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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AI24

List of Approved Spent Fuel Storage Casks: HI–STORM 100 Revision 5; Withdrawal of Direct Final Rule

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing a direct final rule that would have revised the Holtec International HI–STORM 100 cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 5 to the Certificate of Compliance. The NRC is taking this action because it has received a significant adverse comment in response to the direct final rule. This significant adverse comment shall be considered as a comment to the companion proposed rule that was published concurrently with the direct final rule.

DATES: The final rule published on December 31, 2007 (72 FR 74162), is withdrawn effective March 12, 2008.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6219 (e-mail: *jmm2@nrc.gov*).

SUPPLEMENTARY INFORMATION: On December 31, 2007 (72 FR 74162), the NRC published in the **Federal Register** a direct final rule amending its regulations in 10 CFR 72.214 to revise the Holtec International HI–STORM 100 cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 5 to the Certificate of Compliance (CoC) No. 1014. Amendment No. 5 modifies the present cask system design to permit deletion of the requirement to perform thermal validation tests on thermal systems; an increase in the design basis maximum decay heat loads, namely, to 34 kilowatts (kW) for uniform loading and 36.9 kW for regionalized loading, and introduction of a new decay heat regionalized scheme; an increase in the maximum fuel assembly weight for boiling water reactor fuel in the Multi-Purpose Canister (MPC)–68 from 700 to 730 pounds; an increase in the maximum fuel assembly weight of up to 1,720 pounds for assemblies not requiring spacers, otherwise 1,680 pounds; changes to the assembly characteristics of 16x16 pressurized water reactor fuel assemblies to be qualified for storage in the HI–STORM 100 cask system; a change in the fuel storage locations in the MPC–32 for fuel with axial power shaping rod assemblies and in the fuel storage locations in the MPC–24, MPC–24E, and the MPC–32 for fuel with control rod assemblies, rod cluster control assemblies, and control element assemblies; elimination of the restriction that fuel debris can only be loaded into the MPC–24EF, MPC–32F, MPC–68F, and MPC–68FF canisters; introduction of a requirement that all MPC confinement boundary components and any MPC components exposed to spent fuel pool water or the ambient environment be made of stainless steel or, for MPC internals, neutron absorber or aluminum; the addition of a threshold heat load below which operation of the Supplemental Cooling System would not be required and modification of the design criteria to simplify the system; minor editorial changes to include clarification of the description of anchored casks, correction of typographical/editorial errors, clarification of the definitions of loading operations, storage operations, transport operations, unloading operations, cask loading facility, and transfer cask in various locations throughout the CoC and Final Safety Analysis Report; and modification of the definition of non-fuel hardware to include the individual parts of the items defined as non-fuel hardware. The direct final rule was to become effective on March 17, 2008. The NRC also concurrently published a companion proposed rule on December 31, 2007 (72 FR 74209).

In the direct final rule, NRC stated that if any significant adverse comments were received, a notice of timely withdrawal of the direct final rule would be published in the **Federal Register**, and the direct final rule would not take effect.

The NRC received a significant adverse comment on the direct final rule; therefore, the NRC is withdrawing the direct final rule. This significant adverse comment shall be considered as a comment to the companion proposed rule that was published concurrently with the direct final rule. The NRC will not initiate a second comment period on the companion proposed rule.

Dated at Rockville, Maryland, this 28th day of February, 2008.

For the Nuclear Regulatory Commission.

Luis A. Reyes,

Executive Director for Operations.

[FR Doc. E8–4796 Filed 3–11–08; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29172; Directorate Identifier 2006–NM–285–AD; Amendment 39–15412; AD 2008–05–18]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Mark 050, 200, 300, 400, 500, 600, and 700 Airplanes

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

ACTION: Final rule.

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

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, * * * Special Federal Aviation Regulation 88 (SFAR88) * * * required a

safety review of the aircraft Fuel Tank System * * *.

* * * * *

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' * * *. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

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

DATES: This AD becomes effective April 16, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 16, 2008.

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

FOR FURTHER INFORMATION CONTACT: 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.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on September 11, 2007 (72 FR 51719). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, the FAA published Special Federal Aviation Regulation 88 (SFAR 88) in June 2001. SFAR 88 required a safety review of the aircraft Fuel Tank System to determine that the design meets the requirements of FAR (Federal Aviation Regulation) § 25.901 and § 25.981(a) and (b).

A similar regulation has been recommended by the JAA (Joint Aviation Authorities) to the European National Aviation Authorities in JAA letter 04/00/02/07/03–L024 of 3 February 2003. The review was requested to be mandated by NAA's (National Aviation Authorities) using JAR (Joint Aviation Regulation) § 25.901(c), § 25.1309.

In August 2005 EASA published a policy statement on the process for developing instructions for maintenance and inspection of Fuel Tank System ignition source prevention (EASA D 2005/CPRO, *http://www.easa.eu.int/home/cert_policy_statements_en.html*) that also included the EASA expectations with regard to compliance times of the corrective actions on the unsafe and the not unsafe part of the harmonised design review results. On a global scale the TC (type certificate) holders committed themselves to the EASA published compliance dates (see EASA policy statement). The EASA policy statement has been revised in March 2006: the date of 31–12–2005 for the unsafe related actions has now been set at 01–07–2006.

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' as defined in FAA's memo 2003–112–15 'SFAR 88—Mandatory Action Decision Criteria'. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

This EASA Airworthiness Directive mandates the Fuel System Airworthiness Limitations, comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL) for the type of aircraft, that resulted from the design reviews and the JAA recommendation and EASA policy statement mentioned above.

The corrective action includes revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Actions Since the NPRM Was Issued

Since we issued the NPRM, we have received Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006. (We referred to Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 1, dated January 31, 2006, in the NPRM as the appropriate source of service information for accomplishing the required actions.) Issue 2 of the report includes the CDCCL control references as published in the May 1, 2006, revision of the airplane maintenance manual. We have changed paragraphs (f) and (h) of the AD to refer to Issue 2 of the report.

We have also received Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008. (We referred to Fokker Service Bulletin SBF27/28–070, dated June 30, 2006, in the NPRM as an appropriate source of service information for accomplishing the required actions.) Revision 1 of the service bulletin includes editorial changes, changes to certain CDCCL control references, and changes to the compliance paragraph. We have changed paragraphs (f) and (h) of the AD to refer to Revision 1 of the service bulletin.

We have also added a new paragraph (f)(5) to the AD to specify that actions done before the effective date of this AD in accordance with Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 1, dated January 31, 2006; or Fokker Service Bulletin SBF27/28–070, dated June 30, 2006; as applicable; are acceptable for compliance with the corresponding requirements of this AD.

Explanation of Additional Changes to the AD

We have clarified paragraph (f)(1) of this AD to specify that operators are to incorporate the ''limits'' (inspections, thresholds, and intervals) specified in the Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; or Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; as applicable. Paragraph (f)(1) of the NPRM did not include the words ''the limits,'' or a description of those limits.

For standardization purposes, we have revised this AD in the following ways:

- We have revised paragraph (f)(4) of this AD to specify that no alternative inspections, inspection intervals, or CDCCLs may be used unless they are part of a later approved revision of Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; or Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; as applicable; or unless they are approved as an alternative method of compliance (AMOC). Inclusion of this paragraph in the AD is intended to ensure that the AD-mandated airworthiness limitations changes are treated the same as the airworthiness limitations issued with the original type certificate.
- We have simplified the language in Note 1 of this AD to clarify that an operator must request approval for an AMOC if the operator cannot

accomplish the required inspections because an airplane has been previously modified, altered, or repaired in the areas addressed by the required inspections.

• In most ADs, we adopt a compliance time allowing a specified amount of time after the AD's effective date. In this case, however, the FAA has already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this AD, we are including this same compliance date in this AD.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 24 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $1,920, or $80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–05–18 Fokker Services B.V.: Amendment 39–15412. Docket No. FAA–2007–29172; Directorate Identifier 2006–NM–285–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 16, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Fokker Model F27 Mark 050 airplanes, all serial numbers; and Fokker F27 Mark 200, 300, 400, 500, 600, and 700 airplanes, serial numbers 10102 through 10692; certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

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

Reason

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

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, the FAA published Special Federal Aviation Regulation 88 (SFAR 88) in June 2001. SFAR 88 required a safety review of the aircraft Fuel Tank System to determine that the design meets the requirements of FAR (Federal Aviation Regulation) § 25.901 and § 25.981(a) and (b).

A similar regulation has been recommended by the JAA (Joint Aviation Authorities) to the European National Aviation Authorities in JAA letter 04/00/02/07/03–L024 of 3 February 2003. The review was requested to be mandated by NAA's (National Aviation Authorities) using JAR (Joint Aviation Regulation) § 25.901(c), § 25.1309.

In August 2005 EASA published a policy statement on the process for developing instructions for maintenance and inspection of Fuel Tank System ignition source prevention (EASA D 2005/CPRO, *http://*

www.easa.eu.int/home/cert_policy_statements_en.html) that also included the EASA expectations with regard to compliance times of the corrective actions on the unsafe and the not unsafe part of the harmonised design review results. On a global scale the TC (type certificate) holders committed themselves to the EASA published compliance dates (see EASA policy statement). The EASA policy statement has been revised in March 2006: the date of 31–12–2005 for the unsafe related actions has now been set at 01–07–2006.

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' as defined in FAA's memo 2003–112–15 'SFAR 88—Mandatory Action Decision Criteria'. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

This EASA Airworthiness Directive mandates the Fuel System Airworthiness Limitations, comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL) for the type of aircraft, that resulted from the design reviews and the JAA recommendation and EASA policy statement mentioned above.

The corrective action includes revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Actions and Compliance

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

(1) Within 3 months after the effective date of this AD or before December 16, 2008, whichever occurs first, revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate the limits (inspections, thresholds, and intervals) specified in Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; or Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; as applicable. For all tasks identified in Report SE–671 or Service Bulletin SBF27–28–070, the initial compliance times are as specified in Table 1 or Table 2 of this AD, as applicable. The repetitive inspections must be accomplished thereafter at the intervals specified in Report SE–671 or Service Bulletin SBF27–28–070, as applicable, except as provided by paragraphs (f)(3) and (g)(1) of this AD.

TABLE 1.—INITIAL COMPLIANCE TIMES FOR ALS REVISION FOR MODEL F27 MARK 050 AIRPLANES

For—	The later of—
Task 280000–01	102 months after the effective date of this AD; or 102 months after the date of issuance of the original Dutch standard airworthiness certificate or the date of issuance of the original Dutch export certificate of airworthiness.
Task 280000–02	30 months after the effective date of this AD; or 30 months after the date of issuance of the original Dutch standard airworthiness certificate or the date of issuance of the original Dutch export certificate of airworthiness.

TABLE 2.—INITIAL COMPLIANCE TIMES FOR ALS REVISION FOR MODEL F27 MARK 200, 300, 400, 500, 600, AND 700 AIRPLANES

For—	The later of—
Task 280000–01	78 months after the effective date of this AD; or 78 months after the date of issuance of the original Dutch standard airworthiness certificate or the date of issuance of the original Dutch export certificate of airworthiness.
Task 280000–02	18 months after the effective date of this AD; or 18 months after the date of issuance of the original Dutch standard airworthiness certificate or the date of issuance of the original Dutch export certificate of airworthiness.

(2) Within 3 months after the effective date of this AD or before December 16, 2008, whichever occurs first, revise the ALS of the Instructions for Continued Airworthiness to incorporate the CDCCLs as defined in Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; or Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; as applicable.

(3) Where Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; or Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; as applicable; allow for exceptional short-term extensions, an exception is acceptable to the FAA if it is approved by the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(4) After accomplishing the actions specified in paragraphs (f)(1) and (f)(2) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used, unless the inspections, inspection intervals, or CDCCLs are part of a later revision of Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; or Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; as applicable; that is approved by the Manager, International Branch, ANM–116, FAA, or the Civil Aviation Authority—The Netherlands (CAA–NL) (or its delegated agent); or unless the inspections, intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

(5) Actions done before the effective date of this AD in accordance with Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 1, dated January 31, 2006; and Fokker Service Bulletin SBF27–28–070, dated June 30, 2006; are acceptable for compliance with the corresponding requirements of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, 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, 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 European Aviation Safety Agency (EASA) Airworthiness Directive 2006–0207, dated July 12, 2006; EASA Airworthiness Directive 2006–0209, dated July 12, 2006 (corrected September 1, 2006); Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; and Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; for related information.

Material Incorporated by Reference

(i) You must use Fokker 50/60 Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL) Report SE–671, Issue 2, dated December 1, 2006; and Fokker Service Bulletin SBF27–28–070, Revision 1, dated January 8, 2008; to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands.

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

Issued in Renton, Washington, on February 28, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4328 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28228; Directorate Identifier 2006–SW–08–AD; Amendment 39–15410; AD 2008–05–16]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model EC130 B4 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Eurocopter France (ECF) Model EC130 B4 helicopters that requires, within 110 hours time-in-service (TIS), modifying and testing the wiring of the battery overheat sensing circuit. This amendment is prompted by a malfunction in the battery overheat sensing circuit found during a scheduled inspection. The actions specified by this AD are intended to correct the connection of the thermal switch to the cockpit indicator light, to notify the flight crew of an overheated battery, and to prevent a thermal runaway of the battery, an in-flight fire, and subsequent loss of control of the helicopter.

DATES: Effective April 16, 2008.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 16, 2008.

ADDRESSES: You may get the service information identified in this AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527.

EXAMINING THE DOCKET: You may examine the docket that contains this AD, any comments, and other information on the Internet at *http://www.regulations.gov* or at the Docket Operations Office, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carroll Wright, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5120, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for the specified model helicopters was published in the **Federal Register** on May 21, 2007 (72 FR 28458). That action proposed to require, within 110 hours TIS, modifying and testing the wiring of the battery overheat sensing circuit.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on ECF Model EC130 B4 helicopters. The DGAC advises that a malfunction of the battery overheat sensing function, due to incorrect wiring of the battery overheat sensing circuit, was found during a scheduled maintenance. The DGAC also advises that failure of the battery overheat sensing function to operate could give rise to a fire in the event of thermal runaway of the battery.

ECF has issued Alert Telex No. 24A001, dated December 20, 2005 (AT). The AT specifies modifying and testing the battery overheat sensing circuit (MOD 073572) for batteries located in the right-hand side baggage compartment (not modified per OP–3685 or 073739) and for batteries in the tailboom (modified per OP–3685 or 073739). The DGAC classified this AT as mandatory and issued AD No. F–2006–010, dated January 4, 2006, to ensure the continued airworthiness of these helicopters in France.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed but with one editorial change. In the summary and the discussion paragraphs of the NPRM, we stated that the modification and retesting would be required within 100 hours TIS. In the compliance paragraph of the NPRM, we stated 110 hours TIS, which is correct. The 100-hour TIS compliance time is incorrect. We have corrected the compliance time in this final rule and determined that air safety and the public interest require adopting the rule as proposed with the changes

described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that this AD will affect 68 helicopters of U.S. registry. Modifying and testing the overheat sensing circuit wiring will take about 1 work hour per helicopter at an average labor rate of $80 per work hour. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $5440.

Regulatory Findings

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

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

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

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

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

We prepared an economic evaluation of the estimated costs to comply with this AD. See the AD docket to examine the economic evaluation.

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2008–05–16 Eurocopter France: Amendment 39–15410; Docket No. FAA–2007–28228; Directorate Identifier 2006–SW–08–AD.

Applicability: Model EC130 B4 helicopters not modified per MOD 073572, with the battery in either the right-hand baggage compartment or the tailboom, certificated in any category.

Compliance: Required within 110 hours time-in-service, unless accomplished previously.

To correct the connection of the thermal switch to the cockpit indicator light, to notify the flight crew of an overheated battery, and to prevent a thermal runaway of the battery, an in-flight fire, and subsequent loss of control of the helicopter, do the following:

(a) Modify the wiring of the battery overheat sensing circuit and test the battery overheat sensing indicator light by following the Accomplishment Instructions, paragraph 2.B.1. or 2.B.2., depending on the location of the battery, of Eurocopter Alert Telex No. 24A001, dated December 20, 2005.

(b) Modifying and testing the battery overheat sensing circuit by following paragraph (a) of this AD is terminating action for the requirements of this AD.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Rotorcraft Directorate, FAA, ATTN: Carroll Wright, Aviation Safety Engineer, Regulations and Policy Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5120, fax (817) 222–5961, for information about previously approved alternative methods of compliance.

(d) Modifying the wiring of the battery overheat sensing circuit and testing the battery overheat sensing indicator light shall be done in accordance with the specified portions of Eurocopter Alert Telex No. 24A001, dated December 20, 2005. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(e) This amendment becomes effective on April 16, 2008.

Note: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD No. F–2006–010, dated January 4, 2006.

Issued in Fort Worth, Texas, on February 26, 2008.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E8–4462 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0056; Directorate Identifier 2007–SW–06–AD; Amendment 39–15409; AD 2008–05–15]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model EC130 B4 Helicopters

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Eurocopter France Model EC130 B4 helicopters. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The European Safety Agency (EASA), the Technical Agent for France, with which we have a bilateral agreement, states in the MCAI:

This Airworthiness Directive (AD) is issued following the discovery of several cases of loosened rivets in the tube-to-flange attachment of the tail rotor drive center section shaft.

In one case, this loosening of rivets was associated with a crack in the tube which started from a loosened-rivet hole.

These occurrences can lead to failure of the tail rotor drive center section shaft.

We are issuing this AD to correct the unsafe condition caused by cracks and

loosened rivets in the tube-to-flange attachment of the tail rotor and the unsafe condition caused by the out-of-perpendicularity of the No. 1 bearing.

DATES: This AD becomes effective on April 16, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 16, 2008.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in Room W12–140, Docket Operations Office, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590.

You may get the service information identified in this AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527.

FOR FURTHER INFORMATION CONTACT: Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5355, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

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

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

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to Eurocopter France Model EC130B3 helicopters. That NPRM was published in the **Federal Register** on October 19, 2007 (72 FR 59229). That NPRM proposed to correct the unsafe conditions for the specified model helicopter. The MCAI states:

> This Airworthiness Directive (AD) is issued following the discovery of several cases of loosened rivets in the tube-to-flange attachment of the tail rotor drive center section shaft.
>
> In one case, this loosening of rivets was associated with a crack in the tube which started from a loosened-rivet hole.
>
> These occurrences can lead to failure of the tail rotor drive center section shaft.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public. We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD will affect 68 helicopters of U.S. registry and that it will take about 1 work-hour per helicopter to determine if there are any cracks or loosened rivets in the tube-to-flange attachment of the tail rotor drive center section shaft and to determine if the No. 1 bearing is out-of-perpendicularity. Also, we estimate that it will take about 4 work-hours per helicopter to remove and replace any nonconforming parts. The average labor rate is $80 per work-hour. Required parts will cost about $15,007 per helicopter if replacing a tail rotor drive center section shaft is necessary. Based on these figures, we estimate the cost to inspect the fleet of helicopters to be $5,440. Assuming 3 helicopters are found to have nonconforming parts, we estimate the costs to replace these parts to be $45,981, resulting in the total cost of the AD on U.S. operators to be $51,421.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–05–15 Eurocopter France: Amendment 39–15409. Docket No. FAA–2007–0056; Directorate Identifier 2007–SW–06–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective on April 16, 2008.

Other Affected ADs

(b) None.

Applicability

(c) This AD applies to Model EC130 B4 helicopters, with a tail rotor drive center section shaft, part number (P/N) 350A340202; and bearing, P/N 593404, certificated in any category.

Reason

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

This Airworthiness Directive (AD) is issued following the discovery of several cases of loosened rivets in the tube-to-flange attachment of the tail rotor drive center section shaft.

In one case, this loosening of rivets was associated with a crack in the tube which started from a loosened-rivet hole.

These occurrences can lead to failure of the tail rotor drive center section shaft.

Actions and Compliance

(e) Within 50 hours time-in-service (TIS) or 3 months, whichever occurs first, unless already done, do the following actions.

(1) Inspect for cracks or loosened rivets in the tube-to-flange attachment of the tail rotor drive center section shaft and inspect the perpendicularity of bearing No. 1 in compliance with the Accomplishment Instructions, paragraph 2.B.2., of Eurocopter Alert Service Bulletin No. 65A002, dated November 16, 2005 (ASB).

(2) If a crack or loosened rivet is found, replace the tail rotor drive center section shaft before further flight.

(3) If the out-of perpendicularity of the bearing is more than 0.1 mm, apply the corrective procedure described in the Accomplishment Instructions, paragraph 2.B.2., of the ASB.

Differences Between the FAA AD and the MCAI

(f) None.

Subject

(g) Air Transport Association of America (ATA) Code 65, Tail rotor drive—tail rotor drive shaft.

Other Information

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

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, Safety Management Group, Rotorcraft 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: Ed Cuevas, Aviation Safety Engineer, Fort Worth, Texas 76193–0111, telephone (817) 222–5355, fax (817) 222–5961.

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

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

Related Information

(i) MCAI European Aviation Safety Agency (EASA) Airworthiness Directive No. F–2005–190, Revision A, dated November 23, 2005, contains related information.

Material Incorporated by Reference

(j) You must use the specified portions of Eurocopter Alert Service Bulletin No. 65A002, dated November 16, 2005, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527.

(3) You may review copies at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Fort Worth, Texas, on February 14, 2008.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E8–4464 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28665; Directorate Identifier 2007–NM–081–AD; Amendment 39–15416; AD 2008–06–04]

RIN 2120–AA64

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

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

ACTION: Final rule.

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

Three cases of outer deflector panel found detached or broken during ground inspection have been reported to Airbus. * * * [A]n operator has also reported a missing portion of hinge on one panel. * * * Mishandling or failure of the small portion of hinge located inboard of the affected deflector panel is suspected to be the main cause of the deflector damage. This can cause misalignment of the deflector panel followed by hinge pin migration and possible further damages to the deflector on flap retraction. If not corrected, such situation could lead to the loss of deflector panel and injured people on the ground.

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

DATES: This AD becomes effective April 16, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 16, 2008.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on July 10, 2007 (72 FR 37477). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Three cases of outer deflector panel found detached or broken during ground inspection have been reported by operators to Airbus. The affected deflector panel is the most outboard of the two outer deflectors. In addition, an operator has also reported a missing portion of hinge on one panel. The missing portion of hinge is held to the structure through one Camloc fastener.

Mishandling or failure of the small portion of hinge located inboard of the affected deflector panel is suspected to be the main cause of the deflector damage.

This can cause misalignment of the deflector panel followed by hinge pin migration and possible further damages to the deflector on flap retraction. If not corrected, such situation could lead to the loss of deflector panel and injured people on the ground.

The aim of this Airworthiness Directive (AD) is to mandate the one time inspection to detect and prevent damage to inner and outer shroud box deflectors.

The corrective action includes repairing any discrepancy, or removing the affected deflector door according to the configuration deviation list (CDL). You may obtain further information by examining the MCAI in the AD docket

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received.

Request To Refer to Later Revision of Service Bulletin

Airbus requests that we refer to Revision 01 of Airbus Service Bulletin A300–57–6104, dated April 27, 2007. In the NPRM, we referred to the original issue of that service bulletin, dated November 7, 2006, as the appropriate source of service information for accomplishing the required actions.

We agree with Airbus' request to refer to Revision 01 of Airbus Service Bulletin A300–57–6104. Revision 01 of the service bulletin updates the operator and aircraft effectivity to show the latest information, and changes the industry support information. No additional work is required by this revision of the service bulletin. Although Revision 01 notes that it adds a manufacturer serial number (MSN) to the effectivity of the service bulletin, that MSN was already specified in the applicability of our NPRM.

We have changed paragraph (f) of this AD, and Table 1 of this AD, to refer to Revision 01 of Airbus Service Bulletin A300–57–6104. We have also added paragraph (f)(3) to the AD to give credit to operators that have done the actions previously in accordance with Airbus Service Bulletin A300–57–6104, including Appendix 01, dated November 7, 2006.

Explanation of Change to Paragraph (f)(1)(ii)—Flight Manual References

We have revised paragraph (f)(1)(ii) of the NPRM to specify that operators must remove the affected deflector door according to a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent). That paragraph also specifies that one approved method for removing the door is described in Airbus A300 Flight Manual (FM), Appendix—Configuration Deviation List, Chapter 6.03.27, dated February 1, 1993; or Airbus A300–600 FM, Appendix—Configuration Deviation List, Chapter 6.03.27, dated May 1, 1992; as applicable.

This wording makes it clear that there may be other approved variations of the Configuration Deviation List and, if so, that these other variations would also be acceptable for compliance.

Explanation of Change to Paragraph (f)(2)—Reporting

We have changed paragraph (f)(2) of the NPRM to specify that reports are necessary only if any discrepancy is found as a result of the inspection done in accordance with paragraph (f). We find that requiring reports for inspections where no discrepancy is found puts an undue burden on the operator.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this AD will affect about 167 products of U.S. registry. We also estimate that it will take about 16 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the AD for U.S. operators to be $213,760, or $1,280 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–06–04 Airbus: Amendment 39–15416. Docket No. FAA–2007–28665; Directorate Identifier 2007–NM–081–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 16, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300 and A300–600 series airplanes, all certified models, all serial numbers, certificated in any category; except Airbus Model A300–600 series airplanes from manufacturer's serial number 0872 onward, which received application of Airbus modifications 13245 and 13282 during production.

Subject

(d) Air Transport Association (ATA) of America Code 57: Wings.

Reason

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

Three cases of outer deflector panel found detached or broken during ground inspection have been reported by operators to Airbus. The affected deflector panel is the most outboard of the two outer deflectors. In addition, an operator has also reported a missing portion of hinge on one panel. The missing portion of hinge is held to the structure through one Camloc fastener.

Mishandling or failure of the small portion of hinge located inboard of the affected deflector panel is suspected to be the main cause of the deflector damage.

This can cause misalignment of the deflector panel followed by hinge pin migration and possible further damages to the deflector on flap retraction. If not corrected, such situation could lead to the loss of deflector panel and injured people on the ground.

The aim of this Airworthiness Directive (AD) is to mandate the one time inspection to detect and prevent damage to inner and outer shroud box deflectors.

The corrective action includes repairing any discrepancy, or removing the affected deflector door according to the configuration deviation list (CDL).

Actions and Compliance

(f) Within 18 months after the effective date of this AD, unless already done, do a detailed visual inspection of the inner and outer shroud box flap deflectors in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0247, including Appendix 01, dated November 7, 2006 (for Model A300 series airplanes); or Airbus Service Bulletin A300–57–6104, Revision 01, including Appendix 01, dated April 27, 2007 (for Model A300–600 series airplanes); as applicable.

(1) If any discrepancy or damage is found, before next flight do the action in paragraph (f)(1)(i) or (f)(1)(ii) of this AD.

(i) Repair the affected flap deflector in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0247, including Appendix 01, dated November 7, 2006; or Airbus Service Bulletin A300–57–6104, Revision 01, including Appendix 01, dated April 27, 2007; as applicable.

(ii) Remove the affected deflector door according to a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent). One approved method is described in Airbus A300 Flight Manual (FM), Appendix—Configuration Deviation List, Chapter 6.03.27, dated February 1, 1993; or Airbus A300–600 FM, Appendix—Configuration Deviation List, Chapter 6.03.27, dated May 1, 1992; as applicable. The removed door may be reinstalled once it has been repaired in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0247, including Appendix 01, dated November 7, 2006; or Airbus Service Bulletin A300–57–6104, Revision 01, including Appendix 01, dated April 27, 2007; as applicable.

(2) Report to Airbus any discrepancy found as a result of the inspection done in accordance with paragraph (f) of this AD, using the inspection report included in Appendix 01 of the applicable service bulletin specified in paragraph (f) of this AD.

(3) Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A300–57–6104, including Appendix 01, dated November 7, 2006, are acceptable for compliance with the corresponding requirements 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, ANM–116, Transport Airplane Directorate, International Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2007–0062, dated March 7, 2007, and the service information identified in Table 1 of this AD, for related information.

TABLE 1.—AIRBUS SERVICE INFORMATION

Service information	Date
Airbus Service Bulletin A300–57–0247, including Appendix 01	November 7, 2006.
Airbus Service Bulletin A300–57–6104, Revision 01, including Appendix 01	April 27, 2007.
Airbus A300 Flight Manual, Appendix—Configuration Deviation List, Page 5, Chapter 6.03.27, Revision 01	February 1, 1993.
Airbus A300–600 Flight Manual, Appendix—Configuration Deviation List, Page 5, Chapter 6.03.27, Revision 01	May 1, 1992.

Material Incorporated by Reference

(i) You must use the service information specified in Table 2 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Service information	Revision level	Date
Airbus Service Bulletin A300–57–0247, including Appendix 01	Original	November 7, 2006.
Airbus Service Bulletin A300–57–6104, including Appendix 01	01	April 27, 2007.

