jun 23
March 26	Apr 10	Apr 25	May 12	May 27	Jun 24
March 27	Apr 11	Apr 28	May 12	May 27	Jun 25
March 28	Apr 14	Apr 28	May 12	May 27	Jun 26
March 31	Apr 15	Apr 30	May 15	May 30	Jun 30