Issued in Renton, Washington, on February 28, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4480 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28662; Directorate Identifier 2007–NM–014–AD; Amendment 39–15415; AD 2008–06–03]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800 and –900 Series Airplanes; and Model 757–200, –200PF, –200CB, and –300 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing airplanes, identified above. This AD requires inspecting to determine if certain motor-operated shutoff valve actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. This AD also requires revising the Airworthiness Limitations (AWLs) section of the Instructions for Continued Airworthiness to incorporate AWL No. 28–AWL–21, No. 28–AWL–22, and No. 28–AWL–24 (for Model 737–600, –700, –700C, –800 and –900 series airplanes); and No. 28–AWL–23, No. 28–AWL–24, and No. 28–AWL–25 (for Model 757–200, –200PF, –200CB, and –300 series airplanes). This AD results from a design review of the fuel tank systems. We are issuing this AD to prevent electrical energy from lightning, hot shorts, or fault current from entering the fuel tank through the actuator shaft, which could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD becomes effective April 16, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 16, 2008.

ADDRESSES: 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 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: Judy Coyle, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6497; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 737–600, –700, –700C, –800 and –900 series airplanes; and Model 757–200, –200PF, –200CB, and –300 series airplanes. That NPRM was published in the **Federal Register** on July 10, 2007 (72 FR 37484). That NPRM proposed to require inspecting to determine if certain motor-operated shutoff valve actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. That NPRM also proposed to require revising the Airworthiness Limitations (AWLs) section of the Instructions for Continued Airworthiness to incorporate AWL No. 28–AWL–21, No. 28–AWL–22, and No. 28–AWL–24 (for Model 737–600, –700, –700C, –800 and –900 series airplanes), and No. 28–AWL–23, No. 28–AWL–24, and No. 28–AWL–25 (for Model 757–200, –200PF, –200CB, and –300 series airplanes).

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request To Revise References to Maintenance Planning Data (MPD) Documents

Boeing requests that we revise the applicable areas in the NPRM that discuss the revision levels of the Boeing 737 and 757 MPD documents. Boeing states that the references in the NPRM should be clarified for the following reasons:

- Revision May 2006 of the Boeing 737–600/700/700C/700IGW/800/900 MPD did not add AWLs (Airworthiness Limitations) 28–AWL–21, –22, and –24. Instead, AWLs 28–AWL–21 and –22 were added at Revision January 2006; AWL 28–AWL–24 was added at Revision October 2006.
- Revision October 2006 of the Boeing 737–600/700/700C/700IGW/800/900 MPD revised AWL 28–AWL–21.
- Revision October 2006 of the Boeing 757 MPD added AWL 28–AWL–25; AWLs 28–AWL–23 and –24 were added at Revision February 2006 of the Boeing 757 MPD.
- Revision January 2007 of the Boeing 757 MPD revised AWL 28–AWL–24.

Boeing points out that the clarifications affect references in both

the ''Relevant Service Information'' section, and paragraph (h) of the NPRM, and requests that we revise the AD to make the clarifications.

We agree that the references need to be clarified for the reasons Boeing stated. We have made the following changes to the AD as Boeing outlined in its comment:

- We have changed paragraph (h)(1) of the AD to refer to Revision November 2006 R1 of the Boeing 737–600/700/700C/700IGW/800/900 MPD rather than to Revision May 2006.
- We have changed paragraph (h)(2) of the AD to refer to Revision January 2007 of the Boeing 757 MPD rather than to Revision October 2006.

However, we have not changed the ''Relevant Service Information'' section of the NPRM because that section of the preamble does not reappear in the final rule.

Request To Change Wording in Note 1 of the NPRM

Boeing requests that we change the wording in Note 1 of the NPRM as follows:

- Change ''new inspections and maintenance actions'' to include the words ''according to paragraph (h)'' after ''actions.''
- Change ''the operator must request approval for revision to the airworthiness limitations'' to ''the operator must request approval for deviation from the airworthiness limitations.''
- Remove ''as applicable'' from the last sentence of the note and change the paragraph reference from paragraph (h) to paragraph (i).

Boeing explains that the current wording is difficult to follow.

We partially agree. We have clarified the paragraph reference from paragraph (h) to paragraph (i). However, we do not agree to revise the note further. Boeing submitted a similar comment to another NPRM (Docket No. FAA–2006–26710), and the note in this AD is based on that comment. No additional change is necessary. In addition, we have used this note in several similar ADs and have not received any comments from operators requesting clarification. We have not changed this AD in this regard.

Request To Have AD Address Part Number (P/N) S343T003–39 Actuators

AirTran Airways notes that the motor-operated shutoff valves are rotable parts which can be moved from airplane to airplane. AirTran states that the NPRM does not address P/N S343T003–39 actuators that may have been installed on airplanes outside of the applicability range of the service bulletins referred to in the NPRM.

We infer that AirTran would like us to prohibit installation of P/N S343T003–39 actuators on any airplane. We disagree. No P/N S343T003–39 actuator is approved to replace either a P/N S343T003–56 or P/N S343T003–66 actuator. Should we determine that P/N S343T003–39 is installed and unsafe on other airplanes, we might consider additional rulemaking. We have not changed the AD in this regard.

Request To Have AD Address P/N S343T003–56 Actuators

AirTran requests that the AD allow for installation of either a P/N S343T003–56 or P/N S343T003–66 actuator in the AD. AirTran explains that Boeing considers P/N S343T003–56 fully interchangeable with P/N S343T003–66 and states that installing a P/N S343T003–56 actuator should meet the intent of the AD.

We disagree; the two actuators are not fully interchangeable, but rather only in one direction. If an airplane currently has a P/N S343T003–56 actuator installed, then an operator can install a P/N S343T003–66 actuator; if an airplane has a P/N S343T003–66 actuator currently installed, then it is not possible to install a P/N S343T003–56 actuator. However, if an operator has a P/N S343T003–56 actuator currently installed, no action is required by this AD. This AD addresses airplanes that currently have a P/N S343T003–39 actuator installed. The P/N S343T003–56 actuator has not been approved as a field replacement for the P/N S343T003–39. However, under the provisions of paragraph (i) of the AD, we will consider requests for approval of an alternative method of compliance if sufficient data are submitted to substantiate that the design change would provide an acceptable level of safety. We have not changed the AD in this regard.

Request To Reconsider Mandating Installation of P/N S343T003–66 Actuators

Boeing requested an ex parte meeting with the FAA to discuss the new motor-operated valves, which Boeing states have reliability issues in service. Boeing states that these issues could affect the FAA's decision to mandate the installation fleet-wide.

During the meeting, held October 10, 2007, Boeing reviewed problems with the actuators and the design changes made since 2005. The Special Federal Aviation Regulation (SFAR) 88 review determined that the electrical switches for P/N S343T003–39 actuators were not isolated from the actuator shaft that enters the tank. During a lightning, hot short, or fault current event, it is possible that electrical energy could enter the fuel tank through the actuator shaft. The new P/N S343T003–56 actuator added an isolation feature, but created nuisance failure indications on the flight deck. Boeing then developed the P/N S343T003–66 actuator to correct the indication problem. The P/N S343T003–66 actuator reduced the number of events, but operators are still experiencing dispatch delays and unscheduled removals. Boeing also pointed out problems with the P/N S343T003–66 actuators on other Boeing airplane models, though not to the extent seen on Boeing Model 737 airplanes. Boeing is in the process of re-designing the actuator, an effort that will take approximately 12 months. Boeing specifies that the isolation feature is not affected by the indication problems, and that the valves are opening and closing as commanded.

We disagree with the request to reconsider mandating the installation of P/N S343T003–66 actuators. The problems with the P/N S343T003–66 actuators that Boeing pointed out do not constitute a new unsafe condition. We consider that to delay this particular AD action in order to wait for the re-designed actuator would be inappropriate, since we have determined that an unsafe condition exists and that replacement of certain parts must be accomplished to ensure continued safety. Therefore, no change has been made to the AD in this regard. However, when a new actuator is developed, approved, and available, we might consider additional rulemaking then.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

There are about 2,916 airplanes of the affected design in the worldwide fleet. This AD affects about 1,406 airplanes of U.S. registry. The average labor rate is $80 per work hour. The table titled ''Estimated Costs'' provides costs to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection for motor operated valve actuators	1	$80	1,406	$112,480
AWL revisions	3	240	1,406	337,440

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 this AD:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. 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 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–06–03 Boeing: Amendment 39–15415. Docket No. FAA–2007–28662; Directorate Identifier 2007–NM–014–AD.

Effective Date

(a) This AD becomes effective April 16, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–600, –700, –700C, –800 and –900 series airplanes; and Boeing Model 757–200, –200PF, –200CB, and –300 series airplanes; certificated in any category; as identified in Boeing Alert Service Bulletins 737–28A1207, dated February 15, 2007, and 757–28A0088, dated January 25, 2007.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections and maintenance actions. Compliance with these limitations is required by 14 CFR 43.16 and 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these limitations, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 43.16 and 91.403(c), the operator must request approval for revision to the airworthiness limitations (AWLs) in the Boeing 737–600/700/700C/700IGW/800/900 Maintenance Planning Data (MPD) Document D626A001–CMR and the Boeing 757 MPD Document D622N001–9, as applicable, according to paragraph (i) of this AD.

Unsafe Condition

(d) This AD results from a design review of the fuel tank systems. We are issuing this AD to prevent electrical energy from lightning, hot shorts, or fault current from entering the fuel tank through the actuator shaft, which could result in fuel tank explosions and consequent loss of the airplane.

Compliance

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

Service Bulletin Reference

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of the following service bulletins, as applicable:

(1) For Model 737–600, –700, –700C, –800 and –900 series airplanes: Boeing Alert Service Bulletin 737–28A1207, dated February 15, 2007; and

(2) For Model 757–200, –200PF, –200CB, and –300 series airplanes: Boeing Alert Service Bulletin 757–28A0088, dated January 25, 2007.

Inspection and Related Investigative/Corrective Actions

(g) Within 60 months after the effective date of this AD: Inspect the applicable motor-operated valves (MOVs) to determine whether an MOV with the affected part number identified in the Accomplishment Instructions of the applicable service bulletin is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the part can be conclusively determined from that review. Do all applicable related investigative and corrective actions before further flight. Do all actions in accordance with the Accomplishment Instructions of the applicable service bulletin.

Revision of AWLs Section

(h) Concurrently with the actions specified in paragraph (g) of this AD: Revise the AWLs section of the Instructions for Continued Airworthiness by incorporating the information specified in paragraphs (h)(1) and (h)(2) of this AD, as applicable. Accomplishing the revision in accordance with a later revision of the MPD document is an acceptable method of compliance if the revision is approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA.

(1) Section F., ''AIRWORTHINESS LIMITATIONS—FUEL SYSTEM AWLs,'' of Boeing 737–600/700/700C/700IGW/800/900 MPD Document D626A001–CMR, Section 9, Revision November 2006 R1, into the MPD to incorporate AWL No. 28–AWL–21, No. 28–AWL–22, and No. 28–AWL–24.

(2) Section G., ''AIRWORTHINESS LIMITATIONS—FUEL SYSTEM AWLs,'' of

Boeing 757 MPD Document D622N001, Section 9, Revision January 2007, into the MPD Document to incorporate AWL No. 28–AWL–23, No. 28–AWL–24, and No. 28–AWL–25.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

Material Incorporated by Reference

(j) You must use the service information listed in Table 1 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. 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.*

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Service information	Revision	Date
Boeing 737–600/700/700C/700IGW/800/900 Maintenance Planning Data Document D626A001–CMR, Section 9.	November 2006 R1	November 2006.
Boeing 757 Maintenance Planning Data Document D622N001, Section 9	January 2007	January 2007.
Boeing Alert Service Bulletin 737–28A1207	Original	February 15, 2007.
Boeing Alert Service Bulletin 757–28A0088	Original	January 25, 2007.

Issued in Renton, Washington, on February 28, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4486 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25658; Directorate Identifier 2006–NM–054–AD; Amendment 39–15406; AD 2008–05–12]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing AD that applies to certain Airbus Model A318, A319, A320, and A321 airplanes. That AD currently requires repetitive detailed inspections of the inboard flap trunnions for any wear marks and of the sliding panels for any cracking at the long edges, and corrective actions if necessary. This new AD adds airplanes that were recently added to the type certificate data sheet and changes the inspection type. This AD results from reports of wear damage to the inboard flap trunnions after incorporation of the terminating modification. We are issuing this AD to detect and correct wear of the inboard flap trunnions, which could lead to loss of flap surface control and consequently result in the flap detaching from the airplane. A detached flap could result in damage to the tail of the airplane.

DATES: This AD becomes effective April 16, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 16, 2008.

On March 24, 2006 (71 FR 8439, February 17, 2006), the Director of the Federal Register approved the incorporation by reference of Airbus Service Bulletin A320–57–1133, excluding Appendix 01, dated July 28, 2005.

On January 8, 2001 (65 FR 75603, December 4, 2000), the Director of the Federal Register approved the incorporation by reference of certain other publications listed in the AD.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a second supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2006–04–06, amendment 39–14487 (71 FR 8439, February 17, 2006). The existing AD applies to certain Airbus Model A318, A319, A320, and A321 airplanes. That second supplemental NPRM was published in the **Federal Register** on August 16, 2007 (72 FR 45982). That second supplemental NPRM proposed to supersede an existing AD that currently requires repetitive detailed inspections of the inboard flap trunnions for any wear marks and of the sliding panels for any cracking at the long edges, and corrective actions if necessary. That second supplemental NPRM proposed to add airplanes that were recently added to the type certificate data sheet and change the inspection type.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request To Include Revised Service Information

Airbus asks that Airbus Service Bulletin A320–57–1133, Revision 03, dated July 3, 2007, be incorporated into

the AD. (We referred to Revision 02, dated December 12, 2006, of that service bulletin as the appropriate source of service information for accomplishing certain actions specified in the second supplemental NPRM.)

We agree with Airbus and have changed the applicable paragraphs in this AD to refer to Revision 03 of Airbus Service Bulletin A320–57–1133 for accomplishing certain actions, as no additional work is required by this revision. We have also changed paragraph (k) of this AD to give credit to operators who have accomplished the actions in accordance with Airbus Service Bulletin A320–57–1133, Revision 02, dated December 12, 2006, before the effective date of this AD.

Request To Include Inspections Removed From Second Supplemental NPRM

Under the ''Request to Remove Certain Requirements'' section of the second supplemental NPRM, certain requirements were removed based on a previous recommendation from Airbus. Regarding that recommendation, Airbus notes that Model A321–211 and –231 airplanes that are pre-modification 26495, and on which Airbus Service Bulletin A320–27–1117, Revision 04, dated November 6, 2001, was not applied, should have dedicated procedures included in the AD. Airbus states that the inspections specified in Airbus Service Bulletin A320–27–1108, Revision 04, dated November 22, 1999, provide those procedures.

We agree with Airbus, although there are no U.S. operators of Model A321–211 and –231 airplanes that are specified in the effectivity that are pre-modification 26495. In the unlikely event that an operator has an airplane configuration that is pre-modification 26495, or on which Airbus Service Bulletin A320–27–1117 was applied, we have determined that the alternative inspections specified in Airbus Service Bulletin A320–27–1108, Revision 04, can be used, as the inspections provide an acceptable level of safety. We have added a new paragraph (p) to this AD to include the alternate inspections.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. These changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Modification in AD 2006–04–06.	14	$80	The manufacturer states that it will supply required parts to operators at no cost.	$1,120	768	$860,160.
Detailed inspection in AD 2006–04–06.	2	80	None	$160, per inspection cycle.	768	$122,880, per inspection cycle.
General visual inspection (new action).	1	80	None	$80, per inspection cycle.	754	$60,320, per inspection cycle.

Currently, there are no affected Model A321–211 and –231 airplanes on the U.S. Register. However, if an affected airplane is imported and placed on the U.S. Register in the future, the required inspection would take about 1 work hour, at an average labor rate of $80 per work hour. Based on these figures, we estimate the cost of this AD to be $80 per airplane, per inspection cycle.

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 this AD:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. 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 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 39–14487 (71 FR 8439, February 17, 2006) and adding the following new airworthiness directive (AD):

2008–05–12 Airbus: Amendment 39–15406. Docket No. FAA–2006–25658; Directorate Identifier 2006–NM–054–AD.

Effective Date

(a) This AD becomes effective April 16, 2008.

Affected ADs

(b) This AD supersedes AD 2006–04–06.

Applicability

(c) This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Airbus Model A318–111, –112, –121, and –122 airplanes on which Airbus Modification 26495 has been incorporated in production.

(2) All Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111 airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

Unsafe Condition

(d) This AD results from reports of wear damage to the inboard flap trunnions after incorporation of the terminating modification. We are issuing this AD to detect and correct wear of the inboard flap trunnions, which could lead to loss of flap surface control and consequently result in the flap detaching from the airplane. A detached flap could result in damage to the tail of the airplane.

Compliance

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

Restatement of Requirements of AD 2006–04–06

Modification

(f) For Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111 airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, and –131 airplanes; except those on which Airbus Modification 26495 has been accomplished in production: Within 18 months after January 8, 2001 (the effective date of AD 2000–24–02, amendment 39–12009), modify the sliding panel driving mechanism of the flap drive trunnions, in accordance with Airbus Service Bulletin A320–27–1117, Revision 02, dated January 18, 2000; or Revision 04, dated November 6, 2001. As of the effective date of this AD, only Revision 04 may be used.

Note 1: Accomplishment of the modification required by paragraph (f) of this AD before January 8, 2001, in accordance with Airbus Service Bulletin A320–27–1117, dated July 31, 1997; or Revision 01, dated June 25, 1999; is acceptable for compliance with that paragraph.

Detailed Inspections

(g) For Model A318–111 and –112 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111 airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, and –131 airplanes: At the latest of the applicable times specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, do a detailed inspection of the inboard flap trunnions for any wear marks and of the sliding panels for any cracking at the long edges, and do any corrective actions, as applicable, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Airbus Service Bulletin A320–57–1133, dated July 28, 2005; Revision 01, dated August 7, 2006; or Revision 03, dated July 3, 2007, except as provided by paragraph (n) of this AD. As of the effective date of this AD, only Revision 03 may be used. Any corrective actions must be done at the compliance times specified in Figures 5 and 6, as applicable, of the service bulletin; except as provided by paragraphs (k), (l), and (m) of this AD. Repeat the inspection thereafter at intervals not to exceed 4,000 flight hours until the inspection required by paragraph (h) of this AD is done.

Note 2: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

(1) Before accumulating 4,000 total flight hours on the inboard flap trunnion since new.

(2) Within 4,000 flight hours after accomplishing paragraph (f) of this AD.

(3) Within 600 flight hours after March 24, 2006 (the effective date of AD 2006–04–06).

New Requirements of This AD

General Visual Inspections

(h) *For all airplanes:* At the time specified in paragraph (h)(1) or (h)(2) of this AD, as applicable, do a general visual inspection of the inboard flap trunnions for any wear marks and of the sliding panels for any cracking at the long edges, and do all applicable corrective actions by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Airbus Service Bulletin A320–57–1133, Revision 03, dated July 3, 2007; except as provided by paragraphs (i) and (o) of this AD. All corrective actions must be done at the compliance times specified in Figures 5 and 6, as applicable, of the service bulletin; except as provided by paragraphs (l), (m), and (n) of this AD. Repeat the inspection thereafter at intervals not to exceed 4,000 flight hours. Accomplishing the general visual inspection required by this paragraph terminates the detailed inspection requirement of paragraph (g) of this AD.

Note 3: For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) For airplanes on which the detailed inspection required by paragraph (g) of this AD has been done before the effective date of this AD: Inspect before accumulating 4,000 total flight hours on the inboard flap trunnion since new, or within 4,000 flight hours after accomplishing the most recent inspection required by paragraph (g) of this AD, whichever occurs later.

(2) For airplanes other than those identified in paragraph (h)(1) of this AD: Inspect at the latest of the applicable times specified in paragraphs (h)(2)(i), (h)(2)(ii), and (h)(2)(iii) of this AD.

(i) Before accumulating 4,000 total flight hours on the inboard flap trunnion since new.

(ii) Within 4,000 flight hours after accomplishing paragraph (f) of this AD.

(iii) Within 600 flight hours after the effective date of this AD.

(i) Where Airbus Service Bulletin A320–57–1133, Revision 03, dated July 3, 2007, specifies to contact the manufacturer for instructions on how to repair certain conditions: Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent), or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

Actions Done Using Previous Issues of Service Information

(j) Accomplishing the modification required by paragraph (f) of this AD before the effective date of this AD, in accordance with Airbus Service Bulletin A320–27–1117, Revision 03, dated August 24, 2001, is acceptable for compliance with the requirements of that paragraph.

(k) Accomplishing the inspections and corrective actions required by paragraphs (g) and (h) of this AD before the effective date of this AD, in accordance with Airbus Service Bulletin A320–57–1133, dated July 28, 2005; Revision 01, dated August 7, 2006; or Revision 02, dated December 12, 2006; is acceptable for compliance with the requirements of that paragraph.

Compliance Times

(l) Where Airbus Service Bulletin A320–57–1133, Revision 03, dated July 3, 2007, specifies replacing the sliding panel at the next opportunity if damaged, replace it within 600 flight hours after the inspection required by paragraph (g) or (h) of this AD, as applicable.

(m) If any damage to the trunnion is found during any inspection required by paragraph (g) or (h) of this AD, before further flight, do the corrective actions specified in Airbus Service Bulletin A320–57–1133, Revision 03, dated July 3, 2007.

Grace Period Assessment

(n) Where Airbus Service Bulletin A320–57–1133, Revision 03, dated July 3, 2007, specifies contacting the manufacturer for a grace period assessment after replacing the trunnion or flap, contact the Manager, International Branch, ANM–116; or the Direction Générale de l'Aviation Civile (or its delegated agent) for the grace period assessment.

No Reporting Requirement

(o) Although Airbus Service Bulletin A320–57–1133, Revision 03, dated July 3, 2007, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Alternate Inspections

(p) For Model A321–211 and –231 airplanes that have not been modified in accordance with Airbus Modification 26495, or on which the actions specified in Airbus Service Bulletin A320–27–1117, Revision 04, dated November 6, 2001, have not been done as of the effective date of this AD: Do the inspections specified in Airbus Service Bulletin A320–27–1108, Revision 04, dated November 22, 1999; at the applicable time specified in paragraph 1.E., ''Compliance'' of the service bulletin; except, where the service bulletin specifies a compliance time after the date of French airworthiness directive 96–271–092(B), this AD requires compliance within the specified compliance time after the effective date of this AD. Do all applicable corrective actions before further flight. Do the actions in accordance with the Accomplishment Instructions of the service bulletin.

Alternative Methods of Compliance (AMOCs)

(q)(1) The Manager, International Branch, ANM–116, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) AMOCs approved previously in accordance with AD 2006–04–06, amendment 39–14487, are approved as AMOCs for the corresponding provisions of this AD.

(3) 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.

Related Information

(r) French airworthiness directive F–2005–139, dated August 3, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(s) You must use the service information contained in Table 1 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

TABLE 1.—ALL MATERIAL INCORPORATED BY REFERENCE

Airbus Service Bulletin No.	Revision	Date
A320–27–1117	02	January 18, 2000.
A320–27–1117	04	November 6, 2001.
A320–57–1133, excluding Appendix 01	Original	July 28, 2005.
A320–57–1133	01	August 7, 2006.
A320–57–1133, excluding Appendix 01	03	July 3, 2007.

(1) The Director of the Federal Register approved the incorporation by reference of the service information contained in Table 2 of this AD in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

TABLE 2.—NEW MATERIAL INCORPORATED BY REFERENCE

Airbus Service Bulletin No.	Revision	Date
A320–27–1117	04	November 6, 2001.
A320–57–1133	01	August 7, 2006.
A320–57–1133, excluding Appendix 01	03	July 3, 2007.

(2) On March 24, 2006 (71 FR 8439, February 17, 2006), the Director of the Federal Register approved the incorporation by reference of Airbus Service Bulletin A320–57–1133, excluding Appendix 01, dated July 28, 2005.

(3) On January 8, 2001 (65 FR 75603, December 4, 2000), the Director of the Federal Register approved the incorporation by reference of Airbus Service Bulletin A320–27–1117, Revision 02, dated January 18, 2000.

(4) Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; 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 25, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–3989 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27611; Directorate Identifier 2007–CE–024–AD; Amendment 39–15408; AD 2008–05–14]

RIN 2120–AA64

Airworthiness Directives; Sierra Hotel Aero, Inc. Models Navion (L–17A), Navion A (L–17B), (L–17C), Navion B, Navion D, Navion E, Navion F, Navion G, and Navion H Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for all Sierra Hotel Aero, Inc. (formerly Navion Aircraft LLC) Models Navion (L–17A), Navion A (L–17B), (L–17C), Navion B, Navion D, Navion E, Navion F, Navion G, and Navion H airplanes. This AD requires you to do a one-time inspection of the entire fuel system and repetitive functional tests of certain fuel selector valves. This AD results from reports of airplane accidents associated with leaking or improperly operating fuel selector valves. We are issuing this AD to detect and correct fuel system leaks or improperly operating fuel selector valves, which could result in the disruption of fuel flow to the engine. This failure could lead to engine power loss.

DATES: This AD becomes effective on April 16, 2008.

On April 16, 2008, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: To get the service information identified in this AD, contact the following:

—For Sierra Hotel Aero, Inc. service information contact: Sierra Hotel Aero, 1690 Aeronca Lane, South St. Paul, MN 55075; *phone:* (651) 306–1456; *fax:* (612) 677–3171; *Internet: http://www.navion.com/servicebulletins.html*; e-mail: *servicebulletinsupport@navion.com.*

—For American Navion Society (ANS) service information contact: American Navion Society, Ltd., PMB 335, 16420 SE McGillivray #103, Vancouver, WA 98683–3461; *telephone:* (360) 833–9921; *fax:* (360) 833–1074; *e-mail: flynavion@yahoo.com.*

To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://www.regulations.gov.* The docket number is FAA–2007–27611; Directorate Identifier 2007–CE–024–AD.

FOR FURTHER INFORMATION CONTACT: Tim Smyth, Aerospace Engineer, Chicago Aircraft Certification Office (ACO), 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; *telephone:* (847) 294–7132; *fax:* (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Discussion

On April 6, 2007, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Sierra Hotel Aero, Inc. Models Navion (L–17A), Navion A (L–17B), (L–17C), Navion B, Navion D, Navion E, Navion F, Navion G, and Navion H airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on April 12, 2007 (72 FR 18413). The NPRM proposed to detect and correct fuel system leaks or improperly operating fuel selector valves, which could result in the disruption of fuel flow to the engine.

Comments

We provided the public the opportunity to participate in developing this AD. The FAA has reviewed 111 public comments submitted to the docket pertaining to the proposed rulemaking activity which would impose a mandatory airworthiness inspection on all Navion airplane fuel systems. This proposed action includes testing of the fuel system selector valve for proper operation and replacement with a serviceable unit if necessary. The public responded to this published notice with significant personal and technical information. The FAA appreciates the detailed technical information submitted for consideration in addressing this important airworthiness issue. Many commenters spent a considerable amount of time researching and organizing extensive data to support their positions and to help the FAA address this unsafe condition. In addition, several commenters provided their Navion airplane system knowledge and expertise by proposing alternative corrective actions that will benefit all Navion owners and operators. This is one of the benefits of the rulemaking process.

It became clear that the majority of commenters were presenting similar points or positions. Because of this, we have grouped and categorized similar statements or positions. A total of 19 categories have been developed with a statement that summarizes the viewpoints, information, or position(s) submitted by the commenters. The FAA has addressed each summarized statement below.

The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Data Does Not Support Issuance of an AD

Richard W. Crapse and 38 other commenters believe the accident database information and other service difficulty reporting data does not support the issuance of an AD and requests the NPRM be withdrawn.

The FAA does not agree. There have been a number of Navion accident investigations where it has been determined that the fuel selector valve condition contributed to the cause of the accident. The overall number of accidents is small (nine accidents generally related to the fuel system with three of those reported accidents directly citing the fuel valve in the preliminary NTSB reports as a potential cause in the accidents). However, these reports have highlighted the fact that some selector valves may be reaching the limit of their serviceable life (many over 50 years old) and require additional inspections, checks, maintenance, or replacement to help address continued airworthiness.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 2: The Corrective Action Could Create Safety Problems

John B. Conklin and 18 other commenters state the proposed service information corrective action could create more safety problems than it would solve. We infer that they think the corrective actions should be modified to eliminate potential problems the current proposed corrective actions would cause.

The FAA partially agrees. The FAA is always cognizant that inspections, checks, or modifications can potentially create maintenance induced errors that can affect continued airworthiness. However, the FAA believes the procedures in the service information minimize this potential concern. We believe this action addresses the unsafe condition for these airplanes while minimizing the risk of introducing new safety hazards.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 3: There Are Other Fuel System Related Safety Issues

Ripley Quinby and 12 other commenters cite that there are potentially more fuel system related safety issues than just the selector valve (e.g., engine primer system, gascolator, flexible fuel lines, etc.). We infer the commenters believe we should take additional AD action.

Based on the submitted comments and data, it has been shown that a comprehensive fuel system inspection or check would enhance the continued airworthiness of the Navion airplane. The FAA appreciates the commenter's input regarding other potential safety issues and will monitor the continued airworthiness of the Navion airplanes. The FAA may take additional rulemaking action on these airplanes.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 4: The Vacuum Test Is Too Severe

William Wade and 17 other commenters state the proposed 24 inches of mercury vacuum test is too severe and will potentially fail good fuel selector valves. The type certificate (TC) holder's published procedure does not have a calibration standard to ensure accurate testing results and at high altitude locations 24 inches of mercury vacuum may be impossible to obtain. The commenters request we decrease the mercury vacuum test to less than the 24 inches required in the TC holder's service bulletin.

The FAA partially agrees. The FAA accepted the TC holder's 24 inches of mercury vacuum test as the proper value to ensure fuel selector integrity. Because of the rigorous standard cited by the TC holder, it is not necessary to have a calibration standard procedure to compare against. The published service bulletin procedure is conservative enough to account for some deviation in the testing procedure and still address the continued airworthiness of the fuel selector valve.

In regards to high altitude vacuum testing, we have changed the AD to allow for a 1 inch of mercury reduction from the 24 inches of mercury standard for every 1,000 feet of pressure altitude over sea level testing conditions. We have also added the ANS Field Service Bulletin No. 1001, dated April 30, 2007, as an option to comply with this AD. The public stated and FAA recognizes that the Navion fuel system actually creates a fuel system vacuum of less than 10 inches of mercury. The FAA will consider an alternative method of compliance (AMOC) to this requirement. The public is encouraged to submit substantiating data to support an alternative approach.

Comment Issue No. 5: Add AMOCs

Aircraft Owners and Pilots Association (AOPA) and ANS along with 49 other commenters request that the FAA consider AMOCs to the published service documentation cited in the NPRM.

The FAA agrees. The FAA has reviewed the ANS Field Service Bulletin No. 1001, dated April 30, 2007, and has added this option to the AD. In addition, several commenters submitted documentation showing that certain manufactured fuel selector valves can be serviced in the field by airframe and powerplant (A&P) mechanics or other appropriately rated facilities. Finally, several commenters cite other airplane manufacturer (TC holder) service information that describes simplified testing methods to ascertain the continued airworthiness of the entire fuel system. If the commenters formalize and tailor these methods for the Navion airplane, the FAA will review and consider all AMOC requests we receive provided they follow the procedures in 14 CFR 39.19 and this AD.

We are changing the final rule AD action by adding ANS Field Service Bulletin No. 1001, dated April 30, 2007, as an option to comply with this AD.

Comment Issue No. 6: The Replacement Fuel Selector Valve Orifice Is Undersized

Richard E. Holmes and 11 other commenters question the replacement fuel selector valve orifice size to provide adequate fuel flow for larger engine installations. They question whether the required fuel selector outlet orifice size needs to be larger than what is currently specified in the TC holder's service documentation.

The FAA researched this issue and found that the replacement fuel selector valve that is specified in the AD provides adequate flow requirements for the larger engine installations and satisfies 14 CFR part 23 fuel flow compliance requirements. Several commenters also submitted extensive service experience showing acceptable fuel flow rates for the valves installed in Navion airplanes.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 7: Delron Parts

Richard B. Olwin and four other commenters question the TC holder's position that Delron (''Plastic'') parts in certain fuel selector valve designs cause a safety issue. They request that the FAA allow the use of fuel selector valves that have plastic parts.

The FAA agrees with this comment. We have looked into this issue and found that FAA-approved parts manufacturer approval (PMA) fuel selector valves with plastic parts in their design exist. No service difficulty reports directly related to this issue were found. We will continue to monitor these parts, but at this time we find no unsafe condition.

The fuel selector valves required in the service information for this AD do not contain plastic parts. If someone wants to use a fuel selector valve with plastic parts, the FAA will review and consider all AMOC requests we receive provided they follow the procedures in 14 CFR 39.19 and this AD.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 8: Navion Fuel System Is An Unsafe Condition

Richard E. Holmes cites a Navion Fuel system accumulator tank issue, and he thinks we infer that this tank needs replacing. He requests that we clarify whether this issue is part of our AD actions.

We agree that the accumulator tank is part of the fuel system, and we require a one-time inspection of the entire fuel system. However, this AD action is not focused on the accumulator tank but on the fuel selector valve. Although the fuel system accumulator tank is outside the scope of this rulemaking effort, we researched this issue and found no service difficulty data to show this to be an unsafe condition.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 9: Reference Documents

Richard E. Holmes requests we provide the referenced documentation cited in the NPRM.

This information is available in the AD docket file and can be accessed by the public. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. In addition, the TC holder has this information available at their Web site *http://www.sierrahotelaero.com.*

Comment Issue No. 10: Lack of Proper Maintenance

Andrew B. Woodside and eight other commenters believe the fuel system problems can be traced back to lack of proper maintenance. They request the AD action be withdrawn.

The FAA agrees that maintenance has contributed to the unsafe condition. If proper maintenance is being performed, the likelihood of having air introduced into the engine, which may cause loss of power, is minimized. In one instance, the owner had maintenance performed on his fuel selector valve to fix a leaking problem, but it appears this repair caused a power loss on takeoff. However, because of the actual reported accidents and their associated cause, the FAA has determined that the existing continued airworthiness instructions are inadequate and additional fuel system inspections and corrective actions are needed to help maintain the continued airworthiness of the Navion airplanes.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 11: Unclear AD

Matt Hunsaker and six other commenters state the AD is not well thought out. They request we withdraw the proposed AD action.

The FAA disagrees. Service history and the NPRM published on April 12, 2007, substantiate why we should take corrective action to address this unsafe condition. The TC holder has developed and published what they believe is the proper corrective action to address the unsafe condition.

We have changed the final rule AD action to include another compliance action as an option based on the response to the NPRM. Moreover, the public may always propose AMOCs to show compliance to the corrective action requirements cited in the AD. The FAA will review and consider all AMOC requests we receive provided they follow the procedures in 14 CFR 39.19 and this AD.

Comment Issue No. 12: AD Will Make Money for TC Holder

Leo Burke and 15 other commenters state the TC holder is using the AD process to make money for the TC holder. They request the AD be revised to allow other methods of compliance.

The FAA disagrees that the AD process is being used for monetary gain. We issue ADs when an unsafe condition has been identified and the condition is likely to exist or develop in other products of the same type design (14 CFR 39.5). Service history and the NPRM published on April 12, 2007, substantiate why we should take corrective action to address this unsafe condition. Our regulatory responsibility does not address whether the TC holder's service bulletins are profitable, only whether they fully address the identified unsafe condition.

We have reviewed and added another option for addressing the unsafe condition in this final rule AD action. We will also review other AMOC requests we receive provided they follow the procedures in 14 CFR 39.19 and this AD.

Comment Issue No. 13: Add Sierra Hotel Aero, Inc. Service Bulletin 101A

Sierra Hotel Aero, Inc. and one other commenter suggest we add Sierra Hotel Aero, Inc. Navion Service Bulletin No. 106A, dated May 1, 2007, to the final rule AD.

FAA agrees to add this service bulletin, which provides instructions to replace the fuel selector valve.

Comment Issue No. 14: Difference in Fuel Selector Valve Operation

Ron Natalie and four other commenters cite that the replacement fuel selector valves may operate differently causing pilot confusion and fuel mismanagement accidents. They request that the AD address potential changes in the fuel selector operation.

The FAA agrees there are several valve options to replace a defective valve and not all these valve options operate exactly the same way. One valve design has a mechanical lockout stop that prevents the pilot from selecting the fuel shutoff position without a separate and distinct action. The valve placard labeling may be somewhat different. There can be 3-position or as many as a 5-position valve design installed. There may be more than one fuel selector in the fuel system. Because of field-approved and supplemental type certificate (STC) fuel system modifications, there are variations in the field. It is the responsibility of the pilot to understand the fuel system he or she is operating and be well versed in the fuel management procedures for that particular airplane.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 15: Continued Airworthiness Information

Andrew B. Woodside suggests that Navion owners have access to the continued airworthiness information, acquire it, and use it.

The FAA agrees. We provide the contact information for obtaining additional information from both Sierra Hotel Aero (TC Holder) and the American Navion Society in paragraph (h)(2) of this final rule AD action.

Comment Issue No. 16: Modified Fuel Systems

Tony B. Russell and six other commenters state the NPRM does not address modified Navion fuel systems accomplished by field approval, STC, or other appropriate methods.

The FAA partially agrees. The FAA recognizes that many Navion airplanes have modified fuel systems that can include auxiliary fuel and wing tip fuel tanks. However, we have no way of determining which airplanes have modified fuel systems that could include auxiliary fuel and wing tip fuel tanks, and therefore, we cannot exempt these airplanes from the AD.

We are not changing the final rule AD action based on this comment. The FAA will consider AMOC requests to satisfy the AD compliance requirements. This can be accomplished on a case-by-case basis, or in the case of an STC holder they can submit an AMOC proposal for their STC design approval provided they follow the procedures in 14 CFR 39.19 and this AD.

Comment Issue No. 17: Different Testing Acceptance Criteria

Maynard Keith Franklin and three other commenters cite that other Navion service documentation defines different (higher) leak rates for other fuel system components (e.g., gascolator) than what is defined in the fuel selector valve testing requirements. They request that we standardize the leakage rates for the fuel system inspection.

The FAA partially agrees. The FAA determined that there are other acceptable leak rates that might be lower than the rate cited in the TC holder's service bulletin. Those previous Navion maintenance publications for fuel system components include the fuel system gascolator. For this final rule action, we are using the TC holder's requirements cited in the current service bulletin to address the test and acceptance criteria for the fuel selector. However, if someone submits substantiating data, the FAA will review and consider all AMOC requests we receive provided they follow the procedures in 14 CFR 39.19 and this AD to show compliance with the TC holder's published service documentation.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 18: Unsafe Installation of Replacement Fuel Selector Valve

Ron Judy and six other commenters state that the proposed replacement valve may cause installation safety issues. They request that we or the TC holder provide instructions that address installation fit problems for all aircraft.

The FAA disagrees. After discussing with the TC holder, we have confirmed the proposed replacement valve can be properly installed. We have also confirmed with a representative of ANS that a replacement valve can be properly installed. Any discrepancy that is found during installation must be handled on a case-by-case basis and documented using FAA Form 337.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 19: Repair of Fuel Selector Valve

Mike Pettaway and three other commenters state that an A&P mechanic can repair a fuel selector valve since that type of repair is cited in the (A&P) practical testing standards.

The FAA partially agrees. It is true that an A&P mechanic is trained to disassemble, repair, and re-assemble various components and assemblies; however, even when this type of work

is performed in the field, the work must be accomplished with some form of FAA accepted or approved data (e.g. manufacturer service instruction(s), manufacturer's service bulletins, maintenance manuals, etc.). The mechanic does not have the authority to perform repairs on the fuel selector valve itself without the manufacturer's supporting continued airworthiness data or an FAA-approved or accepted procedure.

We are not changing this final rule AD action based on this comment.

Conclusion

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

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

Costs of Compliance

We estimate that this AD affects 1,500 airplanes in the U.S. registry.

We estimate the following costs to do the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
7 work-hours × $80 per hour = $560	N/A	$560	$840,000

We estimate the following costs to do any necessary replacements that would be required based on the results of the inspection. We have no way of determining the number of airplanes that may need this repair/replacement:

Labor cost	Parts cost	Total cost per airplane
3 work-hours × $80 per hour = $240	$1,000	$1,240

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''Docket No. FAA–2007–27611; Directorate Identifier 2007–CE–024–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–05–14 Sierra Hotel Aero, Inc.: Amendment 39–15408; Docket No. FAA–2007–27611; Directorate Identifier 2007–CE–024–AD.

Effective Date

(a) This AD becomes effective on April 16, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models Navion (L–17A), Navion A (L–17B), (L–17C), Navion B, Navion D, Navion E, Navion F, Navion G, and Navion H airplanes, all serial numbers, that are certificated in any category.

Unsafe Condition

(d) This AD results from reported airplane accidents associated with leaking or improperly operating fuel system selector valves. We are issuing this AD to detect and correct fuel system leaks or improperly operating fuel selector valves, which could result in the disruption of fuel flow to the engine. This failure could lead to engine power loss.

Compliance

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

TABLE 1.—ACTIONS, COMPLIANCE, AND PROCEDURES

Actions	Compliance	Procedures
(1) Do a one-time inspection of the entire fuel system.	Within the next 100 hours time-in-service (TIS) after April 16, 2008 (the effective date of this AD) or within the next 12 months after April 16, 2008 (the effective date of this AD), whichever occurs first.	Follow Sierra Hotel Aero, Inc. Navion Service Bulletin No. 106A, dated May 1, 2007; or American Navion Society, Ltd. Field Service Bulletin No. 1001, dated April 30, 2007.
(2) Unless within the last 5 years you have replaced the fuel selector valve with one of the valves specified in paragraphs (e)(3)(i) or (e)(3)(ii) of this AD, do the functional tests of the fuel selector valves. If using Sierra Hotel Aero, Inc. service information, you may allow for a 1 inch of mercury reduction from the 24 inches of mercury standard for every 1000 feet of altitude over sea level testing conditions.	Initially within the next 100 hours time-in-service (TIS) after April 16, 2008 (the effective date of this AD) or within the next 12 months after April 16, 2008 (the effective date of this AD), whichever occurs first. Repetitively thereafter inspect and do functional tests of the fuel selector valve at intervals not to exceed 12 months until the replacement required by paragraph (e)(3) of this AD is done.	Follow Sierra Hotel Aero, Inc. Navion Service Bulletin No. 106A, dated May 1, 2007; or American Navion Society, Ltd. Field Service Bulletin No. 1001, dated April 30, 2007.
(3) If during any of the inspections or tests required in paragraphs (e)(1) or (e)(2) of this AD you find any defects, perform any corrective actions required, including replacing the fuel selector valve with one of the part numbers (P/N) specified in paragraphs (e)(3)(i) or (e)(3)(ii) of this AD.	Before further flight after any inspection required by this AD where corrective actions are necessary. You may at any time after April 16, 2008 (the effective date of this AD) replace the fuel selector valve with the applicable P/N as specified in the service information as terminating action for the repetitive inspections and functional tests required in paragraph (e)(2) of this AD.	(i) For replacement with Navion P/Ns 147–30013–201, 147–30013–202, or 147–30013–203 use the following service information: (A) Sierra Hotel Aero, Inc. Navion Service Bulletin No. 106A, dated May 1, 2007. (B) Sierra Hotel Aero, Inc. Navion Service Bulletin No. 101A, dated August 23, 2005. (C) Navion Aircraft Corporation Navion Service letter #87, dated February 20, 1965. (ii) For replacement with Navion P/Ns 145–48000–ANSI, 145–48000–ANS2, 145–48000–ANS3, or Osborne Tank Co. P/N 4090, submit proposed installation procedures following the alternative method of compliance (AMOC) procedures specified in paragraph (g) of this AD.

(f) If within the last 5 years or at any time after April 16, 2008 (the effective date of this AD) you have replaced the fuel selector valve with any of the valves specified in paragraphs (e)(3)(i) and (e)(3)(ii) of this AD you may terminate the repetitive inspections and functional tests of the fuel selector valve required in paragraph (e)(2) of this AD.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Chicago Aircraft Certification Office, FAA, ATTN: Tim Smyth, Aerospace Engineer, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–7132; fax: (847) 294–7834, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Material Incorporated by Reference

(h) You must use the service information specified in Table 2 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact the following:

(i) For Sierra Hotel Aero, Inc. service information contact: Sierra Hotel Aero, 1690 Aeronca Lane, South St. Paul, MN 55075; phone: (651) 306–1456; fax: (612) 677–3171; Internet: *http://www.navion.com/servicebulletins.html; e-mail: servicebulletinsupport@navion.com.*

(ii) For American Navion Society service information contact: American Navion Society, Ltd., PMB 335, 16420 SE McGillivray #103, Vancouver, WA 98683–3461; telephone: (360) 833–9921; fax: (360) 833–1074; e-mail: flynavion@yahoo.com.

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

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Service Bulletin No.	Revision	Date
Sierra Hotel Aero, Inc., Navion Service Bulletin No. 106 A	1	May 1, 2007.
Sierra Hotel Aero, Inc., Navion Service Bulletin No. 101A	1	August 23, 2005.
Navion Aircraft Corporation Navion Service Letter No. 87	.....	February 20, 1965.
American Navion Society, Ltd. Field Service Bulletin No. 1001	.....	April 30, 2007.

Issued in Kansas City, Missouri, on February 28, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4267 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0229; Directorate Identifier 2007–NM–042–AD; Amendment 39–15417; AD 2008–06–05]

RIN 2120–AA64

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

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to all Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes. That AD currently requires a revision of the airplane flight manual to include procedures for a pre-flight elevator check before each flight, repetitive inspections for cracks of the attachment lugs of the mode selector valve position transducers on the elevator servo controls, and corrective actions if necessary. This new AD retains the existing requirements, reduces the applicability of the existing AD, and adds terminating actions. For certain airplanes, this AD requires upgrading the flight control primary computers. This AD results from a report of cracks of the transducer body at its attachment lugs. We are issuing this AD to ensure proper functioning of the elevator surfaces, and to prevent cracking of the attachment lugs, which could result in partial loss of elevator function and consequent reduced controllability of the airplane.

DATES: This AD becomes effective April 16, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 16, 2008.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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 Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2004–03–24, amendment 39–13468 (69 FR 6549, February 11, 2004). The existing AD applies to all Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes. That NPRM was published in the **Federal Register** on November 26, 2007 (72 FR 65897). That NPRM proposed to retain the existing requirements, reduce the applicability of the existing AD, and add terminating actions.

New Service Information

Airbus has issued Revision 03 of Airbus Service Bulletins A330–27–3115 and A340–27–4119, both dated April 22, 2005. In the NPRM, we referred to Revision 02 dated December 30, 2003, of those service bulletins as the appropriate sources of service information for accomplishing certain required actions. Revision 03 of the service bulletins updates the operator and aircraft effectivity to show the latest information. No additional work is required by this revision of the service bulletins. We have changed paragraph (h) of this AD to refer to Airbus Service Bulletins A330–27–3115 and A340–27–4119, both Revision 03, both dated April 22, 2005. We have also added paragraph (h)(3) to the AD to give credit to operators that have done the actions previously in accordance with Revision 02 of those service bulletins.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment that has been received on the NPRM.

Request To Extend Compliance Time for the Modification

Air Transport Association (ATA) and one of its members, Northwest Airlines (NWA), state that the terminating action specified in the proposed AD should be mandated at a maximum of 24 months after the effective date for coordination with the aircraft C-check intervals. NWA adds that the repetitive tests of the elevator servo-loops will ensure continued safe operation until terminating action is accomplished.

We do not agree with the request from ATA and NWA to extend the compliance time. In developing an appropriate compliance time for this action, we considered the urgency associated with the subject unsafe condition, the availability of required parts, and the practical aspect of accomplishing the required modification within a period of time that corresponds to the normal scheduled maintenance for most affected operators. In light of these items, we have determined that a 17-month compliance time is appropriate. However, according to the provisions of paragraph (p) of the AD, we might approve requests to adjust the compliance time if the request includes data that justify that the new compliance time would provide an acceptable level of safety.

Conclusion

We have carefully reviewed the available data, including the comment that has been received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

The following table provides the estimated costs for U.S. operators of the affected Model A330–200 and A330–300 series airplanes to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
AFM revision (required by AD 2004–03–24)	1	$80	$80	29	$2,320.
Inspection (required by AD 2004–03–24)	4	80	$320, per inspection cycle.	29	$9,280, per inspection cycle.
Inspection (new action)	1	80	$80	29	$2,320.

Currently, there are no affected Model A340–200 and A340–300 series airplanes on the U.S. Register. However, if an affected airplane is imported and placed on the U.S. Register in the future, the upgrade of the flight control primary computers (FCPCs) would take about 2 work hours, at an average labor rate of $80 per work hour. The manufacturer states that it would supply required parts to the operators at no cost. Based on these figures, we estimate the cost of this AD for Model A340–200 and A340–300 series airplanes to be $160 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Is not a ''significant rule'' under 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 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 39–13468 (69 FR 6549, February 11, 2004) and by adding the following new airworthiness directive (AD):

2008–06–05 Airbus: Amendment 39–15417. Docket No. FAA–2007–0229; Directorate Identifier 2007–NM–042–AD.

Effective Date

(a) This AD becomes effective April 16, 2008.

Affected ADs

(b) This AD supersedes AD 2004–03–24.

Applicability

(c) This AD applies to the airplanes identified in Table 1 of this AD, certificated in any category.

TABLE 1.—APPLICABILITY

Airbus model—	Excluding those airplanes on which any of the following—	Has been installed—
A330–200, A330–300, A340–200, and A340–300 series airplanes.	Airbus Modification 50394, 52195, 53969, or 54833	In production.
	Airbus Service Bulletin A330–27–3128, dated May 3, 2005	In service.
	Airbus Service Bulletin A340–27–4129, dated May 3, 2005	In service.
	Airbus Service Bulletin A330–27–3136, Revision 01, dated July 19, 2006	In service.
	Airbus Service Bulletin A340–27–4135, dated January 12, 2006	In service.
	Goodrich Actuation Systems Service Bulletin SC4800–27–16, Revision 3, dated May 19, 2006.	In service.

Unsafe Condition

(d) This AD results from a report of cracks of the transducer body at its attachment lugs. We are issuing this AD to ensure proper functioning of the elevator surfaces, and to prevent cracking of the attachment lugs, which could result in partial loss of elevator function and consequent reduced controllability of the airplane.

Compliance

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

Requirements of AD 2004–03–24

Airplane Flight Manual (AFM) Revision

(f) Within 30 days after February 26, 2004 (the effective date of AD 2004–03–24), revise the Limitations section of the AFM to include a pre-flight elevator check, by including the following language. This may be done by inserting a copy of this AD into the applicable AFM. Thereafter perform the pre-flight check before every flight in accordance with the procedure.

Prior or During Taxi:

''FLIGHT CONTROLS—CHECK

1. AT A CONVENIENT STAGE, PRIOR TO OR DURING TAXI, AND BEFORE ARMING THE AUTOBRAKE, THE PF SILENTLY APPLIES FULL LONGITUDINAL AND LATERAL SIDESTICK DEFLECTION. ON THE F/CTL PAGE, THE PNF CHECKS FULL TRAVEL OF ALL ELEVATORS AND ALL AILERONS, AND THE CORRECT DEFLECTION AND RETRACTION OF ALL SPOILERS. THE PNF CALLS OUT ''FULL UP,'' ''FULL DOWN,'' ''NEUTRAL,'' ''FULL LEFT,'' ''FULL RIGHT,'' ''NEUTRAL,'' AS EACH FULL TRAVEL/NEUTRAL POSITION IS REACHED. THE PF SILENTLY CHECKS THAT THE PNF CALLS ARE IN ACCORDANCE WITH THE SIDESTICK ORDER.

NOTE: IN ORDER TO REACH FULL TRAVEL, FULL SIDESTICK MUST BE HELD FOR A SUFFICIENT PERIOD OF TIME.

2. THE PF PRESSES THE PEDAL DISC PUSHBUTTON ON THE NOSEWHEEL TILLER, AND SILENTLY APPLIES FULL LEFT RUDDER, FULL RIGHT RUDDER, AND NEUTRAL. THE PNF CALLS OUT ''FULL LEFT,'' ''FULL RIGHT,'' ''NEUTRAL,'' AS EACH FULL TRAVEL/NEUTRAL POSITION IS REACHED.

3. THE PNF APPLIES FULL LONGITUDINAL AND LATERAL SIDESTICK DEFLECTION, AND SILENTLY CHECKS FULL TRAVEL AND CORRECT SENSE OF ALL ELEVATORS AND ALL AILERONS, AND CORRECT DEFLECTION AND RETRACTION OF ALL SPOILERS, ON THE ECAM F/CTL PAGE.''

Note 1: Full and complete elevator travel (position commanded) can be verified on the ECAM Flight Control Page. A determination of ''correct sense'' should include verification that there is complete and full motion of the sidesticks without binding.

(g) If any pre-flight check required by paragraph (f) of this AD reveals improper function of the elevator: Before further flight, perform the inspections required by paragraph (h) of this AD.

Inspections

(h) At the applicable time specified in paragraph (h)(1) or (h)(2) of this AD, except as required by paragraph (g) of this AD: Perform a dye penetrant inspection of the attachment lugs of the mode selector valve position transducers on each elevator servo control installed at damping positions 3CS1 and 3CS2. Do the inspection in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3115 or A340–27–4119, both Revision 03, both including Appendix 01, both dated April 22, 2005, as applicable (in paragraphs (h) through (k) of this AD, referred to as ''the service bulletin''). An inspection that is done before February 26, 2004, is acceptable for compliance with the initial inspection requirement of this paragraph, if the inspection is done in accordance with any of the following Airbus all operators telexes (AOTs): AOT A330–27A3115 or A340–27A4119, dated September 11, 2003, or Revision 01 of each AOT dated September 25, 2003; as applicable. Repeat the inspection thereafter at intervals not to exceed 350 flight cycles, until the applicable actions required by paragraphs (m) and (n) of this AD have been done.

(1) If the age of the servo control from the date of its first installation on the airplane can be positively determined: Do the inspection before the accumulation of 1,000 total flight cycles on the elevator servo control, or within 350 flight cycles on the servo control after February 26, 2004, whichever occurs later.

(2) If the age of the servo control from the date of its first installation on the airplane cannot be positively determined, do the inspection within 350 flight cycles on the servo control after February 26, 2004.

(3) Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A330–27A3115 or A340–27A4119, both Revision 02, both including Appendix 01, both dated December 30, 2003, are acceptable for compliance with the corresponding requirements of this AD.

Note 2: The service bulletin refers to Goodrich Actuation Systems Inspection Service Bulletin SC4800–27–13 as an additional source of service information for the inspection.

Corrective Actions

(i) If any crack is found during any inspection required by paragraph (h) of this AD: Before further flight, replace either the transducer or servo control with a new part, in accordance with the service bulletin.

Reporting Requirement

(j) If any crack is found during any inspection required by paragraph (h) of this AD: Submit a report in accordance with the service bulletin at the applicable time(s) specified in paragraphs (j)(1) and (j)(2) of this AD: Submit reports to Airbus Customer Services, Engineering and Technical Support, *Attention:* J. Laurent, SEE53, fax +33/(0)5.61.93.44.25, Sita Code TLSBQ7X. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) *For an initial inspection done before February 26, 2004:* Submit the report within 30 days after February 26, 2004.

(2) *For an inspection done after February 26, 2004:* Submit the report within 30 days after the inspection.

Parts Installation

(k) As of February 26, 2004, no person may install the following part on any airplane: a transducer, or a transducer fitted on an elevator servo control, in the operator's inventory before September 25, 2003, unless that transducer has been inspected in accordance with the service bulletin and is crack free.

New Requirements of This AD

Upgrade Flight Control Primary Computers (FCPCs)

(l) For Model A340–200 and –300 series airplanes: Within 2 months after the effective date of this AD, upgrade the three FCPCs in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–27–4131, dated February 21, 2005.

Note 3: Airbus Service Bulletin A340–27–4131 refers to Airbus Vendor Service Bulletins LA2K0–27–017 and LA2K1–27–009, both dated January 25, 2005, as additional sources of service information for upgrading the FCPCs.

Terminating Actions

(m) Within 17 months after the effective date of this AD, do the actions specified in Table 2 of this AD.

TABLE 2.—TERMINATING ACTIONS

Inspect—	In accordance with the Accomplishment Instructions of Airbus Service Bulletin—	And if—	Then—	In accordance with—
(1) The elevator servo control to determine whether part number (P/N) SC4800–7A or –9 is installed.	A330–27–3128, dated May 3, 2005 (for Model A330–200 and –300 series airplanes); or A340–27–4129, dated May 3, 2005 (for Model A340–200 and –300 series airplanes); as applicable.	P/N SC4800–7A or –9 is found installed.	Modify the four elevator servo controls.	The Accomplishment Instructions of the applicable Airbus Service Bulletin.

TABLE 2.—TERMINATING ACTIONS—Continued

Inspect—	In accordance with the Accomplishment Instructions of Airbus Service Bulletin—	And if—	Then—	In accordance with—
(2) The elevator servo controls, P/N SC4800–10 and SC4800–11 to determine the serial number (S/N) installed.	None	S/N 2324 or below is found installed.	Replace the mode selector valve position transducer (MVT) of the elevator servo controls with a new MVT.	Paragraphs 3.A.(2) and 3.B.(2) of the Accomplishment Instructions of Goodrich Actuation Systems Service Bulletin SC4800–27–16, Revision 3, dated May 19, 2006.

Note 4: Airbus Service Bulletins A330–27–3128 and A340–27–4129 refer to Goodrich Actuation Systems Service Bulletin SC4800–27–16, Revision 3, dated May 19, 2006, as an additional source of service information for accomplishing the modification of the four elevator servo controls.

(n) Prior to or concurrently with the replacement, if required, specified in paragraph (m)(2) of this AD, replace the eye-end equipped with a self-lubricated bearing with a new eye-end equipped with a roller bearing, grease the new eye-end, and reidentify the servo control, in accordance with paragraph 2.A. of the Accomplishment Instructions of TRW Service Bulletin SC4800–27–34–09, Revision 1, dated November 9, 2001.

(o) Accomplishing all of the applicable actions required by paragraphs (m) and (n) of this AD constitutes terminating action for paragraphs (f) through (k) of this AD.

Alternative Methods of Compliance (AMOCs)

(p)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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.

Related Information

(q) European Aviation Safety Agency airworthiness directive 2007–0011, dated January 9, 2007, also addresses the subject of this AD.

Material Incorporated by Reference

(r) You must use the applicable service information contained in Table 3 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise.

TABLE 3.—MATERIAL INCORPORATED BY REFERENCE

Service Bulletin	Revision level	Date
Airbus Service Bulletin A330–27–3115, including Appendix 01	03	April 22, 2005.
Airbus Service Bulletin A330–27–3128	Original	May 3, 2005.
Airbus Service Bulletin A340–27–4119, including Appendix 01	03	April 22, 2005.
Airbus Service Bulletin A340–27–4129	Original	May 3, 2005.
Airbus Service Bulletin A340–27–4131	Original	February 21, 2005.
Goodrich Actuation Systems Service Bulletin SC4800–27–16	3	May 19, 2006.
TRW Service Bulletin SC4800–27–34–09	1	November 9, 2001.

Goodrich Actuation Systems Service Bulletin SC4800–27–16, Revision 3, contains the following effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 6, 8	Original	May 9, 2005.
2–5, 7	3	May 19, 2006.

(1) The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

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

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

Issued in Renton, Washington, on February 28, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4488 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29342; Directorate Identifier 2007–SW–08–AD; Amendment 39–15411; AD 2008–05–17]

RIN 2120–AA64

Airworthiness Directives; MD Helicopters, Inc. Model 600N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This document supersedes an existing airworthiness directive (AD) for MD Helicopters, Inc. (MDHI) Model 600N helicopters. That AD currently requires interim initial and repetitive inspections of tailboom parts, installing

six inspection holes in the aft fuselage skin panels, installing tailboom attachment bolt washers, modifying both access covers, and replacing broken attachment bolts. The current AD also provides for modifying the fuselage aft section as an optional terminating action. This amendment requires modifying the fuselage aft section within the next 24 months to strengthen the tailboom attachment fittings and upper longerons. The actions specified by this AD are intended to prevent failure of the tailboom attachment fittings, separation of the tailboom from the helicopter, and subsequent loss of control of the helicopter.

DATES: Effective April 16, 2008.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 16, 2008.

ADDRESSES: You may get the service information identified in this AD from MD Helicopters Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615, Mesa, Arizona 85215–9734, telephone 1–800–388–3378, fax 480–346–6813, or on the Internet at *http://www.mdhelicopters.com.*

EXAMINING THE DOCKET: You may examine the docket that contains this AD, any comments, and other information on the Internet at *http://www.regulations.gov* or at the Docket Operations office, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jon Mowery, Aviation Safety Engineer, FAA, Los Angeles Aircraft Certification Office, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5322, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 by superseding AD 2006–08–12, Amendment 39–14569 (71 FR 24808, April 27, 2006), which superseded AD 2001–24–51, Amendment 39–12706 (67 FR 17934, April 12, 2002), for the specified MDHI model helicopters was published in the **Federal Register** on October 19, 2007 (72 FR 59227). The action proposed to require modifying the fuselage aft section within the next 24 months to strengthen the tailboom attachment fittings and upper longerons.

On January 12, 2004, MDHI issued Technical Bulletin (TB) TB600N–007 specifying procedures, tooling, replacement parts, and supplies needed for modifying the fuselage aft section and tailboom. TB600N–007R1, dated April 13, 2006, superseded TB600N–007 to correct some tooling, replacement parts, and supplies. TB600N–007R2, dated October 5, 2006, superseded TB600N–007R1 to correct tooling part numbers and re-sequence some assembly steps. These TBs specify that any aircraft complying with any of these revisions meets the intent of the other TBs.

In AD 2006–08–12, we incorporated by reference TB600N–007R1, dated April 13, 2006. Since issuing that AD, MDHI has issued TB600N–007R2, dated October 5, 2006 (TB), which updates previous issues by further specifying procedures for modifying the fuselage aft section to strengthen the tailboom attachment fittings and upper longerons. This latest revision continues to caution that a high level of sheet metal expertise and experience is required to perform this modification.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require adopting the rule as proposed.

The FAA estimates that this AD will affect 18 helicopters of U.S. registry, and the required actions will take about 322 work hours to modify each helicopter at an average labor rate of $80 per work hour. Required parts will cost about $14,960 per helicopter. The manufacturer states in its TB that those complying with the TB within 3 years of the issue date are eligible for special pricing and technical assistance. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $732,960, assuming no special pricing from the manufacturer.

Regulatory Findings

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

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

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

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

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

We prepared an economic evaluation of the estimated costs to comply with this AD. See the AD docket to examine the economic evaluation.

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing Amendment 39–14569 (71 FR 24808, April 27, 2006) and by adding a new airworthiness directive (AD), Amendment 39–15411, to read as follows:

2008–05–17 MD Helicopters, Inc.: Amendment 39–15411, Docket No. FAA–2007–29342, Directorate Identifier 2007–SW–08–AD. Supersedes AD 2006–08–12, Amendment 39–14569, Docket No. FAA–2006–24518, Directorate Identifier 2006–SW–10–AD.

Applicability: Model 600N helicopters, serial numbers with a prefix ''RN'' and 003 through 058, that have not been modified in

the fuselage aft section to strengthen the tailboom attachments and longerons per MD Helicopters (MDHI) Technical Bulletin (TB) TB600N–007, dated January 12, 2004; TB600N–007R1, dated April 13, 2006, or TB600N–007R2, dated October 5, 2006, certificated in any category.

Compliance: Required within the next 24 months, unless accomplished previously.

To prevent failure of the tailboom attachment fittings, separation of the tailboom from the helicopter, and subsequent loss of control of the helicopter, do the following:

(a) Modify the fuselage aft section to strengthen the tailboom attach fittings and upper longerons by following paragraph 2, Accomplishment Instructions, of MDHI TB600N–007R2, dated October 5, 2006, except you are not required to contact the manufacturer. This modification to the fuselage aft section is terminating action for the requirements of this AD.

(b) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Los Angeles Aircraft Certification Office, FAA, Attn: Jon Mowery, Aviation Safety Engineer, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5322, fax (562) 627–5210, for information about previously approved alternative methods of compliance.

(c) Modifying the fuselage aft section shall be done by following the specified portions of MD Helicopters Technical Bulletin (TB) TB600N–007R2, dated October 5, 2006. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from MD Helicopters Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615, Mesa, Arizona 85215–9734, telephone 1–800–388–3378, fax 480–346–6813, or on the Internet at *http://www.mdhelicopters.com.* Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(d) This amendment becomes effective on April 16, 2008.

Issued in Fort Worth, Texas, on February 27, 2008.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E8–4489 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0414; Directorate Identifier 2007–NM–340–AD; Amendment 39–15413; AD 2008–06–01]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) Airplanes

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

ACTION: Final rule.

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

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards * * *.

[A]ssessment showed that supplemental maintenance tasks [for the fuel tank wiring harness installation, and the hydraulic system No. 3 temperature transducer, among other items] are required to prevent potential ignition sources inside the fuel system, which could result in a fuel tank explosion. * * *

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

DATES: This AD becomes effective April 16, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 16, 2008.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on January 4, 2008 (73 FR 830). (A correction of the rule was published in the **Federal Register** on January 31, 2008 (73 FR 5767).) That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

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

The assessment showed that supplemental maintenance tasks [for the fuel tank wiring harness installation, and the hydraulic system No. 3 temperature transducer, among other items] are required to prevent potential ignition sources inside the fuel system, which could result in a fuel tank explosion. Revision has been made to Canadair Regional Jet Models CL–600–2C10, CL–600–2D15 and CL–600–2D24 Maintenance Requirements Manual, CSP B–053, Part 2, Section 3 ''Fuel System Limitations'' to introduce the required maintenance tasks.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Changes Made to This AD

For standardization purposes, we have revised this AD in the following ways:

• We revised paragraph (f)(1) of this AD to add a reference to ''Transport Canada Civil Aviation (TCCA) (or its delegated agent)'' for approval of a particular document. We also revised paragraph (f)(2) of this AD to specify that no alternative inspections or inspection intervals may be used unless they are part of a later approved revision of Section 3, ''Fuel System Limitations,'' of Part 2 of Bombardier CL–600–2C10, CL–600–2D15, and CL–600–2D24 Maintenance Requirements Manual CSP

B–053, Revision 9, dated July 20, 2007, or unless they are approved as an alternative method of compliance (AMOC). Inclusion of this paragraph in the AD is intended to ensure that the AD-mandated airworthiness limitations changes are treated the same as the airworthiness limitations issued with the original type certificate.

• In addition, we have simplified the language in Note 1 of this AD to clarify that an operator must request approval for an alternative method of compliance (AMOC) if an operator cannot accomplish the required inspections because an airplane has been previously modified, altered, or repaired in the areas addressed by the required inspections.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 289 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the AD on U.S. operators to be $23,120, or $80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–06–01 Bombardier, Inc. (Formerly Canadair): Amendment 39–15413. Docket No. FAA–2007–0414; Directorate Identifier 2007–NM–340–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 16, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes, certificated in any category, all serial numbers.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

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

Reason

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

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

The assessment showed that supplemental maintenance tasks [for the fuel tank wiring harness installation, and the hydraulic system No. 3 temperature transducer, among other items] are required to prevent potential ignition sources inside the fuel system, which could result in a fuel tank explosion. Revision has been made to Canadair Regional Jet Models CL–600–2C10, CL–600–2D15 and CL–600–2D24 Maintenance Requirements Manual, CSP B–053, Part 2, Section 3 ''Fuel

System Limitations'' to introduce the required maintenance tasks.

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Actions and Compliance

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

(1) Within 60 days after the effective date of this AD, or on or before December 16, 2008, whichever occurs first, revise the ALS of the Instructions for Continued Airworthiness to incorporate the inspection requirements Section 3, ''Fuel System Limitations,'' of Part 2 of Bombardier CL–600–2C10, CL–600–2D15, and CL–600–2D24 Maintenance Requirements Manual CSP B–053, Revision 9, dated July 20, 2007 (''the MRM''). For task numbers 24–90–00–601, 24–90–00–602, 28–00–00–601, 28–11–23–601, 28–11–23–602, 28–12–13–601, 29–30–00–601, and 29–30–00–602, the initial compliance times start from the later of the times specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD, and the repetitive inspections must be accomplished thereafter at the interval specified in the MRM, except as provided by paragraphs (f)(1) and (g)(1) of this AD. Accomplishing the revision in accordance with a later revision of the MRM is an acceptable method of compliance if the revision is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

(i) The effective date of this AD.

(ii) The date of issuance of the original Canadian standard airworthiness certificate or the date of issuance of the original Canadian export certificate of airworthiness.

(2) After accomplishing the actions specified in paragraph (f)(1) of this AD, no alternative inspections or inspection intervals may be used, unless the inspection or interval is part of a later revision of the Section 3, ''Fuel System Limitations,'' of Part 2 of Bombardier CL–600–2C10, CL–600–2D15, and CL–600–2D24 Maintenance Requirements Manual CSP B–053, Revision 9, dated July 20, 2007, that is approved by the Manager, New York ACO, FAA, or TCCA (or its delegated agent); or unless the inspection or interval is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to Attn: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7331; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF–2007–28, dated November 22, 2007; and Section 3, ''Fuel System Limitations,'' of Part 2 of Bombardier CL–600–2C10, CL–600–2D15, and CL–600–2D24 Maintenance Requirements Manual CSP B–053, Revision 9, dated July 20, 2007; for related information.

Material Incorporated by Reference

(i) You must use Section 3, ''Fuel System Limitations,'' of Part 2 of Bombardier CL–600–2C10, CL–600–2D15, and CL–600–2D24 Maintenance Requirements Manual CSP B–053, Revision 9, dated July 20, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

Issued in Renton, Washington, on February 28, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4494 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0413; Directorate Identifier 2007–NM–341–AD; Amendment 39–15414; AD 2008–06–02]

RIN 2120–AA64

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

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

ACTION: Final rule.

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

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards * * *.

[A]ssessment showed that supplemental maintenance tasks [for certain bonding jumpers, wiring harnesses, and hydraulic systems, among other items] are required to prevent potential ignition sources inside the fuel system, which could result in a fuel tank explosion. * * *

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

DATES: This AD becomes effective April 16, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 16, 2008.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on January 4, 2008 (73 FR 833). (A correction of the rule was published in the **Federal Register** on January 31, 2008 (73 FR 5767).) That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525–001, to determine if mandatory corrective action is required.
>
> The assessment showed that supplemental maintenance tasks [for certain bonding jumpers, wiring harnesses, and hydraulic systems, among other items] are required to prevent potential ignition sources inside the fuel system, which could result in a fuel tank explosion. Revision has been made to Canadair Regional Jet Model CL–600–2B19 Maintenance Requirements Manual, CSP A–053, Part 2, Appendix D, ''Fuel System Limitations'' to introduce the required maintenance tasks.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Changes Made to This AD

For standardization purposes, we have revised this AD in the following ways:

- We have revised paragraph (f)(1) of this AD to add a reference to ''Transport Canada Civil Aviation (TCCA) (or its delegated agent)'' for approval of a particular document. We also revised paragraph (f)(5) of this AD to specify that no alternative inspections or inspection intervals may be used unless they are part of a later approved revision of Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' of Bombardier CL–600–2B19 Maintenance Requirements Manual CSP A–053, Revision 7, dated May 10, 2007, or unless they are approved as an alternative method of compliance (AMOC). Inclusion of this paragraph in the AD is intended to ensure that the AD-mandated airworthiness limitations changes are treated the same as the airworthiness limitations issued with the original type certificate.
- In addition, we have simplified the language in Note 1 of this AD to clarify that an operator must request approval for an alternative method of compliance (AMOC) if an operator cannot accomplish the required inspections because an airplane has been previously modified, altered, or repaired in the areas addressed by the required inspections.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD affects about 689 products of U.S. registry. We also estimate that it takes about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the AD on U.S. operators to be $55,120, or $80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–06–02 Bombardier, Inc. (Formerly Canadair): Amendment 39–15414. Docket No. FAA–2007–0413; Directorate Identifier 2007–NM–341–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 16, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, all serial numbers.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

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

Reason

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

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

The assessment showed that supplemental maintenance tasks [for certain bonding jumpers, wiring harnesses, and hydraulic systems, among other items] are required to prevent potential ignition sources inside the fuel system, which could result in a fuel tank explosion. Revision has been made to Canadair Regional Jet Model CL–600–2B19 Maintenance Requirements Manual, CSP A–053, Part 2, Appendix D, ''Fuel System Limitations'' to introduce the required maintenance tasks.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Actions and Compliance

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

(1) Within 60 days after the effective date of this AD, or on or before December 16, 2008, whichever occurs first, revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate the inspection and maintenance requirements, as applicable, in Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' of Bombardier CL–600–2B19 Maintenance Requirements Manual CSP A–053, Revision 7, dated May 10, 2007 (''the MRM''), task numbers 28–11–00–601, 28–11–00–602, 28–11–00–603, 28–11–00–604, 29–33–01–601, and 29–33–01–602. For those task numbers, the initial compliance times start from the later of the times specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD, and the repetitive inspections must be accomplished thereafter at the interval specified in the MRM, except as provided by paragraphs (f)(2), (f)(3), (f)(4), (f)(5) and (g)(1) of this AD. Accomplishing the revision in accordance with a later revision of the MRM is an acceptable method of compliance if the revision is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

(i) The effective date of this AD.

(ii) The date of issuance of the original Canadian standard airworthiness certificate or the date of issuance of the original Canadian export certificate of airworthiness.

(2) For airplanes having more than 15,000 flight hours as of the effective date of this AD, the initial compliance time for Tasks 28–11–00–601, 28–11–00–602, 28–11–00–603, and 28–11–00–604 is within 5,000 flight hours after the effective date of this AD. Thereafter, these tasks must be accomplished within the repetitive interval specified in Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' of Bombardier CL–600–2B19 Maintenance Requirements Manual CSP A–053, Revision 7, dated May 10, 2007.

(3) For Task 29–33–01–601, the initial compliance time is within 5,000 flight hours after the effective date of this AD. Thereafter, task 29–33–01–601 must be accomplished within the repetitive interval specified in Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' of Bombardier CL–600–2B19 Maintenance Requirements Manual CSP A–053, Revision 7, dated May 10, 2007.

(4) For airplanes having more than 27,500 flight hours as of the effective date of this AD, the initial compliance time for Task 29–33–01–602 is within 2,500 flight hours after the effective date of this AD. Thereafter, this task must be accomplished within the repetitive interval specified in Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' of Bombardier CL–600–2B19 Maintenance Requirements Manual CSP A–053, Revision 7, dated May 10, 2007.

(5) After accomplishing the actions specified in paragraphs (f)(1), (f)(2), (f)(3), and (f)(4) of this AD, no alternative inspections or inspection intervals may be used unless the inspection or interval is part of a later revision of Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' of Bombardier CL–600–2B19 Maintenance Requirements Manual CSP A–053, Revision 7, dated May 10, 2007, that is approved by the Manager, New York ACO, FAA, or TCCA (or its delegated agent); or the limit or interval is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7331; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF–2007–29, dated November 22, 2007, and Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' of Bombardier CL–600–2B19 Maintenance Requirements Manual CSP A–053, Revision 7, dated May 10, 2007.

Material Incorporated by Reference

(i) You must use Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' of Bombardier CL–600–2B19 Maintenance Requirements Manual CSP–053, Revision 7, dated May 10, 2007, to do the actions

required by this AD, unless the AD specifies otherwise.

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

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

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

Issued in Renton, Washington, on February 28, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4501 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0230; Directorate Identifier 2007–NM–043–AD; Amendment 39–15419; AD 2008–06–07]

RIN 2120–AA64

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

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to all Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes. That AD currently requires an accelerated schedule of repetitive testing of the elevator servo control loops, and corrective actions if necessary. This new AD retains the existing requirements, reduces the applicability of the existing AD, and adds terminating actions. This AD results from reports of failed elevator servo controls due to broken guides. We are issuing this AD to prevent failure of the elevator servo controls during certain phases of takeoff, which could result in an unannounced loss of elevator control and consequent reduced controllability of the airplane.

DATES: This AD becomes effective April 16, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 16, 2008.

On November 29, 2005 (70 FR 69065, November 14, 2005), the Director of the Federal Register approved the incorporation by reference of Airbus All Operators Telex A330–27A3138, Revision 01, dated October 3, 2005; and Airbus All Operators Telex A340–27A4137, Revision 01, dated October 3, 2005.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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 Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2005–23–10, amendment 39–14368 (70 FR 69065, November 14, 2005). The existing AD applies to all Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes. That NPRM was published in the **Federal Register** on November 26, 2007 (72 FR 65906). That NPRM proposed to retain the existing requirements, reduce the applicability of the existing AD, and add terminating actions.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment that has been received on the NPRM.

Request To Extend Compliance Time for the Modification

Air Transport Association (ATA) and one of its members, Northwest Airlines (NWA), state that the terminating action specified in the proposed AD should be mandated at a maximum of 24 months after the effective date for coordination with the aircraft C-check intervals. NWA adds that the repetitive tests of the elevator servo-loops will ensure continued safe operation until terminating action is accomplished.

We do not agree with the request from ATA and NWA to extend the compliance time. In developing an appropriate compliance time for this action, we considered the urgency associated with the subject unsafe condition, the availability of required parts, and the practical aspect of accomplishing the required modification within a period of time that corresponds to the normal scheduled maintenance for most affected operators. In light of these items, we have determined that a 17-month compliance time is appropriate. However, according to the provisions of paragraph (q) of the AD, we may approve requests to adjust the compliance time if the request includes data that justify that the new compliance time would provide an acceptable level of safety.

Conclusion

We have carefully reviewed the available data, including the comment that has been submitted, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

The following table provides the estimated costs for U.S. operators of the affected Model A330–200 and A330–300 series airplanes to comply with this AD.

ESTIMATED COSTS

Action	Work hour(s)	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection (required by AD 2005–23–10).	1	$80	None	$80, per inspection cycle.	18	$1,440, per inspection cycle.
Modifications (new actions)	28	80	The manufacturer states that it will supply required parts to the operators at no cost.	$2,240	18	$40,320.

Currently, there are no affected Model A340–200 and A340–300 series airplanes on the U.S. Register. However, if an affected airplane is imported and placed on the U.S. Register in the future, the modification would take about 10 work hours, at an average labor rate of $80 per work hour. The manufacturer states that it will supply required parts to the operators at no cost. Based on these figures, we estimate the cost of this AD for Model A340–200 and A340–300 series airplanes to be $800 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Is not a ''significant rule'' under 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 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 39–14368 (70 FR 69065, November 14, 2005), and by adding the following new airworthiness directive (AD):

2008–06–07 Airbus: Amendment 39–15419. Docket No. FAA–2007–0230; Directorate Identifier 2007–NM–043–AD.

Effective Date

(a) This AD becomes effective April 16, 2008.

Affected ADs

(b) This AD supersedes AD 2005–23–10.

Applicability

(c) This AD applies to the airplanes identified in Table 1 of this AD, certificated in any category.

TABLE 1.—APPLICABILITY

Airbus model—	Excluding those airplanes on which any of the following—	Has been installed—
A330–200, A330–300, A340–200, and A340–300 series airplanes.	Airbus modification 54833	In production.
	Airbus Service Bulletin A330–27–3136, Revision 01, dated July 19, 2006	In service.
	Airbus Service Bulletin A340–27–4135, dated January 12, 2006	In service.

Unsafe Condition

(d) This AD results from reports of failed elevator servo controls due to broken guides. We are proposing this AD to prevent failure of the elevator servo controls during certain phases of takeoff, which could result in an unannounced loss of elevator control and consequent reduced controllability of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within

the compliance times specified, unless the actions have already been done.

Requirements of AD 2005–23–10:

Service Information

(f) The term ''AOT,'' as used in paragraphs (g) through (i) of this AD, means section 4.2. ''Description'' of the following service information, as applicable:

(1) For Model A330–200 and –300 series airplanes: Airbus All Operators Telex A330–27A3138, Revision 01, dated October 3, 2005; and

(2) For Model A340–200 and –300 series airplanes: Airbus All Operators Telex A340–27A4137, Revision 01, dated October 3, 2005.

Initial and Repetitive Elevator Servo-Loop Tests

(g) Within 200 flight hours after November 29, 2005 (the effective date of AD 2005–23–10): Test the elevator servo-loops, in accordance with the AOT, except as provided by paragraph (j) of this AD. If the test of the elevator servo-loops passes, repeat the test at intervals not to exceed 140 flight hours or 8 days, whichever occurs first.

Failed Tests

(h) If any test of the elevator servo-loops required by paragraph (g) of this AD fails: Before further flight, troubleshoot the cause of the test failure, and do the applicable corrective actions; in accordance with the AOT, except as provided by paragraph (j) of this AD. Thereafter, repeat the test at the times specified in paragraph (g) of this AD.

Reporting Requirement

(i) Following each test required by paragraph (g) of this AD, submit a report of the findings of only failed elevator servo-loop tests to Airbus Customer Services, Engineering and Technical Support, Attention: Mr. J. Laurent, SEE53, fax +33/(0)5.61.93.44.25; at the applicable time specified in paragraph (i)(1) or (i)(2) of this AD. The report must include the description of the failure experienced during the test, the identified cause of the failure, and the number of flight hours and flight cycles on the airplane. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) If the test was done after November 29, 2005: Submit the report within 10 days after the test.

(2) If the test was done prior to November 29, 2005: Submit the report within 10 days after November 29, 2005.

New Requirements of This AD

New Service Information for Testing

(j) As of the effective date of this AD, do the actions required by paragraphs (g) and (h) of this AD in accordance with the Accomplishment Instructions of the following service bulletins, as applicable.

(1) For Model A330–200 and –300 series airplanes: Airbus Service Bulletin A330–27–3138, Revision 02, excluding Appendix 01, dated May 30, 2006; and

(2) For Model A340–200 and –300 series airplanes: Airbus Service Bulletin A340–27–4137, Revision 02, excluding Appendix 01, dated May 30, 2006.

Terminating Actions

(k) Within 17 months after the effective date of this AD, modify the four elevator servo controls in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3136, Revision 01, dated July 19, 2006 (for Model A330–200 and –300 series airplanes); or Airbus Service Bulletin A340–27–4135, dated January 12, 2006 (for Model A340–200 and –300 series airplanes); as applicable.

Note 1: Airbus Service Bulletins A330–27–3136 and A340–27–4135 refer to Goodrich Actuation Systems Service Bulletin SC4800–27–18, Revision 1, dated May 19, 2006, as an additional source of service information for accomplishing the modification required by paragraph (k) of this AD.

(l) Modifications done before the effective date of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3136, dated January 12, 2006, are acceptable for compliance with the modification required by paragraph (k) of this AD.

(m) Concurrently with the modification required by paragraph (k) of this AD, modify the four elevator servo controls in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3134, Revision 01, dated May 12, 2006 (for Model A330–200 and –300 series airplanes); or Airbus Service Bulletin A340–27–4132, dated October 13, 2005 (for Model A340–200 and –300 series airplanes); as applicable.

Note 2: Airbus Service Bulletins A330–27–3134 and A340–27–4132 refer to Goodrich Actuation Systems Service Bulletin SC4800–27–17, Revision 2, dated May 19, 2006, as an additional source of service information for accomplishing the modification required by paragraph (m) of this AD.

(n) Modifications done before the effective date of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3134, dated October 13, 2005, are acceptable for compliance with the modification required by paragraph (m) of this AD.

(o) Accomplishment of the modifications required by paragraphs (k) and (m) of this AD constitutes terminating action for the requirements of paragraphs (f) through (i) of this AD.

Parts Installation

(p) As of the effective date of this AD, no person may install, on any airplane, an elevator servo control, unless it has been modified in accordance with paragraphs (k) and (m) of this AD.

Alternative Methods of Compliance (AMOCs)

(q)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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.

Related Information

(r) European Aviation Safety Agency airworthiness directive 2007–0008, dated January 9, 2007, also addresses the subject of this AD.

Material Incorporated by Reference

(s) You must use the applicable Airbus service information contained in Table 2 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise.

TABLE 2.—ALL MATERIAL INCORPORATED BY REFERENCE

Service information	Revision	Date
Airbus All Operators Telex A330–27A3138	01	October 3, 2005.
Airbus All Operators Telex A340–27A4137	01	October 3, 2005.
Airbus Service Bulletin A330–27–3134	01	May 12, 2006.
Airbus Service Bulletin A330–27–3136	01	July 19, 2006.
Airbus Service Bulletin A330–27–3138, excluding Appendix 01	02	May 30, 2006.
Airbus Service Bulletin A340–27–4132	Original	October 13, 2005.
Airbus Service Bulletin A340–27–4135	Original	January 12, 2006.
Airbus Service Bulletin A340–27–4137, excluding Appendix 01	02	May 30, 2006.

(1) The Director of the Federal Register approved the incorporation by reference of the service information contained in Table 3 of this AD in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

TABLE 3.—ALL MATERIAL INCORPORATED BY REFERENCE

Service information	Revision	Date
Airbus Service Bulletin A330–27–3134	01	May 12, 2006.
Airbus Service Bulletin A330–27–3136	01	July 19, 2006.
Airbus Service Bulletin A330–27–3138, excluding Appendix 01	02	May 30, 2006.
Airbus Service Bulletin A340–27–4132	Original	October 13, 2005.
Airbus Service Bulletin A340–27–4135	Original	January 12, 2006.
Airbus Service Bulletin A340–27–4137, excluding Appendix 01	02	May 30, 2006.

(2) On November 29, 2005 (70 FR 69065, November 14, 2005), the Director of the Federal Register approved the incorporation by reference of Airbus All Operators Telex A330–27A3138, Revision 01, dated October 3, 2005; and Airbus All Operators Telex A340–27A4137, Revision 01, dated October 3, 2005.

(3) For service information identified in this AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. 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 March 3, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4671 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0368; Directorate Identifier 2007–NM–050–AD; Amendment 39–15420; AD 2008–06–08]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A Series Airplanes

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

ACTION: Final rule.

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

Cracking has been found on the centre fuselage top aft longeron at Rib '0' on an in-service aircraft. * * *

This condition could result in reduced structural integrity of the airplane. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective April 16, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 16, 2008.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on December 20, 2007 (72 FR 72270). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Cracking has been found on the centre fuselage top aft longeron at Rib '0' on an in-service aircraft. Subsequent investigation has indicated that the currently defined threshold and repeat inspection period must be reduced, and the area of inspection expanded for the BAe 146 series 100 and 200. For the BAe146 series 300, only the repeat inspection period must be reduced, and the area of inspection expanded.
>
> Cracking on the center fuselage top aft longeron at Rib '0,' could result in reduced structural integrity of the airplane. Corrective actions include repetitive inspections of the center fuselage top aft longeron for cracking and repair/replacement if necessary. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Revision to the Reference to the Nondestructive Testing (NDT) Manual

We have removed the reference to the BAE Systems (Operations) Limited BAe 146/Avro 146–RJ Series NDT Manual Part 6 20–00–03 from paragraphs (f)(2)(iii) and (f)(5)(iii) of this AD. The appropriate source of service information for doing the inspection and repair specified in paragraphs (f)(2)(iii) and (f)(5)(iii) of this AD is BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006. The Accomplishment Instructions of the service bulletin refer to the NDT manual. We have added Note 1 and Note 3 to this AD to clarify that the service bulletin refers to the NDT manual as a secondary source of service information for doing the inspection.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD with the change described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 1 product of U.S. registry. We also estimate that it will take about 8 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $640, or $640 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–06–08 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–15420. Docket No. FAA–2007–0368; Directorate Identifier 2007–NM–050–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 16, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A series airplanes; certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage.

Reason

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

Cracking has been found on the centre fuselage top aft longeron at Rib '0' on an in-service aircraft. Subsequent investigation has indicated that the currently defined threshold and repeat inspection period must be reduced, and the area of inspection expanded for the BAe 146 series 100 and 200. For the BAe 146 series 300, only the repeat inspection period must be reduced, and the area of inspection expanded. Cracking on the center fuselage top aft longeron at Rib '0' could result in reduced structural integrity of the airplane. Corrective actions include repetitive inspections of the center fuselage top aft longeron for cracking and repair/replacement if necessary.

Actions and Compliance

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

(1) For all Model BAe 146–100A and BAE 146–200A series airplanes pre-mod HCM01709B or HCM01709C that have not been inspected in accordance with BAE Systems (Operations) Limited BAe 146 Maintenance Review Board Report (MRBR) SSI/SII Task No. 53–20–140A (Maintenance Planning Document (MPD) Task 532040–SDI–10000–3) or BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 1, dated May 19, 2004, as of the effective date of this AD: Do the actions in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD at the applicable compliance time, and do all applicable repairs and replacements before further flight.

(i) Inspect and repair cracking of the forward six bolt bores between the subframe and frame 30 in accordance with paragraph 2.B of the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006, before the accumulation of 17,000 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs later. If the damage exceeds limits specified in the structural repair manual (SRM), before further flight, contact BAE Systems and repair. Repeat the inspection thereafter at intervals not to exceed 5,000 flight cycles, except as provided by paragraph (f)(3) of this AD.

(ii) Inspect and repair cracking of the remaining fastener bores between the sub-frame and frame 30 in accordance with paragraph 2.B of the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006, before the accumulation of 17,000 total flight cycles, or within 4,000 flight cycles after the effective date of this AD, whichever occurs later. If the damage exceeds limits specified in the SRM, before further flight, contact BAE Systems and repair. Repeat the inspection thereafter at intervals not to exceed 11,900 flight cycles, except as provided by paragraph (f)(3) of this AD.

(2) For all Model BAe 146–100A and BAe 146–200A series airplanes pre-mod HCM01709B or HCM01709C that have been inspected in accordance with BAE Systems (Operations) Limited BAe 146 MRBR SSI/SII Task No. 53–20–140A (MPD task 532040–SDI–10000–3) or BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173 Revision 1, May 19, 2004, as of the effective date of this AD: Do the actions in paragraphs (f)(2)(i), (f)(2)(ii), and (f)(2)(iii) of this AD at the applicable compliance time, and do all applicable repairs and replacements before further flight.

(i) Do an ultrasonic inspection and repair cracking of the forward six bolt bores between the subframe and frame 30 in

accordance with paragraph 2.B of the Accomplishment Instructions and Appendix 2 of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006, before the accumulation of 5,400 flight cycles since last inspection, or within 500 flight cycles after the effective date of this AD, whichever occurs later. If the damage exceeds limits specified in the SRM, before further flight, contact BAE Systems and repair. Repeat the inspection thereafter at intervals not to exceed 5,000 flight cycles, except as provided by paragraph (f)(3) of this AD.

(ii) Do a high frequency eddy current inspection and repair cracking of the forward six bolt bores between the subframe and frame 30 in accordance with paragraph 2.B of the Accomplishment Instructions and Appendix 3 of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006, within 4,000 flight cycles after the effective date of this AD. If the damage exceeds limits specified in the SRM, before further flight, contact BAE systems and repair. Repeat the inspection thereafter at intervals not to exceed 5,000 flight cycles, except as provided by paragraph (f)(3) of this AD.

(iii) Do a rotating eddy current inspection and repair cracking of the remaining fastener bores between the sub-frame and frame 30 in accordance with paragraph 2.B of the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006, within 4,000 flight cycles after the effective date of this AD. If the damage exceeds limits specified in the SRM, before further flight, contact BAE Systems and repair. Repeat the inspection thereafter at intervals not to exceed 11,900 flight cycles, except as provided by paragraph (f)(3) of this AD.

Note 1: BAE Systems (Operations) Limited Inspection Service Inspection Bulletin ISB.53–173, Revision 2, dated March 28, 2006, refers to the BAE Systems (Operations) Limited BAe 146/Avro 146–RJ Series Nondestructive Testing (NDT) Manual Part 6 20–00–03 as a secondary source of service information for doing the eddy current inspection.

(3) For all Model BAe 146–100A and BAe 146–200A series airplanes pre-mod HCM01709B or HCM01709C that have had a replacement aft longeron installed: Prior to the accumulation of 17,000 flight cycles after the aft longeron replacement, or within 500 flight cycles after the effective date of this AD, whichever occurs later, inspect for cracking of the forward six bolt bores and the fastener bores between the sub-frame and frame 30, and repair any crack before further flight in accordance with paragraph 2.B of the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006. If the damage exceeds limits specified in the SRM, before further flight, contact BAE Systems and repair. Repeat the inspection thereafter at intervals not to exceed 5,000 flight cycles for the forward six bolt bores, and 11,900 flight cycles for the remaining fastener bores between the sub-frame and frame 30. Replacing the longeron terminates the repetitive inspection requirements of paragraph (f)(1) and (f)(2) of this AD; post-replacement inspections must be done in accordance with this paragraph.

Note 2: The threshold for an aircraft is reset if a replacement longeron is fitted.

(4) For all Model BAe 146–300A series airplanes pre-mod HCM01709A that have not been inspected in accordance with BAE Systems (Operations) Limited BAe 146 MRBR SSI/SII Task No. 53–20–140A (MPD Task 532040–SDI–10000–3) or BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 1, dated May 19, 2004, as of the effective date of this AD: Do the actions in paragraphs (f)(4)(i) and (f)(4)(ii) of this AD at the applicable compliance time, and do all applicable repairs and replacements before further flight.

(i) Inspect and repair cracking of the forward six bolt bores between the subframe and frame 30 in accordance with paragraph 2.B of the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006, prior to the accumulation of 24,000 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs later. If the damage exceeds limits specified in the SRM, before further flight, contact BAE Systems and repair. Repeat the inspection thereafter at intervals not to exceed 4,000 flight cycles, except as provided by paragraph (f)(6) of this AD.

(ii) Inspect and repair cracking of the remaining fastener bores between the sub-frame and frame 30 in accordance with paragraph 2.B of the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006, at the later of 24,000 total flight cycles, or within 4,000 flight cycles after the effective date of this AD. If the damage exceeds limits specified in the SRM, before further flight, contact BAE Systems and repair. Repeat the inspection thereafter at intervals not to exceed 11,900 flight cycles, except as provided by paragraph (f)(6) of this AD.

(5) For all Model BAe 146–300A series airplanes pre-mod HCM01709A that have been inspected in accordance with BAE Systems (Operations) Limited BAe 146 MRBR SSI/SII Task No. 53–20–140A (MPD task 532040–SDI–10000–3) or BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 1, May 19, 2004, as of the effective date of this AD: Do the actions in paragraphs (f)(5)(i), (f)(5)(ii), and (f)(5)(iii) of this AD at the applicable compliance time, and do all applicable repairs and replacements before further flight.

(i) Do an ultrasonic inspection and repair cracking of the forward six bores between the subframe and frame 30 in accordance with paragraph 2.B of the Accomplishment Instructions and Appendix 2 of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006, within 4,000 flight cycles since last inspection, or within 500 flight cycles after the effective date of this AD, whichever occurs later. If the damage exceeds limits specified in the SRM, before further flight, contact BAE Systems and repair. Repeat the inspection thereafter at intervals not to exceed 4,000 flight cycles except as provided by paragraph (f)(6) of this AD.

(ii) Do a high frequency eddy current inspection and repair cracking of the forward six bolt bores between the subframe and frame 30 in accordance with paragraph 2.B of the Accomplishment Instructions and Appendix 3 of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006, within 4,000 flight cycles after the effective date of this AD. If the damage exceeds limits specified in the SRM, before further flight, contact BAE Systems and repair. Repeat the inspection thereafter at intervals not to exceed 4,000 flight cycles, except as provided by paragraph (f)(6) of this AD.

(iii) Do a rotating eddy current inspection and repair cracking of the remaining fastener bores between the sub-frame and frame 30 in accordance with paragraph 2.B of the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006, within 4,000 flight cycles after the effective date of this AD. If the damage exceeds limits specified in the SRM, before further flight, contact BAE Systems and repair. Repeat the inspection thereafter at intervals not to exceed 11,900 flight cycles, except as provided by paragraph (f)(6) of this AD.

Note 3: BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006, refers to the BAE Systems (Operations) Limited BAe 146/Avro 146–RJ Series NDT Manual Part 6 20–00–03 as a secondary source of service information for doing the eddy current inspection.

(6) For all Model BAe 146–300A series airplanes pre-mod HCM01709A that have had a replacement aft longeron installed: Prior to the accumulation of 24,000 flight cycles after the aft longeron replacement, or within 500 flight cycles after the effective date of this AD, whichever occurs later, inspect for cracking of the fastener bores between the sub-frame and frame 30, and repair any crack before further flight in accordance with paragraph 2.B. of the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, March 28, 2006. If the damage exceeds limits specified in the SRM, before further flight, contact BAE Systems and repair. Repeat the inspection thereafter at intervals not to exceed 4,000 flight cycles for the forward six bolt bores, and 11,900 flight cycles for the remaining fastener bores between the sub-frame and frame 30. Replacing the longeron terminates the repetitive inspection requirements of paragraphs (f)(4) and (f)(5) of this AD; new inspections must be done in accordance with this paragraph.

Note 4: The threshold for an aircraft is reset if a replacement longeron is fitted.

FAA AD Differences

Note 5: This AD differs from the MCAI and/ or service information as follows: The

MCAI specifies doing repetitive inspections until the airplane enters the life extension program (LEP). This program is not defined by the FAA. Operators of airplanes that enter the LEP may request an alternative method of compliance (AMOC) for the repetitive inspections in accordance with the procedures specified in paragraph (g) of this AD.

Other FAA AD Provisions

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

(1) *AMOCs:* The Manager, ANM–116, Transport Airplane Directorate, International Branch, 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: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. 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 European Aviation Safety Agency (EASA) Airworthiness Directive 2006–0215, dated July 14, 2006, and BAe Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006, for related information.

Material Incorporated by Reference

(i) You must use BAe Systems (Operations) Limited Inspection Service Bulletin ISB.53–173, Revision 2, dated March 28, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

Issued in Renton, Washington, on February 28, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4673 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0228; Directorate Identifier 2007–NM–107–AD; Amendment 39–15421; AD 2008–06–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 737–200 series airplanes. This AD requires repetitive inspections to detect cracking of the support fittings of the Krueger flap actuators, and corrective actions if necessary. This AD also requires eventual replacement of any existing aluminum support fitting on each wing with a steel fitting, and modification of the aft attachment of the actuator. Doing these actions terminates the repetitive inspection requirements. This AD results from reports of cracking due to fatigue and stress corrosion of the support fittings of the Krueger flap actuator. We are issuing this AD to prevent cracking of the support fittings, which could result in fracturing of the actuator attach lugs, separation of the actuator from the support fitting, severing of the hydraulic lines, resultant loss of hydraulic fluids, and consequent reduced controllability of the airplane.

DATES: This AD is effective April 16, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 16, 2008.

ADDRESSES: 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 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: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6440; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 737–200 series airplanes. That NPRM was published in the **Federal Register** on November 26, 2007 (72 FR 65909). That NPRM proposed to require repetitive inspections to detect cracking of the support fittings of the Krueger flap actuators, and corrective actions if necessary. The NPRM also proposed to require eventual replacement of any existing aluminum support fitting on each wing with a steel fitting, and modification of the aft attachment of the actuator. Doing these actions terminates the repetitive inspection requirements.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the one comment received. Boeing supports the NPRM.

Conclusion

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

Costs of Compliance

There are about 13 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection	5	$80	$0	$400, per inspection cycle.	3	$1,200, per inspection cycle.
Replacement	88	80	29,642	$36,682	3	$110,046.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–06–09 Boeing: Amendment 39–15421. Docket No. FAA–2007–0228; Directorate Identifier 2007–NM–107–AD.

Effective Date

(a) This airworthiness directive (AD) is effective April 16, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–200 series airplanes, line numbers 814 through 826 inclusive, certificated in any category.

Unsafe Condition

(d) This AD results from reports of cracking due to fatigue and stress corrosion of the support fittings of the Krueger flap actuator. We are issuing this AD to prevent cracking of the support fittings, which could result in fracturing of the actuator attach lugs, separation of the actuator from the support fitting, severing of the hydraulic lines, resultant loss of hydraulic fluids, and consequent reduced controllability of the airplane.

Compliance

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

Repetitive Inspections

(f) Within 12 months after the effective date of this AD, do a high frequency eddy current (HFEC) inspection to detect cracking of the support fittings of the Krueger flap actuator on each wing, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–57–1129, Revision 3, dated March 19, 2007.

(1) If no cracking is detected, repeat the inspection thereafter at intervals not to exceed 3,000 flight hours until the terminating action required by paragraph (g) of this AD is accomplished.

(2) If any cracking is detected, before further flight, do the replacement and modification specified in paragraph (g) of this AD.

Terminating Action

(g) Within 60 months after the effective date of this AD: Replace any existing Krueger flap actuator aluminum support fitting on each wing with a steel fitting, and modify the actuator aft attachment, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–57–1129, Revision 3, dated March 19, 2007. Doing this replacement and modification terminates the repetitive inspection requirements of paragraph (f) of this AD.

Parts Replacement

(h) As of the effective date of this AD, no person may install on any airplane any aluminum support fitting (actuator support assembly) identified in the ''Existing Part Number'' column of paragraph 2.C. of Boeing Special Attention Service Bulletin 737–57–1129, Revision 3, dated March 19, 2007.

Actions Accomplished in Accordance With Previous Revisions of Service Bulletin

(i) Actions done before the effective date of this AD in accordance with the service bulletins listed in Table 1 of this AD, are acceptable for compliance with the corresponding requirements of this AD.

TABLE 1.—PREVIOUS REVISIONS OF SERVICE BULLETINS

Boeing service bulletin	Revision level	Date
737–57–1129.	1	Oct. 30, 1981.
737–57–1129.	2	May 28, 1998.

Alternative Methods of Compliance (AMOCs)

(j)(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.

Material Incorporated by Reference

(k) You must use Boeing Special Attention Service Bulletin 737–57–1129, Revision 3, dated March 19, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

Issued in Renton, Washington, on February 28, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4674 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22623; Directorate Identifier 2004–NM–80–AD; Amendment 39–15418; AD 2008–06–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Boeing Model 767 airplanes. This AD requires the following actions for the drive mechanism of the horizontal stabilizer: Repetitive detailed inspections for discrepancies and loose ball bearings; repetitive lubrication of the ballnut and ballscrew; repetitive measurements of the freeplay between the ballnut and the ballscrew; and corrective action if necessary. This AD also requires initial and repetitive inspections of the ballscrew-to-ballnut freeplay for certain airplanes. This AD results from a report of extensive corrosion of a ballscrew in the drive mechanism of the horizontal stabilizer on a similar airplane model. We are issuing this AD to prevent an undetected failure of the primary load path for the ballscrew in the drive mechanism of the horizontal stabilizer and subsequent wear and failure of the secondary load path, which could lead to loss of control of the horizontal stabilizer and consequent loss of control of the airplane.

DATES: This AD becomes effective April 16, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 16, 2008.

ADDRESSES: 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 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: Kelly McGuckin, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Airplane Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6490; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all Boeing Model 767 airplanes. That supplemental NPRM was published in the **Federal Register** on August 21, 2007 (72 FR 46576). That supplemental NPRM proposed to require the following actions for the drive mechanism of the horizontal stabilizer: Repetitive detailed inspections for discrepancies and loose ball bearings; repetitive lubrication of the ballnut and ballscrew; repetitive measurements of the freeplay between the ballnut and the ballscrew; and corrective action if necessary. That supplemental NPRM also proposed to require initial and repetitive inspections of the ballscrew-to-ballnut freeplay for certain airplanes.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Supportive Comment

Boeing concurs with the content of the supplemental NPRM.

Request To Allow the Use of New Tool Kits

Japan Airlines (JAL) asks that we allow use of new tool kits A55001–42 (the horizontal stabilizer lock equipment) and A55001–34, as specified in the tool change bulletin (Boeing Message Number 1–203914627–1). JAL notes that Boeing plans to revise Boeing Service Bulletin 767–27A0194 to permit the usage of both A55001–34 and A55001–42 tool kits.

We acknowledge JAL's concern and we have verified with Boeing that tool kit A55001–42 is acceptable to use when accomplishing the actions required by the AD. Tool kit A55001–34 is identified in Boeing Service Bulletins 767–27A0194 and 767–27A0195, both Revision 2, both dated July 13, 2006. Those service bulletins are referred to in the supplemental NPRM as the appropriate sources of service information for accomplishing the specified actions. Therefore, the tool kits identified by JAL can be used when accomplishing the actions required by the AD. No change to the AD is necessary in this regard.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD as proposed in the supplemental NPRM.

Costs of Compliance

There are about 941 airplanes of the affected design in the worldwide fleet. This AD affects about 411 airplanes of U.S. registry. The following table provides the estimated costs for U.S.

operators to comply with this AD, per cycle.

ESTIMATED COSTS

Repetitive actions	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Detailed inspection	1	$80	$80	411	$32,880
Lubrication	1	80	80	411	32,880
Freeplay measurement	3	80	240	411	98,640

The ballscrew-to-ballnut freeplay inspection will take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of this inspection on U.S. operators is $32,880, or $80 per airplane, per inspection cycle.

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 this AD:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. 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 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–06–06 Boeing: Amendment 39–15418. Docket No. FAA–2005–22623; Directorate Identifier 2004–NM–80–AD.

Effective Date

(a) This AD becomes effective April 16, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by a report of extensive corrosion of a ballscrew in the horizontal stabilizer of a similar airplane model. We are issuing this AD to prevent an undetected failure of the primary load path for the ballscrew in the drive mechanism of the horizontal stabilizer and subsequent wear and failure of the secondary load path, which could lead to loss of control of the horizontal stabilizer and consequent loss of control of the airplane.

Compliance

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

Repetitive Detailed Inspections/Lubrications/Freeplay Measurement/Corrective Action

(f) Do all the applicable actions, including any applicable corrective action, specified in Work Packages 1, 2, and 3 of the Accomplishment Instructions of Boeing Service Bulletin 767–27A0194 (for Model 767–200, –300, and –300F series airplanes) or Boeing Service Bulletin 767–27A0195 (for Model 767–400ER series airplanes), both Revision 1, both dated July 21, 2005; or both Revision 2, both dated July 13, 2006; as applicable. Do the actions at the applicable compliance time specified in Table 1 of paragraph 1.E. ''Compliance'' of the service bulletins; except, where the service bulletins specify a compliance time relative to the original issue date of the service bulletin, this AD requires compliance relative to the effective date of this AD. Where the service bulletins specify a compliance time relative to the delivery date of the airplane, this AD requires compliance relative to the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness. Do all applicable corrective actions before further flight. Repeat the actions at the applicable repeat interval specified in Table 1 of paragraph 1.E ''Compliance'' of the applicable service bulletin. As of the effective date of this AD only Revision 2 of the service bulletins may be used.

Repetitive Ballscrew-to-Ballnut Freeplay Inspections

(g) For airplanes on which the A55001–22 lock equipment was used to do the ballscrew-to-ballnut freeplay inspection, and the maintenance records do not show that the tool was correctly adjusted in accordance with Appendix A, Step 1.E.3, of Boeing Service Bulletin 767–27A0194 or 767–27A0195, both Revision 1, both dated July 21, 2005: Do the ballscrew-to-ballnut freeplay inspection specified in Work Package 3 of the Accomplishment Instructions of the applicable service bulletin, including any applicable corrective action, at the time specified in Table 1 of paragraph 1.E. ''Compliance'' of Boeing Service Bulletin 767–27A0194 or 767–27A0195, both Revision 2, both dated July 13, 2006, as applicable. Do all applicable corrective actions before further flight. Repeat the

inspection thereafter at the intervals specified in Table 1 of paragraph 1.E ''Compliance'' of the applicable service bulletin.

Previously Accomplished Actions

(h) For airplanes on which the drive mechanism of the horizontal stabilizer was replaced before the effective date of this AD with a drive mechanism that was not new or overhauled, and the detailed and freeplay inspections were not accomplished in accordance with Boeing Alert Service Bulletin 767–27A0194 or 767–27A0195, both dated August 21, 2003: Within 3,500 flight hours or 24 months after the effective date of this AD, whichever is first, accomplish the inspections and perform all applicable corrective actions before further flight in accordance with Work Package 3 of the Accomplishment Instructions of Boeing Service Bulletin 767–27A0194 or Boeing Service Bulletin 767–27A0195, both Revision 1, both dated July 21, 2005; or both Revision 2, both dated July 13, 2006; as applicable. As of the effective date of this AD only Revision 2 of the service bulletins may be used.

(i) For Model 767 airplanes that have line numbers 002 through 175 inclusive: Accomplishing the initial inspection, applicable corrective action, and lubrication before the effective date of this AD in accordance with Boeing Alert Service Bulletin 767–27A0185, dated July 10, 2003; is considered acceptable for compliance with the applicable actions required by paragraph (f) of this AD.

Note 1: Boeing Service Bulletins 767–27A0194 and 767–27A0195, both Revision 2, both dated July 13, 2006, refer to the applicable Boeing 767 Airplane Maintenance Manuals as additional sources of service information for accomplishing the detailed inspections, lubrications, freeplay measurements, and corrective action.

Parts Installation

(j) As of the effective date of this AD, no person may install on any airplane a horizontal stabilizer trim actuator unless it is new or has been overhauled as specified in Boeing Service Bulletins 767–27A0194 and 767–27A0195, both Revision 2, both dated July 13, 2006; or has been inspected, lubricated, and measured in accordance with paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(k)(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.

Material Incorporated by Reference

(l) You must use Boeing Service Bulletin 767–27A0194, Revision 2, dated July 13, 2006; or Boeing Service Bulletin 767–27A0195, Revision 2, dated July 13, 2006; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. 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 98057–3356; 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 28, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4677 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0283; Directorate Identifier 2008–CE–013–AD; Amendment 39–15427; AD 2008–06–15]

RIN 2120–AA64

Airworthiness Directives; Lindstrand Balloons Ltd. Models 42A, 56A, 77A, 105A, 150A, 210A, 260A, 60A, 69A, 90A, 120A, 180A, 240A, and 310A Balloons

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

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

Defective burner hoses have been identified which might develop a leak. A significant leak, if it was ignited, could hazard the balloon and occupants.

Since the issue of AD G–2003–0010 there have been occurrences of hose failure in batches not identified in the earlier bulletins. LHAB Service Bulletin (SB) No 11 supersedes the earlier SBs and revises the applicability as required. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective April 1, 2008.

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

We must receive comments on this AD by April 11, 2008.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Taylor Martin, Aerospace Engineer, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

The United Kingdom Civil Aviation Authority, which is the aviation authority for the United Kingdom, has issued Emergency Airworthiness Directive AD No: G–2008–0001, dated January 9, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Defective burner hoses have been identified which might develop a leak. A significant leak, if it was ignited, could hazard the balloon and occupants.

Since the issue of AD G–2003–0010 there have been occurrences of hose failure in batches not identified in the earlier bulletins.

LHAB Service Bulletin (SB) No 11 supersedes the earlier SBs and revises the applicability as required.

The MCAI requires you inspect the hose and to identify whether the hose is from the affected batch of hoses and to inspect and replace any defective hose and end fitting from the affected batch.

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

Relevant Service Information

Lindstrand Balloons Ltd. has issued Lindstrand Hot Air Balloons Ltd. Service Bulletin No. 11, Issue 1, dated September 24, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the AD

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

This AD is considered an interim action because we are not including a mandatory terminating requirement to replace the hose in this AD; it is only required if the hose has been found to be defective. The Administrative Procedure Act does not permit the FAA to ''bootstrap'' a long-term requirement into an urgent safety of flight action where the rule becomes effective at the same time the public has the opportunity to comment. The short-term action and the long-term action are analyzed separately for justification to bypass prior public notice.

After issuing this AD, we may initiate further AD action (notice of proposed rulemaking followed by a final rule) to require such a terminating action.

Differences Between This AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because defective burner hoses have been identified which might develop a leak, which could ignite and endanger the balloon and occupants. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0283; Directorate Identifier 2008–CE–013–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–06–15 Lindstrand Balloons Ltd.: Amendment 39–15427; Docket No. FAA–2008–0283; Directorate Identifier 2008–CE–013–AD.

Effective Date

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

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models 42A, 56A, 60A, 69A, 77A, 90A, 105A, 120A, 150A, 180A, 210A, 240A, 260A, and 310A balloons that are:

(i) Certificated in any category; and

(ii) Equipped with burners with serial numbers BU502 through BU792, except BU507, BU511, BU512, BU614, BU643, BU655, BU656, BU719, BU723, BU746, BU749, BU752, BU754, BU762, BU779, BU781, BU785, BU787, and BU789.

Subject

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

Reason

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

Defective burner hoses have been identified which might develop a leak. A significant leak, if it was ignited, could hazard the balloon and occupants.

Since the issue of AD G–2003–0010 there have been occurrences of hose failure in batches not identified in the earlier bulletins. LHAB Service Bulletin (SB) No. 11 supersedes the earlier SBs and revises the applicability as required.

The MCAI requires you inspect the hose and to identify whether the hose is from the affected batch of hoses and to inspect and replace any defective hose and end fitting from the affected batch.

Actions and Compliance

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

(1) Before further flight as of April 1, 2008 (the effective date of this AD) inspect the balloon burner to determine whether it has a hose from the affected batch of hoses following Lindstrand Hot Air Balloons Ltd. Service Bulletin No. 11, Issue 1, dated September 24, 2007.

(2) As a result of the inspection required by (f)(1) of this AD, if you find a hose from the affected batch, before further flight inspect for leaks and conduct a pressure test following Lindstrand Hot Air Balloons Ltd. Service Bulletin No. 11, Issue 1, dated September 24, 2007, and repetitively thereafter inspect and conduct a pressure test at intervals not to exceed 10 hours time-in-service.

(3) As a result of any inspection or test required by (f)(2) of this AD, if you find a defective hose, replace it and the end fitting with a new hose and new end fitting before further flight. This action terminates the repetitive requirement in (f)(2) of this AD.

Note 1: You may replace the hose and end fitting at any time to terminate the repetitive inspection and testing requirements of this AD.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows:

(1) The MCAI and the service information specify repetitive inspections if no leaks are detected during the initial required inspection, until the next annual inspection, at which time replacing the hose and end fitting is required.

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

(3) After issuing this AD, we may initiate further AD action (notice of proposed rulemaking followed by a final rule) to require a terminating action to the repetitive inspection and test.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Special Flight Permit

(h) We are not allowing any special flight permits.

Related Information

(i) Refer to MCAI United Kingdom Civil Aviation Authority Emergency Airworthiness Directive AD No: G–2008–0001, dated January 9, 2008, and Lindstrand Hot Air Balloons Ltd. Service Bulletin No. 11, Issue 1, dated September 24, 2007, for related information.

Material Incorporated by Reference

(j) You must use Lindstrand Hot Air Balloons Ltd. Service Bulletin No. 11, Issue 1, dated September 24, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Lindstrand Balloons Ltd., Maesbury Road, OSWESTRY, Shropshire SY10 8ZZ, England; telephone: +44 1691–671717; facsimile: +44 1691–671122.

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

Issued in Kansas City, Missouri on March 4, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4759 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0035; Directorate Identifier 2007–CE–103–AD; Amendment 39–15424; AD 2008–06–12]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Regional Aircraft Model HP.137 Jetstream Mk.1, Jetstream Series 200, Jetstream Series 3101, and Jetstream Model 3201 Airplanes

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

ACTION: Final rule.

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

Two incidents have been reported where the normal hydraulic supplies were lost due to failure/loss of the steering jack gland housing. This has been attributed to pre-existing thread damage on the steering jack gland housing. Three previous failures may also be due to this failure mechanism.

Failure of the steering jack gland housing resulted in significant damage to the right hand undercarriage bay door, and could result in the nose landing gear jamming in a fully or partially retracted position. Landing in such a condition is considered as potentially unsafe due to the degraded control of the aircraft post touch down.

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

DATES: This AD becomes effective April 16, 2008.

On April 16, 2008, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

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

FOR FURTHER INFORMATION CONTACT: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4138; *fax:* (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on January 18, 2008 (73 FR 3428). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Two incidents have been reported where the normal hydraulic supplies were lost due to failure/loss of the steering jack gland housing. This has been attributed to pre-existing thread damage on the steering jack gland housing. Three previous failures may also be due to this failure mechanism.
>
> Failure of the steering jack gland housing resulted in significant damage to the right hand undercarriage bay door, and could result in the nose landing gear jamming in a fully or partially retracted position. Landing in such a condition is considered as potentially unsafe due to the degraded control of the aircraft post touch down.
>
> Changes to the gland have been introduced in order to prevent further recurrence.

This AD requires you to install a serviceable steering jack.

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

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this AD affects about 149 products of U.S. registry. We also estimate that it will take about 10 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $100 per product.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $134,100, or $900 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–06–12 British Aerospace Regional Aircraft: Amendment 39–15424; Docket No. FAA–2008–0035; Directorate Identifier 2007–CE–103–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 16, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model HP.137 Jetstream Mk.1, Jetstream Series 200,

Jetstream Series 3101, and Jetstream Model 3201 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 32: Landing Gear.

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

Two incidents have been reported where the normal hydraulic supplies were lost due to failure/loss of the steering jack gland housing. This has been attributed to pre-existing thread damage on the steering jack gland housing. Three previous failures may also be due to this failure mechanism.

Failure of the steering jack gland housing resulted in significant damage to the right hand undercarriage bay door, and could result in the nose landing gear jamming in a fully or partially retracted position. Landing in such a condition is considered as potentially unsafe due to the degraded control of the aircraft post touch down.

Changes to the gland have been introduced in order to prevent further recurrence.

This AD requires you to install a serviceable steering jack.

Actions and Compliance

(f) Unless already done, within the next 12 months after April 16, 2008 (the effective date of this AD), install a serviceable steering jack that has been modified following APPH Ltd. Service Bulletin 32–78, dated February 2005, as specified in British Aerospace Jetstream Series 3100 and 3200 Service Bulletin 32–JM5417, Original Issue: March 22, 2005.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to Attn: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2006–0128, dated May 18, 2006, and British Aerospace Jetstream Series 3100 and 3200 Service Bulletin 32–JM5417, Original Issue: March 22, 2005, for related information.

Material Incorporated by Reference

(i) You must use British Aerospace Jetstream Series 3100 and 3200 Service Bulletin 32–JM5417, Original Issue: March 22, 2005, and APPH Ltd. Service Bulletin 32–78, dated February 2005, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact British Aerospace, BAE Systems, Prestwick International Airport, Ayrshire KA9 2RW, Scotland, telephone: (01292) 675207; fax: (01292) 675704.

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

Issued in Kansas City, Missouri, on March 4, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4647 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0263; Directorate Identifier 2008–NM–044–AD; Amendment 39–15423; AD 2008–06–11]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B (Including Variant 340B (WT)) Series Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) 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:

Subsequent to an incident on January 2, 2006, when a Saab 340B airplane encountered icing conditions during en route climb and departed controlled flight, the NTSB (National Transportation Safety Board) has issued a number of safety recommendations.

* * * * *

The unsafe condition is possible stalling while operating in icing conditions, which could result in loss of control of the airplane. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective March 27, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of March 27, 2008.

We must receive comments on this AD by April 11, 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 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: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Airworthiness Directive 2008–0022, dated January 29, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Subsequent to an incident on January 2, 2006, when a Saab 340B airplane encountered icing conditions during en route climb and departed controlled flight, the NTSB (National Transportation Safety Board) has issued a number of safety recommendations.
>
> Different safety actions have been discussed and agreed upon [among] Saab, FAA and EASA (European Aviation Safety Agency) since then to meet the NTSB safety recommendations.
>
> For the reasons described above, this Airworthiness Directive (AD) requires the amendment of the applicable Saab SF340A or 340B Airplane Flight Manual (AFM) to incorporate the changes to the Limitations section and the Performance section as specified in the AFM revisions listed in the * * * AD.

The unsafe condition is possible stalling while operating in icing conditions, which could result in loss of control of the airplane. You may obtain further information by examining the MCAI in the AD docket.

On April 19, 1996, we issued AD 96–01–04 R1, amendment 39–9582 (61 FR 18242, April 25, 1996). That AD is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. Paragraph (a)(3) of AD 96–01–04 R1 requires revising the Limitations Section of the airplane flight manual (AFM) by inserting certain icing procedures into that section. Accomplishing the actions required by this new AD terminates the actions required by paragraph (a)(3) of AD 96–01–04 R1.

On November 10, 1999, we issued AD 99–19–14, amendment 39–11303 (64 FR 63622, November 22, 1999). That AD is applicable to certain Saab Model SAAB SF340A, SAAB 340B, and SAAB 2000 series airplanes. Paragraph (a) of AD 99–19–14 requires revising the Limitations Section of the AFM to include certain requirements for activation of the icing protection systems. Accomplishing the actions required by this new AD terminates the actions required by paragraph (a) of AD 99–19–14 for Model SAAB SF340A and SAAB 340B series airplanes.

Relevant Service Information

SAAB has issued the following revisions to the SAAB SF340A and 340B AFMs:

AFM	Document No.	Revision level	Date
SAAB SF340A	AFM 340 A 001	51	November 30, 2007.
SAAB 340B	72LKS5968	21	November 30, 2007.
SAAB 340B	AFM 340 B 001	29	November 30, 2007.

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

FAA's Determination and Requirements of This 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 issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule to prevent possible stalling while operating in icing conditions, which could result in loss of control of the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0263; Directorate Identifier 2008–NM–044–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–06–11 Saab AB, Saab Aerosystems (Formerly Saab Aircraft AB): Amendment 39–15423. Docket No. FAA–2008–0263; Directorate Identifier 2008–NM–044–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 27, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Saab Model SAAB SF340A and SAAB 340B (including Variant 340B (WT)) series airplanes, certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 30: Ice and rain protection.

Reason

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

Subsequent to an incident on January 2, 2006, when a Saab 340B airplane encountered icing conditions during en route climb and departed controlled flight, the NTSB (National Transportation Safety Board) has issued a number of safety recommendations.

Different safety actions have been discussed and agreed upon [among] Saab, FAA and EASA (European Aviation Safety Agency) since then to meet the NTSB safety recommendations.

For the reasons described above, this Airworthiness Directive (AD) requires the amendment of the applicable Saab SF340A or 340B Airplane Flight Manual (AFM) to incorporate the changes to the Limitations section and the Performance section as specified in the AFM revisions listed in the * * * AD.

The unsafe condition is possible stalling while operating in icing conditions, which could result in loss of control of the airplane.

Actions and Compliance

(f) Within 30 days after the effective date of this AD, unless already done, revise the Limitations and Performance sections in the applicable AFM specified in Table 1 of this AD by incorporating the information in the applicable revision specified in Table 1.

TABLE 1.—APPLICABLE AFMS

AFM	Document No.	Revision level	Date
SAAB SF340A	AFM 340 A 001	51	November 30, 2007.
SAAB 340B	72LKS5968	21	November 30, 2007.
SAAB 340B	AFM 340 B 001	29	November 30, 2007.

Note 1: The action required by paragraph (f) of this AD may be done by inserting into the appropriate AFM sections a copy of the applicable revision listed in Table 1 of this AD. When this revision has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, provided the relevant information in the general revision is identical to that in the revision listed in Table 1 of this AD.

Note 2: The AFM areas affected by this AD are:

(1) Definition of icing conditions;

(2) Operation in icing conditions;

(3) Minimum airspeeds in icing conditions;

(4) Auto pilot mode in icing conditions; and

(5) Landing field length charts, including effect of V_{REF} speed increment.

Terminating Actions

(g) For Model SAAB SF340A and SAAB 340B airplanes: Accomplishing the actions required by paragraph (f) of this AD terminates the actions required by paragraph (a)(3) of AD 96–01–04 R1 and paragraph (a) of AD 99–19–14.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, 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: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; 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

(i) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2008–0022, dated January 29, 2008, and the applicable AFM revision specified in Table 1 of this AD, for related information.

Material Incorporated by Reference

(j) You must use the service information specified in Table 2 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Document	Page Nos.	Revision level	Date
SAAB SF340A Airplane Flight Manual, AFM 340 A 001.	List of Effective Pages: Pages 1–4 through 1–6	51	November 30, 2007.
SAAB 340B Airplane Flight Manual, 72LKS5968	List of Effective Pages: Pages 1–4 through 1–7	21	November 30, 2007.
SAAB 340B Airplane Flight Manual, AFM 340 B 001	List of Effective Pages: Pages 1–4 through 1–6	29	November 30, 2007.

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

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

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

Issued in Renton, Washington, on March 3, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4660 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29257; Directorate Identifier 2007–NM–144–AD; Amendment 39–15422; AD 2008–06–10]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This AD requires repetitive detailed inspections for cracking of the left side and right side frame and reinforcement angles at fuselage station (FS) 640 between stringer 9 and stringer 12, and corrective actions if necessary. This AD also provides an optional terminating action for the repetitive inspections. This AD results from reports that cracks have been discovered on the frame and reinforcement angles at FS 640. We are issuing this AD to detect and correct cracking of the frame, which could lead to failure of the fuselage structure and possible loss of the airplane.

DATES: This AD is effective April 16, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 16, 2008.

ADDRESSES: For service information identified in this AD, contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centreville, Montreal, Quebec H3C 3G9, Canada.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Pong K. Lee, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7324; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. That NPRM was published in the **Federal Register** on September 20, 2007 (72 FR 53704). That NPRM proposed to require repetitive detailed inspections for cracking of the left side and right side frame and reinforcement angles at fuselage station (FS) 640 between stringer 9 and stringer 12, and corrective actions if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received.

Request To Address Possible Terminating Modification

Air Wisconsin requests that we consider including a possible terminating modification in the NPRM. Air Wisconsin states that the NPRM does not recognize other options that can be taken to modify FS640. Air Wisconsin continues that, in fact, a certain option is significantly better, providing a higher level of safety than the modification in Part C of Bombardier Service Bulletin 601R–53–061, Revision E, dated December 7, 2006, including Appendix B, Revision C, dated June 25, 2003 (cited as the appropriate source of service information for doing the proposed actions described in the NPRM), which is an interim modification requiring further inspections. Air Wisconsin continues that Transport Canada Civil Aviation (TCCA) issued an alternate means of compliance (AMOC) indicating that the inspections of Service Bulletin 601R–53–061 can be terminated by doing applicable actions described in Bombardier Alert Service Bulletin A601R–53–059, Revision E, dated March 21, 2005 (or later); or Bombardier Service Bulletin 601R–53–065, Revision A, dated August 24, 2005 (or later). Air Wisconsin states it has already modified 23 airplanes using Service Bulletin A601R–53–059, Revision E; or Bombardier Alert Service Bulletin A601R–53–059, Revision F, dated April 21, 2006; and intends to modify all its other affected airplanes within the next one to two years. Air Wisconsin asserts that any AD issued against Service Bulletin 601R–53–061 should specify that doing the applicable actions described in Service Bulletin A601R–53–059, Revision E or F; or Service Bulletin 601R–53–065, Revision A; is acceptable for terminating the repetitive inspections of Service Bulletin 601R–53–061.

We agree with this request. In the NPRM, we stated that we considered the proposed AD to be interim action, and that we might consider further rulemaking if final action was later identified. We have determined that Air Wisconsin's request addresses appropriate final action, as described in the following service information. We have reviewed Bombardier Alert Service Bulletin A601R–53–059, Revision E, dated March 21, 2005, and Revision F, dated April 21, 2006; and Bombardier Service Bulletin 601R–53–065, Revision A, dated August 24, 2005, and Revision B, dated November 2, 2007. The service bulletins describe procedures for reinforcing the engine support beams that are acceptable for terminating the repetitive inspections described by Service Bulletin 601R–53–061, Revision E. We have determined that any reinforcement of the engine support beam done in accordance with Part A, B, or C, as applicable, of Alert Service Bulletin A601R 53–059, Revision E or F; or in accordance with Service Bulletin 601R–53–065, Revision A or B; is acceptable as optional terminating action for the repetitive inspections required by this AD. Therefore, we have added this service information to the AD; deleted existing paragraph (f) of the NPRM; revised subsequent paragraphs (g), (h), and (i) of this AD, and re-identified them as paragraphs (f), (g), and (h); relocated and reidentified paragraph (j) of the NPRM as new paragraph (h)(2)(ii) of this AD; added new paragraph (i) of this AD to describe the optional terminating action; and reidentified subsequent paragraphs (k), (l), and (m) of the NPRM, as paragraphs (j), (k), and (l) of this AD.

Request for Clarification of Special Flight Permits

Comair requests that we clarify paragraph (i) of the NPRM (paragraph (h) of this AD) regarding relocation of airplanes to service facilities after the discovery of cracking. Comair is concerned that the requirement to repair the crack before further flight forbids moving the airplane to a repair facility to accomplish the repair. Comair cites earlier ADs that included a provision for obtaining special flight permits to move airplanes to repair facilities in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199). Comair requests that such a statement be inserted into the NPRM.

We do not agree with this request. On July 10, 2002, we issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs our ADs. Part 39 now includes material that relates to altered products, special flight permits, and AMOCs. Because this material now appears in part 39, an AD refers to special flight permits only when relocation flights are limited or not permitted. In that case, in accordance with 14 CFR 21.197 and 21.199 as described by the commenter, operators may apply for a special flight permit to move affected airplanes. However, special flights are neither limited nor prohibited by this AD; therefore, ''before further flight'' in this AD applies to any flight other than the flight taken to relocate the airplane to the repair facility. We have not changed the AD in this regard.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

This AD affects about 739 airplanes of U.S. registry. The required inspection takes about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $118,240, or $160 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–06–10 Bombardier, Inc. (Formerly Canadair): Amendment 39–15422. Docket No. FAA–2007–29257; Directorate Identifier 2007–NM–144–AD.

Effective Date

(a) This airworthiness directive (AD) is effective April 16, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category; as identified in Bombardier Service Bulletin 601R–53–061, Revision E, dated December 7, 2006.

Unsafe Condition

(d) This AD results from reports that cracks have been discovered on the frame and reinforcement angles at fuselage station (FS) 640. Failure of this frame could degrade the structural integrity of the airplane. We are issuing this AD to detect and correct cracking of the frame, which could lead to failure of the fuselage structure and possible loss of the airplane.

Compliance

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

Detailed Inspection

(f) Before the accumulation of 8,600 total flight cycles, or within 1,100 flight cycles after the effective date of this AD, whichever occurs later: Perform a detailed inspection to detect cracking of the left side and right side frames and reinforcement angles at FS640 between stringer 9 and stringer 12, in accordance with Part A of the Accomplishment Instructions of Bombardier Service Bulletin 601R–53–061, Revision E, dated December 7, 2006.

Note 1: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

Repetitive Inspection and Corrective Action

(g) If no crack is found during the inspection required by paragraph (f) of this AD: Repeat the detailed inspection thereafter at intervals not to exceed 1,100 flight cycles, until the frame modification described in paragraph (h)(2) of this AD or the optional terminating modification described in paragraph (i) of this AD has been done.

(h) If any crack is found during the inspection required by paragraph (g) of this AD: Before further flight, repair the crack in accordance with paragraph (h)(1), (h)(2), or (h)(3) of this AD, as applicable.

(1) For any crack found in the frame at the stringer 9 cut-out only, repair in accordance with Part A of the Accomplishment Instructions of Bombardier Service Bulletin 601R–53–061, Revision E, dated December 7, 2006.

(2) For any crack found in the frame reinforcement doubler only, do the actions described in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD.

(i) Do the frame modification (including related investigative and corrective actions) described in Part C of the Accomplishment Instructions of Bombardier Service Bulletin 601R–53–061, Revision E, dated December 7, 2006; except where the service bulletin specifies to contact the manufacturer for repair instructions, repair the crack using a method approved by either the Manager, New York Aircraft Certification Office (ACO), FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

(ii) Within 12,000 flight cycles after doing the modification required by paragraph (h)(2)(i) of this AD, do the detailed inspection required by paragraph (f) of this AD, then repeat the detailed inspection thereafter at intervals not to exceed 1,100 flight cycles.

(3) For any crack found in areas of the inspection zone described in paragraph (f) of this AD other than those areas described in paragraphs (h)(1) and (h)(2) of this AD: Repair the crack using a method approved by either the Manager, New York ACO, FAA; or TCCA (or its delegated agent).

Optional Terminating Action

(i) Reinforcement of any engine support beam in accordance with the Accomplishment Instructions of the service information described in paragraph (i)(1) or (i)(2) of this AD, as applicable, ends all repetitive inspections required by this AD for that support beam.

(1) For all airplanes: If the reinforcement is done before the effective date of this AD, Bombardier Alert Service Bulletin A601R–53–059, Revision E, dated March 21, 2005; or Revision F, dated April 21, 2006; may be used. After the effective date of this AD, only Bombardier Alert Service Bulletin A601R–53–059, Revision F, may be used.

(2) For airplanes identified in Bombardier Service Bulletin 601R–53–065, Revision B, dated November 2, 2007: If the reinforcement is done before the effective date of this AD, Bombardier Service Bulletin 601R–53–065, Revision A, dated August 24, 2005, or Revision B, may be used. After the effective date of this AD, only Bombardier Service Bulletin 601R–53–065, Revision B, may be used.

No Reporting Requirement

(j) Although Bombardier Service Bulletin 601R–53–061, Revision E, dated December 7, 2006, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, New York 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.

Related Information

(l) Canadian airworthiness directive CF–2003–12, dated May 7, 2003, also addresses the subject of this AD.

Material Incorporated by Reference

(m) You must use Bombardier Service Bulletin 601R–53–061, Revision E, dated December 7, 2006, including Appendix B, Revision C, dated June 25, 2003, to do the actions required by this AD, unless the AD specifies otherwise. If you accomplish the optional actions specified by this AD, you must use Bombardier Alert Service Bulletin A601R–53–059, Revision F, dated April 21, 2006, excluding Appendix A, dated June 14, 2001; or Bombardier Service Bulletin 601R–53–065, Revision B, dated November 2, 2007; as applicable; to perform those actions, unless the AD specifies otherwise. Bombardier Service Bulletin 601R–53–061, Revision E, dated December 7, 2006, includes the following effective pages:

Page Nos.	Revision level shown on page	Date shown on page
1–44	E	December 7, 2006.
Appendix B		
B1–B8	C	June 25, 2003.

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

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

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

Issued in Renton, Washington, on March 3, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4644 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–28529; Airspace Docket No. 07–ANM–12]

Modification of Class E Airspace; Tucson, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will modify Class E airspace at Tucson, AZ. Additional controlled airspace is necessary to encompass holding patterns and intermediate segments at Tucson International Airport. The FAA is proposing this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at Tucson International Airport, Tucson, AZ.

DATES: *Effective Date:* 0901 UTC, June 5, 2008. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA

Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, System Support Group, Western Service Area, 1601 Lind Avenue, SW., Renton, WA, 98057; telephone (425) 203–4517.

SUPPLEMENTARY INFORMATION:

History

On August 29, 2007 the FAA published in the **Federal Register** a notice of proposed rulemaking to modify Class E airspace at Tucson, AZ (72 FR 49677). This action would enhance the safety and management of Instrument Flight Rules (IFR) operations at Tucson International Airport, Tucson, AZ.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9R signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace at Tucson International Airport, Tucson, AZ. Additional controlled airspace is necessary to encompass hold-in-lieu patterns at the LIPTE Initial Fix/Instrument Approach Fix (IF/IAF) at Tucson International Airport, Tucson, AZ and encompass intermediate segments from the ILEEN Distance Measuring Equipment (DME) fix to COPEY DME fix. The FAA is proposing this action to enhance the safety and management of IFR operations at Tucson International Airport, Tucson, AZ.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies controlled airspace at Tucson International Airport, Tucson, AZ.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

Adoption of the Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6005. Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP AZ E5 Tucson, AZ 2 spaces [Modified]

Tucson International Airport, AZ
(Lat. 32°06′58″ N, long. 110°56′28″ W)
Ryan Field, AZ
(Lat. 32°08′32″ N, long. 111°10′28″ W)

That airspace extending upward from 700 feet above the surface within an 8.7-mile radius of Tucson International Airport and within that airspace bounded by a line beginning at lat. 32°11′01″ N, long. 111°05′33″ W; to lat. 32°21′28″ N, long. 111°16′33″ W; to lat. 32°35′55″ N, long. 110°57′47″ W; to lat. 32°01′35″ N, long. 110°21′18″ W; to lat.31°44′6″ N, long. 110°42′30″ W; to lat.31°58′20″ N, long. 110°57′51″ W; to intercept the 8.7-mile radius southwest of the Tucson International Airport; thence clockwise via the 8.7-mile radius to the point of beginning; and that airspace within a 4.3-mile radius of Ryan Field and within 3.5 mile each side of the Ryan Field localizer course extending from the 4.3-mile radius to 7 miles west of the outer marker. That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 32°33′00″ N, long. 111°45′02″ W; to lat.32°33′00″ N, long. 110°52′02″ W; thence north via long. 110°52′00″ W; to the south boundary of V–94, thence southeast via the south boundary of V–94; to long. 110°00′02″ W, thence south to lat. 31°39′00″ N; long 110°00′02″ W; to lat. 31°39′00″ N, long. 111°00′02″ W; to lat. 32°00′00″ N, long. 111°45′02″ W, to the point of origin.

* * * * *

Issued in Seattle, Washington, on February 28, 2008.

Kevin Nolan,

Acting Manager, System Support Group, Western Service Center.

[FR Doc. 08–996 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 111

[Docket No. FDA–2008–N–0152] (formerly Docket No. 1996N–0417)

RIN 0910–AB88

Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of June 25, 2007 (72 FR 34752). The final rule established current good manufacturing practice (CGMP) requirements in manufacturing, packaging, labeling, or holding operations for dietary supplements. The final rule was published with an inadvertent error in the codified section. This document corrects that error. This action is being taken to improve the accuracy of the agency's regulations.

DATES: This rule is effective March 12, 2008.

FOR FURTHER INFORMATION CONTACT: Vasilios H. Frankos, Center for Food

Safety and Applied Nutrition (HFS–810), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1696.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 25, 2007 (72 FR 34752), FDA established CGMP requirements in manufacturing, packaging, labeling, or holding operations for dietary supplements. The preamble of that final rule discusses the requirements of § 111.27(b) (21 CFR 111.27(b)) for a person subject to the rule to calibrate instruments and controls used in manufacturing or testing a component or dietary supplement both before and after first use (72 FR 34752 at 34824).

The provisions regarding calibration of such instruments and controls, both before and after first use, also appeared in both the preamble and codified sections of the proposed rule (proposed 21 CFR 111.25(b)) (68 FR 12157 at 12191 and 12255, March 13, 2003). Due to an inadvertent error, the codified section of the final rule omitted the word ''and'' between § 111.27(b)(1) and (b)(2) (72 FR 34752 at 34947). Consequently, it is less clear that calibration must be carried out both before and after first use, as intended. This document corrects that error, by inserting the word ''and'' at the end of § 111.27(b)(1) so that § 111.27(b)(1) and (b)(2) are read together as one requirement.

List of Subjects in 21 CFR Part 111

Dietary foods, Drugs, Foods, Packaging and containers.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs, 21 CFR part 111 is amended as follows:

PART 111—CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKAGING, LABELING, OR HOLDING OPERATIONS FOR DIETARY SUPPLEMENTS

■ 1. The authority citation for 21 CFR part 111 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 371, 374, 381, 393; 42 U.S.C. 264.

■ 2. Revise § 111.27(b)(1) to read as follows:

§ 111.27 What requirements apply to the equipment and utensils that you use?

* * * * *

(b)(1) Before first use; and

* * * * *

Dated: March 5, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–4870 Filed 3–11–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9386]

RIN 1545–BE80

Abandonment of Stock or Other Securities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations concerning the availability and character of a loss deduction under section 165 of the Internal Revenue Code (Code) for losses sustained from abandoned stock or other securities. The final regulations clarify the tax treatment of losses from abandoned securities, and affect any taxpayer claiming a deduction for a loss from abandoned securities after the date these regulations are published in the **Federal Register**.

DATES: *Effective Date:* These final regulations are effective on March 12, 2008.

Applicability Date: For dates of applicability, see § 1.165–5(i)(2).

FOR FURTHER INFORMATION CONTACT: Sean M. Dwyer at (202) 622–5020 or Peter C. Meisel at (202) 622–7750 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1. On July 30, 2007, the IRS published a notice of proposed rulemaking (REG–101001–05) in the **Federal Register** (72 FR 41468). The notice of proposed rulemaking clarified the treatment of abandoned stock or other securities under section 165 of the Code, specifically providing that a loss from an abandoned security is governed by section 165(g), and that the loss is only allowed if all rights in the security are permanently surrendered and relinquished for no consideration. The IRS received no comments in response to the notice of proposed rulemaking. No public hearing was requested or held.

The proposed regulations are adopted as final regulations by this Treasury decision.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking that preceded this final regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these final regulations are Sean M. Dwyer, Office of the Associate Chief Counsel (Income Tax & Accounting), and Peter C. Meisel, Office of the Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.165–5 is amended by:

■ 1. Redesignating paragraph (i) as paragraph (j).

■ 2. Adding a new paragraph (i).

The addition reads as follows:

§ 1.165–5 Worthless securities.

* * * * *

(i) *Abandonment of securities*—(1) *In general.* For purposes of section 165 and this section, a security that becomes wholly worthless includes a security described in paragraph (a) of this section that is abandoned and otherwise satisfies the requirements for a deductible loss under section 165. If the abandoned security is a capital asset and is not described in section 165(g)(3) and paragraph (d) of this section (concerning worthless securities of

certain affiliated corporations), the resulting loss is treated as a loss from the sale or exchange, on the last day of the taxable year, of a capital asset. See section 165(g)(1) and paragraph (c) of this section. To abandon a security, a taxpayer must permanently surrender and relinquish all rights in the security and receive no consideration in exchange for the security. For purposes of this section, all the facts and circumstances determine whether the transaction is properly characterized as an abandonment or other type of transaction, such as an actual sale or exchange, contribution to capital, dividend, or gift.

(2) *Effective/applicability date. This paragraph (i) applies to any abandonment of stock or other securities after March 12, 2008.*

* * * * *

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: March 3, 2008.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E8–4862 Filed 3–11–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG–2008–0076]

RIN 1625–AA01

Anchorage Regulations; Yarmouth, ME, Casco Bay

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard hereby establishes three special anchorage areas in Yarmouth, Maine, Casco Bay. This action is necessary to facilitate safe navigation in that area and provide safe and secure anchorages for vessels not more than 65 feet in length. This action is intended to increase the safety of life and property in Yarmouth, improve the safety of anchored vessels, and provide for the overall safe and efficient flow of vessel traffic and commerce.

DATES: This rule is effective April 11, 2008.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–07–009), and are available for inspection or copying at room 628, First Coast Guard District Boston, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Mauro, Commander (dpw), First Coast Guard District, 408 Atlantic Ave., Boston, MA 02110, Telephone (617) 223–8355, *e-mail: John.J.Mauro@uscg.mil*.

Regulatory Information

On May 24, 2007, we published a notice of proposed rulemaking (NPRM) entitled ''Anchorage Regulations; Yarmouth, Maine, Casco Bay'' in the **Federal Register** (72 FR 29095). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

This rule is intended to reduce the risk of vessel collisions by creating three special anchorage areas in Yarmouth, Maine: (1) Littlejohn Island/Doyle Point Cousins Island Special Anchorage, (2) Madeleine and Sandy Point Special Anchorage, and (3) Drinkwater Point and Princes Point Special Anchorage, creating anchorage for approximately 350 vessels.

The Coast Guard is designating the special anchorage areas in accordance with 33 U.S.C. 471. Under that statute, vessels will not be required to sound signals or exhibit anchor lights or shapes which are otherwise required by rule 30 and 35 of the Inland Navigation Rules, codified at 33 U.S.C. 2030 and 2035.

The Coast Guard has defined the anchorage areas contained herein with the advice and consent of the Army Corps of Engineers, Northeast, located at 696 Virginia Rd., Concord, MA 01742.

Discussion of Comments and Changes

The Coast Guard received no comments for the NPRM and no changes were made to this final rule.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

This finding is based on the fact that this rule conforms to the changing needs of the Town of Yarmouth, the changing needs of recreational, fishing, and commercial vessels, and makes the best use of the available navigable water. This rule is in the interest of safe navigation and protection of Yarmouth and the marine environment.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking.

If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact John J. Mauro, at the address listed in **ADDRESSES** above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have

determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary ''Environmental Analysis Check List'' supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. We seek any comments or information that may lead to discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 is revised to read as follows:

Authority: 33 U.S.C. 471; 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 110.5 by adding paragraph (f) to read as follows:

§ 110.5 Casco Bay, Maine.

* * * * *

(f) *Yarmouth Harbor and adjacent waters.* (1) Anchorage A. All of the waters enclosed by a line from a point located at the northernmost point of Littlejohn Island at latitude 43°45′86″ N., longitude 70°06′95″ W.; thence to latitude 43°45′78″ N., longitude 70°06′89″ W.; thence to latitude 43°45′43″ N., longitude 70°07′38″ W.; thence to latitude 43°45′28″ N., longitude 70°07′68″ W.; thence to latitude 43°44′95″ N., longitude 70°08′45″ W.; thence to latitude 43°44′99″ N., longitude 70°08′50″ W. DATUM: NAD 83.

(2) *Anchorage B.* All of the waters enclosed by a line from a point located Northeast of Birch Point on Cousins Island at latitude 43°45′27″ N., longitude 70°09′32″ W.; thence to latitude 43°45′35″ N., longitude 70°09′50″ W.; thence to latitude 43°45′63″ N., longitude 70°09′18″ W.; thence to latitude 43°45′95″ N., longitude 70°08′98″ W.; thence to latitude 43°45′99″ N., longitude 70°08′83″ W. DATUM: NAD 83.

(3) *Anchorage C.* All of the waters enclosed by a line from a point located South of Drinkwater Point in Yarmouth, Maine at latitude 43°46′42″ N., longitude 70°09′25″ W.; thence to latitude 43°46′35″ N., longitude 70°09′16″ W.; thence to latitude 43°46′07″ N., longitude 70°09′77″ W.; thence to latitude 43°45′48″ N., longitude 70°10′40″ W.; thence to latitude 43°45′65″ N., longitude 70°10′40″ W. DATUM: NAD 83.

Note to paragraph (f). An ordinance of the Town of Yarmouth, Maine requires the approval of the Yarmouth Harbor Master for the location and type of moorings placed in these special anchorage areas. All anchoring in the areas are under the supervision of the Yarmouth Harbor Master or other such authority as may be designated by the authorities of the Town of Yarmouth, Maine. All moorings are to be so placed that no moored vessel will extend beyond the limit of the anchorage area.

* * * * *

Dated: February 21, 2008.

Timothy S. Sullivan,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. E8–4821 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0148]

Drawbridge Operation Regulations; Connecticut River, Old Lyme, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Amtrak Railroad Bridge, across the Connecticut River, mile 3.4, at Old Lyme, Connecticut. Under this temporary deviation a two-hour advance notice will be required for bridge openings between 8 p.m. and 6 a.m. during the following time periods: February 29, 2008 to March 5, 2008; March 7, 2008 to March 10, 2008; and March 14, 2008 to March 17, 2008. Notice may be given by calling the bridge on marine radio channel VHF 13, or by telephone at (860) 510–5622. Vessels that can pass under the draw without an opening may do so at all times. This deviation is necessary immediately to facilitate required bridge maintenance in order to prevent further disruption in train service and navigation.

DATES: This deviation is effective from February 29, 2008 through March 17, 2008.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, One South Street, New York, New York 10004, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The Amtrak Railroad Bridge, across the Connecticut River, mile 3.4, at Old Lyme, Connecticut, has a vertical clearance in the closed position of 19 feet at mean high water and 22 feet at mean low water. The existing regulations are listed at 33 CFR 117.205.

The owner of the bridge, National Railroad Passenger Corporation (Amtrak), requested a temporary deviation to facilitate scheduled mechanical maintenance, miter rail replacement, at the bridge.

Under this temporary deviation a two-hour advance notice for bridge openings will be required between 8 p.m. and 6 a.m. during the following time periods: February 29, 2008 to March 5, 2008; March 7, 2008 to March 10, 2008, and March 14, 2008 to March 17, 2008. The advance notice may be given by calling the bridge on marine radio channel VHF 13, or by telephone at (860) 510–5622. Vessels that can pass under the draw without a bridge opening may do so at all times.

Should the bridge maintenance authorized by this temporary deviation be completed before the end of the effective period published in this notice, the Coast Guard will rescind the remainder of this temporary deviation, and the bridge shall be returned to its normal operating schedule. Notice of the above action shall be provided to the public in the Local Notice to Mariners and the **Federal Register**, where practicable.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 29, 2008.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E8–4926 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0115]

RIN 1625–AA09

Drawbridge Operation Regulations; Potomac River, Between Maryland and Virginia

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has approved an additional temporary deviation from the regulations governing the operation of the new Woodrow Wilson Memorial (I–95) Bridge, mile 103.8, across Potomac River between Alexandria, Virginia and Oxon Hill, Maryland. While construction continues, this added deviation allows the drawbridge to remain closed-to-navigation each day from 10 a.m. to 2 p.m. beginning March 2, 2008 until and including May 30, 2008.

DATES: This deviation is effective from 10 a.m. on March 2, 2008, until 2 p.m. on May 30, 2008.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6222. Commander (dpb), Fifth Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION: On January 25, 2008, we published a notice of temporary deviation from the regulations entitled ''Drawbridge Operation Regulations; Potomac River, Between Maryland and Virginia'' in the **Federal Register** (73 FR 4472).

The Maryland State Highway Administration and the Virginia Department of Transportation, co-owners of the drawbridge, requested an extension of the aforementioned temporary deviation with new dates in an effort to minimize the potential for major regional traffic impacts and consequences during bridge openings while construction continues.

Bridge owners requested that the new drawbridge not be available for openings for vessels each day between the hours of 10 a.m. to 2 p.m. from Sunday, March 2, 2008 through Friday, May 30, 2008. The temporary deviation will only affect vessels with mast heights of 75 feet or greater. Furthermore, all affected vessels with mast heights greater than 75 feet will be able to receive an opening of the new drawbridge in the ''off-peak'' vehicle traffic hours (evening and overnight) in accordance with 33 CFR 117.255(a).

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the closure period for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 25, 2008.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. E8–4932 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0149]

Drawbridge Operation Regulations; Niantic River, Niantic, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Amtrak Railroad Bridge, across the Niantic River, mile 0.0, at Niantic, Connecticut. Under this temporary deviation a two-hour advance notice will be required for bridge openings between 8 p.m. and 6 a.m. during the following time periods: March 21, 2008 to March 24, 2008 and March 28, 2008 to March 31, 2008. Notice may be given by calling the bridge on marine radio channel VHF 13, or by telephone at (860) 510–5628. Vessels that can pass under the draw without an opening may do so at all times. This deviation is necessary immediately to facilitate required bridge maintenance in order to prevent further disruption in train service and navigation.

DATES: This deviation is effective from March 21, 2008 through March 31, 2008.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, One South Street, New York, New York, 10004, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The Amtrak Railroad Bridge, across the Niantic River, mile 0.0, at Niantic, Connecticut, has a vertical clearance in the closed position of 11 feet at mean high water and 14 feet at mean low water. The existing regulations are listed at 33 CFR 117.215(a).

The owner of the bridge, National Railroad Passenger Corporation (Amtrak), requested a temporary deviation to facilitate scheduled mechanical maintenance, miter rail replacement, at the bridge.

Under this temporary deviation a two-hour advance notice for bridge openings will be required between 8 p.m. and 6 a.m. during the following time periods: March 21, 2008 to March 24, 2008, and March 28, 2008 to March 31, 2008. The advance notice may be given by calling the bridge on marine radio channel VHF 13, or by telephone at (860) 510–5628. Vessels that can pass under the draw without a bridge opening may do so at all times.

Should the bridge maintenance authorized by this temporary deviation be completed before the end of the effective period published in this notice, the Coast Guard will rescind the remainder of this temporary deviation, and the bridge shall be returned to its normal operating schedule. Notice of the above action shall be provided to the public in the Local Notice to Mariners and the **Federal Register**, where practicable.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 29, 2008.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E8–4937 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0048]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway (GIWW), mile 49.8, near Houma, Lafourche Parish, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the SR 316 Blue Bayou Pontoon Bridge across the Gulf Intracoastal Waterway, mile 49.8, near Houma, Lafourche Parish, LA. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation will allow the draw of the bridge to open on signal except during the regular school year on Monday through Friday except Federal holidays from 7 a.m. to 8:30 a.m., from 2 p.m. to 4 p.m., and from 4:30 p.m. to 5:30 p.m.

DATES: This deviation is effective from March 27, 2008, until April 28, 2008. Comments and related material must reach the Coast Guard on or before May 12, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2008–0048 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Bart Marcules, Bridge Administration Branch, telephone (504) 671–2128.

If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting comments

If you submit a comment, please include the docket number for this

rulemaking USCG–2008–0048, indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* at any time, click on ''Search for Dockets,'' and enter the docket number for this rulemaking USCG–2008–0048 in the Docket ID box, and click enter. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

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

Background and Purpose

The Lafourche Parish Council has requested that a regulation be placed on the SR 316 Blue Bayou Pontoon Bridge across the Gulf Intracoastal Waterway (GIWW), at mile 49.8, near Houma, LA. This bridge currently opens on signal as required by 33 CFR 117.5. Due to a high volume of vehicular traffic on SR 316, and the length of time to open and close the SR 316 Blue Bayou Pontoon Bridge, a bridge opening can cause a substantial delay in transit time for school buses having to cross the bridge. To minimize the transit time of school children, Lafourche Parish requested closure periods around the scheduled school bus route times to allow the buses to cross the bridge without delay caused by a bridge opening. Currently, based on twelve months of bridge logs and a two week vehicular traffic count during the school year the 7 a.m. to 8:30 a.m. period has an average of 87 cars to 3.4 vessels, the 2 p.m. to 4 p.m. period has an average of 112 cars to 6.3 vessels, and the 4:30 p.m. to 5:30 p.m. period has an average of 140 cars to 3.2 vessels. Thus, a substantial delay can occur to the school buses that have to cross this bridge during their routes.

The users of the waterway consist mostly of towboats and barges, fishing vessels, and some recreational vessels. All waterway users transiting through this area require the bridge to open since the bridge is a pontoon bridge with no vertical clearance in the closed to navigation position and there is no feasible alternate route. During this test deviation, a count of the delayed vessels during the closure periods will be taken to ensure a future regulation will not have a significant impact on navigation. This test deviation has been coordinated with the main commercial waterway user group that has vessels transiting in this area, and currently there is no expectation of any significant impacts on navigation.

The deviation period will be from March 27, 2008 until April 28, 2008. During the deviation period, the draw shall open on signal; except that, the draw need not be opened from 7 a.m. to 8:30 a.m., from 2 p.m. to 4 p.m., and from 4:30 p.m. to 5:30 p.m., Monday through Friday except Federal holidays.

A Notice of Proposed Rulemaking, USCG–2008–0049, is being issued in conjunction with this Temporary Deviation to obtain public comments. The Notice of Proposed Rulemaking will be open for public comment for two months from March 12, 2008 until May 12, 2008. The Coast Guard will evaluate public comments from this Temporary Deviation and the above referenced Notice of Proposed Rulemaking to determine if a permanent special drawbridge operating regulation is warranted.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 21, 2008.

David M. Frank,

Bridge Administrator.

[FR Doc. E8–4943 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2007–0195]

RIN 1625–AA87

Security Zone; Waters Surrounding U.S. Forces Vessel SBX–1, HI

AGENCY: U.S. Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent security zone around the U.S. Forces vessel SBX–1 during transits within the Honolulu Captain of the Port Zone. This zone is necessary to protect the SBX–1 from threats associated with vessels and persons approaching too close during transit. Entry of persons or vessels into this security zone is prohibited unless authorized by the Captain of the Port (COTP).

DATES: This rule is effective April 11, 2008.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2007–0195 and are available online at *www.regulations.gov*. This material is also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and U.S. Coast Guard Sector Honolulu, 400 Sand Island Parkway, Honolulu, Hawaii 96819–4398 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Jasmin Parker, U.S. Coast Guard Sector Honolulu at (808) 842–2600.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On January 7, 2008, we published a notice of proposed rulemaking (NPRM) entitled Security Zone; Waters Surrounding U.S. Forces Vessel SBX–1, HI in the **Federal Register** (73 FR 1133).

We received one letter commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The U.S. Forces vessel SBX–1 will enter the Honolulu Captain of the Port Zone and transit to Pearl Harbor, HI for maintenance at least once each year. The SBX–1 is easy to recognize because it contains a large white object shaped like an egg supported by a platform that is larger than a football field. The platform in turn is supported by six pillars similar to those on large oil-drilling platforms.

The Coast Guard's reaction to such transits thus far has been to await a final voyage plan and then establish a security zone using a temporary final rule applicable to that particular voyage. Such action diminished the public's opportunity for formal comment and imposed a pressing administrative burden each time the SBX–1 arrived. This permanent SBX–1 security zone affords the public consistent regulation regarding the SBX–1 and promotes relief from the emergency rulemakings currently necessary to protect each transit.

Discussion of Comments and Changes

The Coast Guard received one comment regarding this proposed rule through *www.regulations.gov*. The commenter wrote that the size of the security zone seems to be excessive, and that it may interfere with the transit of recreational boaters. This person suggested that those who approach the SBX–1 may be doing so just to get a better look at it. The commenter also asked whether the Coast Guard conducted a study to determine SBX–1's protection needs.

Coast Guard's Response: While the zone is large, it is the same size as Naval vessel protective zones. That comparison determined the size of the zone; no further study was conducted for this particular vessel. The SBX–1's transits are infrequent, so the size of the security zone typically will not affect normal recreational boating traffic. We have considered reducing the zone but determined that reduction would present an unacceptable level of risk. Additionally, we have determined that the need to provide an adequate security buffer for the vessel outweighs the public's interest in a better view of it.

Discussion of Rule

This security zone is established permanently. It is automatically activated, meaning it is subject to enforcement, whenever the U.S. Forces vessel SBX–1 is in U.S. navigable waters within the Honolulu COTP Zone (see 33 CFR 3.70–10). The security zone includes all waters extending 500 yards in all directions from the SBX–1, from the surface of the water to the ocean floor.

The security zone moves with the SBX–1 while it is in transit. The zone becomes fixed around the SBX–1 while it is anchored, position-keeping, or moored, and it remains activated until the SBX–1 either departs U.S. navigable waters within the Honolulu COTP zone or enters the Honolulu Naval Defensive Sea Area established by Executive Order 8987 (6 FR 6675, December 24, 1941). The COTP will notify the public of the enforcement of the zone through a broadcast notice to mariners.

The general regulations governing security zones contained in 33 CFR 165.33 apply. Entry into, transit through, or anchoring within the zone while it is activated and enforced is prohibited unless authorized by the COTP or a designated representative thereof. Any Coast Guard commissioned, warrant, or petty officer, and any other COTP representative permitted by law, is authorized to enforce the zone. The COTP may waive any of the requirements of this rule for any person, vessel, or class of vessel upon finding that application of the security zone is unnecessary or impractical for the purpose of maritime security. Vessels or persons violating this rule would be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This expectation is based on the limited duration of the zone, the constricted geographic area affected by it, and its ability to move with the protected vessel.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. We expect that there will be little or no impact to small entities due to the narrowly tailored scope of this security zone.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because it is a security zone. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new § 165.1411 to read as follows:

§ 165.1411 Security zone; waters surrounding U.S. Forces vessel SBX–1, HI.

(a) *Location.* The following area, in U.S. navigable waters within the Honolulu Captain of the Port Zone (see 33 CFR 3.70–10), from the surface of the water to the ocean floor, is a security zone: All waters extending 500 yards in all directions from U.S. Forces vessel SBX–1. The security zone moves with the SBX–1 while it is in transit and becomes fixed when the SBX–1 is anchored, position-keeping, or moored.

(b) *Regulations.* The general regulations governing security zones contained in 33 CFR 165.33 apply. Entry into, transit through, or anchoring within this zone while it is activated, and thus subject to enforcement, is prohibited unless authorized by the Captain of the Port or a designated representative thereof.

(c) *Suspension of Enforcement.* The Coast Guard will suspend enforcement of the security zone described in this section whenever the SBX–1 is within the Honolulu Defensive Sea Area (see 6 FR 6675).

(d) *Informational notice.* The Captain of the Port of Honolulu will cause notice of the enforcement of the security zone described in this section to be made by broadcast notice to mariners. The SBX–1 is easy to recognize because it contains a large white object shaped like an egg supported by a platform that is larger than a football field. The platform in turn is supported by six pillars similar to those on large oil-drilling platforms.

(e) *Authority to enforce.* Any Coast Guard commissioned, warrant, or petty officer, and any other Captain of the Port representative permitted by law, may enforce the security zone described in this section.

(f) *Waiver.* The Captain of the Port may waive any of the requirements of this rule for any person, vessel, or class of vessel upon finding that application of the security zone is unnecessary or impractical for the purpose of maritime security.

(g) *Penalties.* Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: March 3, 2008.

Barry A. Compagnoni,

Captain, U.S. Coast Guard, Captain of the Port, Honolulu.

[FR Doc. E8–4946 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 956

Rules of Practice in Proceedings Relative to Disciplinary Action for Violations of Restrictions on Post-Employment Activity

AGENCY: Postal Service.

ACTION: Final Rule.

SUMMARY: The Postal Service is removing the Rules of Practice in

Proceedings Relative to Disciplinary Action for Violations of Restrictions on Post-Employment Activity.

DATES: *Effective Date:* March 12, 2008.

FOR FURTHER INFORMATION CONTACT: Diane M. Mego, (703) 812–1905.

SUPPLEMENTARY INFORMATION: The Postal Service is removing the Rules of Practice in Proceedings Relative to Disciplinary Action for Violations of Restrictions on Post-Employment Activity. These provisions have been superseded by the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics. This revision is a mandated change in the agency rules of procedure before the Judicial Officer and, therefore, it is appropriate for its adoption by the Postal Service to become effective immediately.

PART 956—[REMOVED]

■ Accordingly, and under the authority of 39 U.S.C. 204 and 401, the Postal Service removes and reserves 39 CFR part 956.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. E8–4869 Filed 3–11–08; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–2005–0036; FRL–8542–1]

RIN 2060–AO89

Control of Hazardous Air Pollutants From Mobile Sources: Early Credit Technology Requirement Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to revise the February 26, 2007 mobile source air toxics rule's requirements that specify the benzene control technologies that qualify a refiner to generate early benzene credits. This action will allow another specific benzene control technology, benzene alkylation, in addition to the four operational or technological changes that the 2007 rule currently allows. This action also includes a general provision that allows a refiner to submit a request to EPA to approve other benzene-reducing operational changes or technologies for the purpose of generating early credits.

DATES: This direct final rule is effective on May 12, 2008, without further notice, unless EPA receives adverse comment by April 11, 2008. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–2005–0036, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Fax:* (202) 566–9744.
- *Mail:* EPA–HQ–2005–0036, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center (EPA/DC), EPA Headquarters Library, Room 3334 West Building, 1301 Constitution Ave., NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–2005–0036. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

For additional instructions on submitting comments, go to section 1.B of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Eastern Standard Time, Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Christine Brunner, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood, Ann Arbor, MI 48105; telephone number: (734) 214–4287; fax number: (734) 214–4816; e-mail address: *brunner.christine@epa.gov.* Alternative contact: Assessment and Standards Division Hotline, telephone number: (734) 214–4636; e-mail address: *asdinfo@epa.gov.*

SUPPLEMENTARY INFORMATION:

Why is EPA Using a Direct Final Rule?

EPA is publishing this rule without prior proposal because we view this as a non-controversial action and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposed rule to adopt the provisions in this direct final rule if adverse comments are filed. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public

comments in a subsequent final rule based on the proposed rule.

Does This Action Apply to Me?

This action may affect you if you produce gasoline. The following table gives some examples of entities that may have to follow the regulations.

Category	NAICS [1] codes	SIC [2] codes	Examples of potentially regulated entities
Industry	324110	2911	Petroleum Refiners.

[1] North American Industry Classification System (NAICS).
[2] Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To decide whether your organization might be affected by this action, you should carefully examine today's action and the existing regulations in 40 CFR part 80. If you have any questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

What Should I Consider as I Prepare My Comments for EPA?

A. *Submitting CBI.* Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

B. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

C. *Docket Copying Costs.* You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

Outline of This Preamble

I. Background
II. Today's Action
III. Environmental and Economic Impact
IV. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health & Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act
Statutory Provisions and Legal Authority
List of Subjects

I. Background

The Mobile Source Air Toxics rule (MSAT2), published on February 26, 2007 (72 FR 8428), requires that refiners and importers produce gasoline that has an annual average benzene content of 0.62 volume percent (vol%) or less, beginning in 2011. (See § 80.1230(a).) The rule also requires that no refiner or importer have an actual average gasoline benzene level greater than 1.3 volume percent. After achieving an actual annual average benzene level of 1.3 vol%, refiners and importers may use benzene credits to reduce their average benzene level to 0.62 vol%. Refiners may generate benzene credits for their own use or to sell to others, in two ways. Once the program begins in 2011, a refiner generates credits (known as standard credits) when its average annual gasoline benzene level is less than 0.62 vol%. Importers can also generate standard credits. Refiners may also generate credits prior to 2011.[1] These credits are called early credits. The final rule allowed for the generation of early benzene credits in any annual averaging period prior to 2011 (i.e., 2008, 2009, and 2010), as well as for the partial year period June 1–December 31, 2007. Early credits are generated on a refinery basis. In order to generate early credits, a refinery must meet several requirements:

(1) Establish a benzene baseline based on the average benzene level of the gasoline produced at the refinery during the two-year period 2004–05. (See § 80.1285.)

(2) Make operational changes or improvements in benzene control technology that will result in real benzene reductions. (See § 80.1275(d).)

(3) Achieve an annual average benzene level at least 10% lower than its baseline level. (See § 80.1275(a).)

In § 80.1275(d)(1) of the MSAT2 final rule, we specified four types of operational changes and benzene control technology improvements that would allow a refinery to qualify for generating early credits if it implemented the changes after 2005 and if it also met the other related requirements. These operational changes and technology improvements are:

(1) Treating the heavy straight run naphtha entering the reformer using light naphtha splitting and/or isomerization.

(2) Treating the reformate stream exiting the reformer using benzene extraction or benzene saturation.

[1] Importers are not allowed to generate early credits because they do not have the ability to make the benzene reduction technology changes that would lower benzene levels in the gasoline pool.

(3) Directing additional refinery streams to the reformer for treatment as described in (1) and (2) above.

(4) Directing reformate streams to other refineries with treatment capabilities as described in (2) above.

We included in this list all the strategies we thought would reduce benzene and be cost-effective. The provision was intended to not allow early credit generation solely by benzene reductions achieved through ethanol blending. A refinery needs to implement at least one of the listed improvements.

The final rule did not provide a way for EPA to consider alternative means of reducing benzene, no matter how efficacious the alternative might be. Soon after the rule was finalized, it came to our attention that at least one refinery had plans to install benzene alkylation technology. Benzene alkylation is not one of the four operational or technological changes enumerated in the final rule. Although EPA regards benzene alkylation as a legitimate benzene reduction technology, we did not expect it to be used. (See the Regulatory Impact Analysis (EPA420–R–07–002, February 2007), Chapter 6, Page 36.)

II. Today's Action

We published a Questions and Answers document related to the MSAT2 program on August 16, 2007. (*http://epa.gov/otaq/regs/toxics/420f07053.pdf*) In that document, we specifically addressed benzene alkylation and indicated that benzene alkylation meets the intent of the technology requirement for early credits. As discussed in the preamble of the final rule, early credits are generated based on innovations in gasoline benzene control technology that result in real benzene reductions prior to the start of the program in 2011. (See 72 FR 8486.) The use of benzene alkylation directly results in lower gasoline benzene levels.

Today's action revises § 80.1275(d)(1) to include benzene alkylation in the list of acceptable reduction operational and technological strategies. We have also included a general provision that would allow a refiner to petition EPA to use an operational or technological change that is not listed in the regulation for the purpose of generating early credits. The refiner would have to demonstrate that the benzene control technology improvement or operational change results in a net reduction in the refinery's average gasoline benzene level, exclusive of benzene reductions due simply to blending practices. The petition would have to be submitted to EPA prior to the start of the first averaging period in which the refinery plans to generate early credits. EPA expects it would act on such a petition before the end of that averaging period. The refiner would also have to provide additional information requested by EPA.

The other requirements for generating early credits are unchanged. These include submitting a benzene baseline, reducing the refinery's baseline benzene level by at least 10% in a given averaging period, and not moving gasoline or blendstock streams between refineries for the purpose of generating early credits. (See 72 FR 8486.)

III. Environmental and Economic Impact

We believe there will be no negative environmental or economic impacts of today's action. This action will allow those companies that have alternative means or strategies for reducing gasoline benzene to request EPA approval to use them for the purpose of generating early benzene credits. Average gasoline benzene levels from such refiners will decrease faster and earlier than if they had not generated early credits, and such credits will help provide for a robust credit pool when the program starts in 2011.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action revises the February 26, 2007 mobile source air toxics rule's requirements that specify the benzene control technologies that qualify a refiner to generate early benzene credits. It allows another specific benzene control technology, benzene alkylation, to be used for the purpose of generating early credits, and allows a refiner to submit a request to EPA to approve other benzene-reducing operational changes or technologies for the purpose of generating early credits. This action is not expected to have an annual impact on the economy of more than $100 million, nor does it raise any novel legal or policy issues. This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and therefore not subject to review under the Executive Order.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. because the amendments in this rule do not change the information collection requirements of the underlying rule.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule because this action will not have a significant economic impact on a substantial number of small entities.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A petroleum refining company with fewer than 1500 employees or a petroleum wholesaler or broker with fewer than 100 employees, based on the North American Industrial Classification System (NAICS); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or

to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's 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. EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's action simply modifies the original rule in a limited manner, and does not significantly change the original rule. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments, because it applies only to parties that produce gasoline.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The rule amends existing regulatory provisions applicable only to producers of gasoline and does not alter State authority to regulate these entities. The amendments will impose no direct costs on State or local governments. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This rule amends existing regulatory provisions applicable only to producers of gasoline and will impose no direct costs on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined in Executive Order 12866.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or

environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. We believe there will be no negative environmental or economic impacts resulting from today's action compared to the February 26, 2007 rule this action modifies.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final rule will be effective on May 12, 2008.

Statutory Provisions and Legal Authority

The statutory authority for the fuels controls in today's final rule can be found in sections 202 and 211(c) of the Clean Air Act (CAA), as amended. Support for any procedural and enforcement-related aspects of the fuel controls in today's rule, including recordkeeping requirements, comes from sections 114(a) and 301(a) of the CAA.

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle fuel, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: March 6, 2008

Stephen L. Johnson,

Administrator.

■ For the reasons set forth in the preamble, 40 CFR part 80 is amended as set forth below:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

■ 1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7542, 7545 and 7601(a).

■ 2. Section 80.1275 is amended as follows:
■ a. By adding paragraph (d)(1)(v).
■ b. By redesignating paragraph (d)(2) as paragraph (d)(3).
■ c. By adding paragraph (d)(2).

§ 80.1275 How are early benzene credits generated?

* * * * *

(d) * * *

(1) * * *

(v) Providing for benzene alkylation.

(2)(i) A refiner may petition EPA to approve, for purposes of paragraph (d)(1) of this section, the use of operational changes and/or improvements in benzene control technology that are not listed in paragraph (d)(1) of this section to reduce gasoline benzene levels at a refinery.

(ii) The petition specified in paragraph (d)(2)(i) of this section must be sent to: U.S. EPA, NVFEL–ASD, Attn: MSAT2 Early Credit Benzene Reduction Technology, 2000 Traverwood Dr., Ann Arbor, MI 48105.

(iii) The petition specified in paragraph (d)(2)(i) of this section must show how the benzene control technology improvement or operational change results in a net reduction in the refinery's average gasoline benzene level, exclusive of benzene reductions due simply to blending practices.

(iv) The petition specified in paragraph (d)(2)(i) of this section must be submitted to EPA prior to the start of the first averaging period in which the refinery plans to generate early credits.

(v) The refiner must provide additional information as requested by EPA.

(3) Has not included gasoline blendstock streams transferred to, from, or between refineries, except as noted in paragraph (d)(1)(iv) of this section.

* * * * *

[FR Doc. E8–4917 Filed 3–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0331; FRL–8351–7]

Spiromesifen; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of spiromesifen and its enol metabolite in or on bean, dry; bean, succulent; bean, edible podded; and cowpea, forage. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 12, 2008. Objections and requests for hearings must be received on or before May 12, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0331. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Shaja R. Brothers, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–3194; e-mail address: *brothers.shaja@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

• Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.

• Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.

• Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.

• Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0331 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before May 12, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–0331 by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Register** of May 9, 2007 (72 FR 26375) (FRL–8128–1), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7E7195) by IR-4, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.607 be amended by establishing tolerances for combined residues of the insecticide spiromesifen, (2-oxo-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-4-yl 3,3-dimethylbutanoate) and its enol metabolite (4-hydroxy-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-2-one), in or on bean, edible, podded at 1.4 ppm; bean, succulent at 0.10 ppm; bean, dry at 0.02 ppm; cowpea, forage at 35 ppm; cattle, fat at 0.20 ppm; cattle, meat at 0.01 ppm; cattle, meat byproducts at 0.30 ppm; goat, fat at 0.20 ppm; goat, meat at 0.01 ppm; goat, meat byproducts at 0.30 ppm; hog, fat at 0.20 ppm; hog, meat at 0.01 ppm; hog, meat byproducts at 0.30 ppm; horse, fat at 0.20 ppm; horse, meat at 0.01 ppm; horse, meat byproducts at0.30 ppm; sheep, fat at 0.20 ppm; sheep, meat at 0.01 ppm; sheep, meat byproducts at 0.30 ppm; and milk at 0.01 ppm. This notice referenced a summary of the petition prepared by Bayer Crop Science, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised tolerance expressions for bean, edible, podded; cowpea, forage; milk, whole; milk, fat; in meat of cattle, goats, horses, and sheep; in meat, byproducts, of cattle, goats, horses, and sheep; and in fat of cattle, goats, horses, and sheep. A tolerance for cowpea, hay was also included. The reason for these changes is explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for combined residues of spiromesifen on bean, dry at 0.02 ppm; bean, succulent at 0.10 ppm; bean, edible podded at 0.80 ppm; cowpea, forage at 30 ppm; cowpea, hay at 86 ppm; cattle, fat at 0.10 ppm; cattle, meat at 0.02 ppm; cattle, meat byproducts at 0.15 ppm; goat, fat at 0.10 ppm; goat, meat at 0.02 ppm; goat, meat byproducts at 0.15 ppm; horse, fat at 0.10 ppm; horse, meat at 0.02 ppm; horse, meat

byproducts at 0.15 ppm; sheep, fat at 0.10 ppm; sheep, meat at 0.02 ppm; sheep, meat byproducts at 0.15 ppm; milk at 0.01 ppm; and milk, fat at 0.20 ppm. EPA's assessment of exposures and risks associated with establishing the tolerances follow.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Spiromesifen shows low acute toxicity via the oral, dermal and inhalation routes of exposure. It was neither an eye nor dermal irritant, but showed moderate potential as a contact sensitizer in a Magnusson and Kligman maximization assay. Acute dietary-exposure limits for all populations, including infants and children, were not necessary because an endpoint of concern attributable to a single exposure (dose) was not identified from the oral toxicity studies. In addition, there are no developmental concerns based on rat and/or rabbit developmental toxicity studies. The rat two-generation reproduction study was selected for chronic dietary, as well as long-term dermal- and inhalation-exposure risk assessments.

In the 2-generation reproduction study in rat the following effects were noted at the lowest observed adverse effect level (LOAEL): Significantly decreased spleen weight (absolute and relative in parental females and F1 males) and significantly decreased growing ovarian follicles in females. Spiromesifen shows no significant developmental or reproductive effects, is not likely to be carcinogenic based on bioassays in rat and mouse, and lacks in vivo and in vitro mutagenic effects. Spiromesifen is not a neurotoxic chemical based on results of acute and subchronic neurotoxicity studies.

Specific information on the studies received and the nature of the adverse effects caused by spiromesifen as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found in the document entitled ''Spiromesifen: Human Health Risk Assessment for a Section 3 Registration on Beans;'' pages 44-52 at *www.regulations.gov*. The referenced document is available in docket EPA–HQ–OPP–2007–0331.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the LOC to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the LOC by all applicable UFs. Short-, intermediate-, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded.

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

A summary of the toxicological endpoints for spiromesifen used for human risk assessment can be found at *http://www.regulations.gov* in the document entitled ''Spiromesifen: Human Health Risk Assessment for a Section 3 Registration on Beans;'' pages 18-19; docket ID number EPA–HQ–OPP–2007–0331.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to spiromesifen, EPA considered exposure under the petitioned-for tolerances as well as all existing spiromesifen tolerances in (40 CFR 180.607). EPA assessed dietary exposures from spiromesifen in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

No such effects were identified in the toxicological studies for spiromesifen; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996, and 1998 CSFII. As to residue levels in food, EPA assumed tolerance-level residues for all commodities with existing and proposed tolerances except for the leafy-green and leafy-*Brassica* vegetable subgroups (4A and 5B). An additional metabolite, BSN 2060-4-hydroxymethyl, was observed in the metabolism studies of lettuce only. Since this metabolite's toxicity is expected to be comparable to the parent compound, it was included in the risk assessment for leafy crops (subgroups 4A and 5B), but not in the tolerance expression. To account for this additional toxicity exposure, the recommended tolerance level was multiplied by a correction factor of 1.3x. For all commodities, 100%CT as well as DEEM™ Version 7.81 default processing factors were used.

iii. *Cancer*. Spiromesifen has been classified as ''not likely to be carcinogenic to humans.'' Therefore, a cancer dietary risk assessment was not performed.

2. *Dietary exposure from drinking water*.The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for spiromesifen in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the environmental fate characteristics of spiromesifen. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Parent spiromesifen is not likely to persist in the environment as it readily undergoes both biotic and abiotic degradation; however, its primary degradate BSN2060 is expected to persist. While parent spiromensifen strongly sorbs to sediment and is not likely to be mobile, its enol degradate does not sorb to sediment and is expected to leach into groundwater. Spiromesifen has limited solubility in water and is some cases has been

reported to have a practical solubility limit of 40 to 50 µg/L. The pesticide degrades primarily through aerobic soil metabolism and hydrolysis; however, in clear shallow water it will readily undergo photolysis. Field studies indicate that spiromesifen readily dissipates with dissipation half lives ranging from 2 to 10 days. The compound is not likely to bioconcentrate appreciably given its relatively rapid degradation and depuration.

Spiromesifen and BSN 2060-enol are the predominant residues in drinking water. BSN 2060-enol may account for 75% of the total acute exposure and for over 90% for chronic exposure. Estimated drinking water concentrations (EDWCs) were generated for the total toxic residue which includes spiromesifen, the -enol and -carboxy metabolites, and unextracted material. The highest estimated surface water concentrations occurred with the NC sweet potato scenario.

Based on the Pesticide Root Zone Model /Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated environmental concentration (EEC) of spiromesifen for chronic exposure is estimated to be 11 parts per billion (ppb) for surface water. The EEC for chronic exposure is estimated to be 28 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 28 ppb was used to access the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Spiromesifen is not registered for use on any sites that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to spiromesifen and any other substances and spiromesifen does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that spiromesifen has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of FFDCA provides that EPA shall apply an additional (''10X'') tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional UFs and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. There is no evidence of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to spiromesifen. In the prenatal developmental toxicity studies in rats and rabbits and in the two-generation reproduction study in rats, developmental toxicity to the offspring occurred at equivalent or higher doses than parental toxicity.

3. *Conclusion*. EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings:

i. The toxicity database for spiromesifen is complete.

ii. There is no indication that spiromesifen is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that spiromesifen results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100%CT and tolerance-level residues or higher. Conservative ground and surface water modeling estimates were used. Residential exposure is not expected as spiromesifen will be registered for agricultural and greenhouse/ornamental uses only. These assessments will not underestimate the exposure and risks posed by spiromesifen.

E. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the aPAD and cPAD. The aPAD and cPAD are calculated by dividing the LOC by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short-, intermediate-, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. No such effects were identified in the toxicological studies for spiromesifen; therefore, acute exposure is not expected.

2. *Chronic risk*.Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to spiromesifen from food and water will utilize 42% of the cPAD for the population group children 3-5 years old (the greatest exposure). There are no residential uses for spiromesifen that result in chronic residential exposure to spiromesifen.

3. *Short and intermediate-term risk*. Short and Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Spiromesifen is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water.

4. *Aggregate cancer risk for U.S. population*. Spiromesifen has been classified as ''not likely to be carcinogenic to humans.'' Spiromesifen is not expected to pose a cancer risk.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to spiromesifen residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology, high performance liquid chromatography/mass spectroscopy (HPLC/MS/MS)/ Method 00631/M001, is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

No Codex, Canadian, or Mexican MRLs have been established for residues of spiromesifen and its metabolites.

C. Explanation of Tolerance Revisions

1. *Bean, edible podded and cowpea, forage*. The tolerances were revised based on analysis with the Agency's tolerance spreadsheet in accordance with the Guidance for Setting Pesticide Tolerances Based on Field Trial Data SOP.

2. *Cowpea, hay*. After reviewing the cowpea residue data, EPA determined an additional cowpea tolerance was necessary on cowpea hay.

3. *Livestock feed and milk*. Based on the dietary exposure levels and the residue data from an available ruminant feeding study, data indicate that a tolerance of 0.01 ppm is needed in milk, whole, 0.20 ppm in milk, fat, 0.02 ppm is needed for residues of spiromesifen in the meat of cattle, goats, horses, and sheep, 0.15 ppm in meat, byproducts, of cattle, goats, horses, and sheep, and 0.10 in the fat of cattle, goats, horses, and sheep. Based on the transfer coefficients for livestock tissues and the relatively low dietary burden for swine of 0.04 ppm for spiromesifen, tolerances in hogs are not needed.

V. Conclusion

Therefore, the tolerances are established for combined residues of spiromesifen, (2-oxo-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-4-yl 3,3-dimethylbutanoate) and its enol metabolite (4-hydroxy-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-2-one), in or on bean, dry at 0.02 ppm; bean, succulent at 0.10 ppm; bean, edible podded at 0.80 ppm; cowpea, forage at 30 ppm; cowpea, hay at 86 ppm; cattle, fat at 0.10 ppm; cattle, meat at 0.02 ppm; cattle, meat byproducts at 0.15 ppm; goat, fat at 0.10 ppm; goat, meat at 0.02 ppm; goat, meat byproducts at 0.15 ppm; horse, fat at 0.10 ppm; horse, meat at 0.02 ppm; horse, meat byproducts at 0.15 ppm; milk at 0.01 ppm; milk, fat at 0.20 ppm; sheep, fat at 0.10 ppm; sheep, meat at 0.02 ppm; and sheep, meat byproducts at 0.15 ppm.

VI. Statutory and Executive Order Reviews

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

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

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

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: March 4, 2008.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.607 is amended by alphabetically adding commodities to the table in paragraph (a)(1), and by revising the table in paragraph (a)(2) to read as follows:

§ 180.607 Spiromesifen; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
Bean, dry	0.02
Bean, edible podded	0.80
Bean, succulent	0.10
* * *	* *
Cowpea, forage	30

Commodity	Parts per million
Cowpea, hay	86
* * *	* *

(2) * * *

Commodity	Parts per million
Cattle, fat	0.10
Cattle, meat	0.02
Cattle, meat byproducts	0.15
Goat, fat	0.10
Goat, meat	0.02
Goat, meat byproducts	0.15
Horse, fat	0.10
Horse, meat	0.02
Horse, meat byproducts	0.15
Milk	0.01
Milk, fat	0.20
Sheep, fat	0.10
Sheep, meat	0.02
Sheep, meat byproducts	0.15

[FR Doc. E8–4920 Filed 3–11–08; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R08–RCRA–2006–0382; FRL–8541–5]

Colorado: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the federal program. Colorado has applied to EPA for final authorization of the changes to its hazardous waste program under RCRA. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization and is authorizing the State's changes through this immediate final action.

DATES: This final authorization will become effective on May 12, 2008, unless the EPA receives adverse written comment by April 11, 2008. If adverse comment is received, EPA will publish a timely withdrawal of the immediate final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–RCRA–2006–0382, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*

Follow the on-line instructions for submitting comments.

- *E-mail: daly.carl@epa.gov.*
- *Fax:* (303) 312–6341.
- *Mail:* Send written comments to Carl Daly, Solid and Hazardous Waste Program, EPA Region 8, Mailcode 8P–HW, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery or Courier:* Deliver your comments to Carl Daly, Solid and Hazardous Waste Program, EPA Region 8, Mailcode 8P–HW, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–RCRA–2006–0382. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov,* or e-mail. The federal web site, *http://www.regulations.gov,* 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 or 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 may not be 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 through *www.regulations.gov* or in hard copy at: EPA Region 8, from 9 a.m. to 4 p.m., 1595 Wynkoop Street, Denver, Colorado; contact: Carl Daly, phone number (303) 312–6416, or the Colorado Department of Public Health and Environment, from 9 a.m. to 4 p.m., 4300 Cherry Creek Drive South, Denver, Colorado 80222–1530; contact: Randy Perila, phone number (303) 692–3364. The public is advised to call in advance to verify the business hours.

FOR FURTHER INFORMATION CONTACT: Carl Daly, Solid and Hazardous Waste Program, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202, (303) 312–6416, *daly.carl@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the federal program. As the federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Colorado's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Colorado final authorization to operate its hazardous waste program with the changes described in the authorization applications. Colorado has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders, except in Indian

Country, and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Colorado, including issuing permits, until Colorado is authorized to do so.

C. What is the Effect of This Authorization Decision?

This decision means that a facility in Colorado subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent federal requirements in order to comply with RCRA. Colorado has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to: (1) Conduct inspections; require monitoring, tests, analyses, or reports; (2) enforce RCRA requirements; suspend or revoke permits; and, (3) take enforcement actions regardless of whether Colorado has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Colorado is being authorized by this action are already effective and are not changed by this action.

D. Why Wasn't There a Proposed Rule Before This Rule?

EPA did not publish a proposal before this rule because we view this as a routine program change. We are providing an opportunity for the public to comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment, therefore, if you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the Colorado hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective and which part is being withdrawn.

F. For What Has Colorado Previously Been Authorized?

Colorado initially received final authorization on October 19, 1984, effective November 2, 1984 (49 FR 41036) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on October 24, 1986, effective November 7, 1986 (51 FR 37729); May 15, 1989, effective July 14, 1989 (54 FR 20847); May 10, 1991, effective July 9, 1991 (56 FR 21601); April 7, 1994, effective June 6, 1994 (59 FR 16568); and November 14, 2003, effective January 13, 2004 (68 FR 64550).

G. What Changes Are We Authorizing With This Action?

Colorado submitted complete program revision applications on December 31, 2002, September 23, 2003, and December 23, 2003 seeking authorization of their changes in accordance with 40 CFR 271.21. Some of the revisions that Colorado submitted in these applications are not granted approval at this time. We now make an immediate final decision, subject to receipt of written comments that oppose this action that Colorado's hazardous waste program revisions listed here satisfy all of the requirements necessary to qualify for final authorization. Therefore, we grant Colorado final authorization for the following program changes (the federal citation followed by the analog from the Code of Colorado Regulations (6 CCR 7007–3), revised through December 30, 2004, unless otherwise noted: Financial Responsibility; Settlement Agreement (55 FR 25976, 6/26/90)(Checklist 24A)/ 264.113(a)–(c) and 265.113(a)–(c); Permit Modifications for Hazardous Waste Management Facilities (53 FR 37912, 9/28/88 & 53 FR 41649, 10/24/ 88)(Checklists 54 & 54.1)/ 100.60(c)(1)&(3), 264.54(e), 264.112(c), 264.118(d), 265.112(c)(3)&(4), 265.118(d), 260.10, 100.42(l)(2), 100.62(a)&(b), 100.61, 100.63, and Part 100, Appendix I, 100.22(c)&(d); Delay of Closure Period for Hazardous Waste Management Facilities (54 FR 33376, 8/ 14/89)(Checklist 64)/264.13(a)&(b), 264.112(d)(2), 264.113, 266.12(a)(3)&(4), 265.13(a)&(b), 265.112(d), 265.113, and Part 100, Appendix I; Land Disposal Restrictions for Newly Listed Wastes (57 FR 37194, 08/18/92)(Checklist 109)/ 100.20(b)(6), 100.40(a)(13), 100.41(a)(2), 100.63(e)(3)(ii)(B), 100.63 Appendix I, I(6), 100.63 Appendix I, 100.63 Appendix I & M, 260.10, 261.3(a)(2)(iii), 261.3(c)(2)(ii)(C)(1)&(2), 261.3(f), 262.34(a)(1)(iii), 262.34(a)(1)(iii)(B), 262.34(a)(1)(iv), 262.34(a)(2), 264.110(b), 264.111(c), 264.112(a)(2), 264.1100–1100(e), 264.1101(a)–(e), 264.1102(a)&(b), 265.110(b)(1)–(b)(4), 265.111(c), 265.112(d)(4), 265.221(h), 265.1100–1100(e), 265.1101(a)–(e), 265.1192(a)&(b), 266.10(b)–(b)(4), 266.12(a), 268.2(g), 268.2(h), 268.5 (reserved), 268.7(a)(1)(iii)–(v), 268.7(a)(2), 268.7(a)(3)(iv)–(vi), 268.7(a)(4), 268.7(b)(4)&(5), 268.7(d), 268.9(d), 268.14(a)–(c), 268.36(a)–(i), 268.40(b)&(d), 268.41(a), 268.41(a)/ Table CCWE, 268.41(c), 268.42/Table 2, 268.42(b)&(d), 268.43/Table CCW, 268.45(a)–(d)(5), 268.45/Table 1, 268.46, 268.46/Table 1, 268.50(a)(1)&(2), and 268 Appendix II; Consolidated Liability Requirements (53 FR 33938, 9/1/88; 56 FR 30200, 7/1/91; and 57 FR 42832, 9/ 16/92)(Checklists 113, 113.1, & 113.2)/ 266.11(h), 266.14(i)(11), 266.16(a),(b),(f),(g),&(i)–(m), and 266.18(f)&(h)–(n); Removal of the Conditional Exemption for Certain Slag Residues (59 FR 43496, 08/24/ 94)(Checklist 136)/267.20(c) and 268.41; Universal Waste Rule (60FR 25492, 05/ 11/95)(Checklist 142E)/260.20(a), 260.23(a)–(d), 273.80(a)–(c), and 273.81(a)–h); Removal of Legally Obsolete Rules (60 FR 33912, 06/29/ 95)(Checklist 144)/100.11(b)(1), 100.11(c)(2), and 100.11(d); RCRA Expanded Public Participation (60 FR 63417, 12/11/95)(Checklist 148)/ 100.11(f)(1)–(4)(ii)(E), 100.22(a)(5), 100.22(c)(2)(vi)–(x), 100.22(c)(4), 100.41(a)(22), 100.42(n), 100.506(a)(1)(vi) 100.506(a)(1)(vii), 100.506(f)(1)–(5), and 260.10; Imports & Exports of Hazardous Waste: Implementation of OECD Council Decision (61 FR 16290, 04/12/ 96)(Checklist 152)/261.6(a)(5), 261.10(d) thru (h), 262.53(b), 262.56(b), 262.58(a)&(b), 262.80(a)&(b), 262.81 thru (L), 262.82(a) thru (c)(3), 262.83(a) thru (e)(12), 262.84(a) thru (e), 262.85(a) thru (g), 262.86(a)&(b), 262.87(a) thru (c)(2),

262.88, 268.89(a) thru (e), 263.10(c), 263.20(a), 264.12(a)(1)&(2), 264.71(d), 265.12(a)(1)&(2), 265.71(d), 267.70(b)(2)&(3), 273.20, 273.40, 273.56, 273.79 intro, and 273.70(d); Military Munitions Rule (62 FR 06622, 2/12/97)(Checklist 156)/260.10, 262.20(f), 264.1(g)(8)(iv), 265.1(c)(11)(iv), 267.200–267.202, and 100.10(a)(8); Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification & Technical Amendment (62 FR 64636, 12/8/97)(Checklist 163)/100.41(a)(5), 264.15(b)(4), 264.73(b)(6), 264.1030(b)(3), 264.1030(c)&(e), 264.1031, 264.1033(a)(2)(i) thru (iv), 264.1050(b)(3), 264.1050(c)&(f), 264.1060(a) thru (b)(4), 264.1062(b)(2)&(3), 264.1064(g)(6), 264.1064(m), 264.1080(b)(1), 264.1080(c), 264.1082(b), 264.1082(c)(2)(ix)(A)&(B), 264.1082(c)(3), 264.1083(a)(2), 264.1083(b)(1), 264.1083(c)(4)(ii), 264.1084(c)(2)(iii), 264.1084(c)(2)(iii)(B) thru (B)(2), 264.1084(e)(4), 264.1084(f)(3)(i)(D)(4), 264.1084(f)(3)(iii), 264.1084(f)(4), 264.1084(j)(2)(iii), 264.1085(b)(2), 264.1085(d)(1)(iii), 264.1085(d)(2)(i)(B), 264.1085(e)(2)(iii), 264.1086(c)(2), 264.1086(c)(4)(i), 264.1086(d)(2), 264.1086(d)(4)(i), 264.1086(g), 264.1087(c)(3)(ii), 264.1087(c)(7), 264.1089(a), 264.1089(b)(1)(ii)(B), 264.1089(f)(1), 264.1089(j), 265.15(b)(4), 265.73(b)(6), 265.1030(b)(3), 265.1030(d), 265.1033(a)(2)(i) thru (iv), 265.1033(f)(2)(vi)(B), 265.1050(b)(3), 265.1050(e), 265.1060(a)&(b), 265.1062(b)(2)&(3), 265.1064(g)(6), 265.1064(m), 265.1080(b)(1), 265.1080(c), 265.1081, 265.1082(a) thru (d), 265.1083(b), 265.1083(c)(2)(i), 265.1083(c)(2)(ix)(A)&(B), 265.1083(c)(3), 265.1083(c)(4)(ii), 265.1084(a)(2), 265.1084(a)(3)(ii)(B), 265.1084(a)(3)(iii)& (3)(A), 265.1084(a)(3)(iii)(F)&(G), 265.1084(a)(3)(iv)&(v), 265.1084(a)(4)(iv, 265.1084(b)(1), 265.1084(b)(3)(ii)(B), 265.1084(b)(3)(iii), 265.1084(b)(3)(iii)(F)&(G), 265.1084(b)(3)(iv)&(v), 265.1084(b)(8)(iii), 265.1084(b)(9)(iv), 265.1084(d)(5)(ii), 265.1085(c)(2)(iii), 265.1085(c)(2)(iii)(B) thru (B)(2), 265.1085(e)(4), 265.1085(f)(3)(i)(D)(4), 265.1085(f)(4), 265.1085(j)(2)(iii), 265.1086(b)(2), 265.1086(d)(1)(iii), 265.1086(d)(2)(i)(B), 265.1086(e)(2)(iii), 265.1087(c)(4)(i), 265.1087(d)(4)(i), 265.1087(g), 265.1088(c)(3)(ii), 265.1088(c)(7), 265.1090(a), 265.1090(b)(1)(ii)(B), 265.1090(f)(1), 265.1090(j), and 265 Appendix VI; Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes & Mineral Processing Wastes (63 FR 28556, 5/26/98)(Checklist 167A)/268.2(i), 268.3(d), 268.34(a) thru (e), 268.40(e)&(h), 268/Table ''Treatment Standards for Hazardous Wastes'', and 268.48(a)/Table UTS; Land Disposal Restrictions Phase IV—Corrections (63 FR 28556, 5/26/98 and 63 FR 31266, 6/8/98)(Checklists 167C and 167C.1)/268.4(a)(2)(ii)&(iii), 268.7(a)(7), 268.7(b)(3)(ii)/Table, 268.7(b)(4)(iv)&(v), 268.7(b)(5)&(6), 268.40(e), 268.40/Table, 268.42(a), 268.45(a) intro, 268.45(d)(3)&(4), 268.48/Table UTS, 268 Appendix VII/Tables 1&2, and 268 Appendix VIII; Organic Air Emission Standards—Clarification & Technical Amendments (64 FR 03382, 1/21/99)(Checklist 177)/262.34(a)(1)(i)&(ii), 264.1031, 264.1080(b)(5), 264.1083(a)(1)(i)&(ii), 264.1083(b)(1)(i)&(ii), 264.1084(h)(3), 264.1086(e)(6), 265.1080(b)(5), 265.1084(a)(1)(i)&(ii), 265.1084(a)(3)(ii)(B)&(D), 265.1084(a)(3)(iii), 265.1084(b)(1)(i)&(ii), 265.1084(b)(3)(ii)(B)(&(D), 265.1084(b)(3)(iii), 265.1085(h)(3), and 265.1087(e)(6); Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps (64 FR 36466, 07/06/99)(Checklist 181)/260.10, 261.9(a)(2),(3)&(5), 264.1(g)(11)(ii),(iii)&(v), 265.1(c)(14)(ii),(iii)&(v), 268.1(f)(2),(3)&(5), 100.10(a)(14)(ii),(iii)&(v), 273.1(a)(2),(3)&(5), 273.2(a)(1)(i), 273.2(a)(2)(ii)&(iii), 273.2(b)(1), 273.2(c)(1), 273.2(e), 273.6&7, 273.8(a)&(b), 273.9 ''lamp'', ''large quantity handler of universal waste'', ''small quantity handler of universal waste'', & ''universal waste'', 273.10, 273.13(e), 273.30, 273.32(b)(4), 273.33(b)(5), 273.33(e), 273.34(f), 273.50, 273.60(a), and 273.81(a); Organobromine Production Wastes Vactur (65 FR 14472, 03/17/00)(Checklist 185)/261.32/Table, 261.33(f)/Table, 261 Appendix VII & VIII, 268.33, 268.40/Table, and 268.48/Table; Mixture & Derived-From Rules Revisions (66 FR 27266, 06/16/01)(Checklist 192A)/261.3(a)(2)(iii)&(iv), 261.3(c)(2)(i), and 261.3(g)(1)–(3); Land Disposal Restrictions Correction (66 FR 27266, 05/16/01)(Checklist 192B)/268 Appendix VII/Table 1; Change of Official EPA Mailing Address (66 FR 34374, 06/28/01)(Checklist 193)/260.11(a)(11); Mixture & Derived-From Rules Revision II (66 FR 50332, 10/03/01)(Checklist 194)/261.3(a)(2)(iv), and 261.3(g)(4); Inorganic Chemical Manufacturing Wastes Identification & Listing (66 FR 58258, 11/20/01, and 67 FR 17119, 04/09/02)(Checklists 195 and 195.1)/261.4(15), 261.32, 261 Appendix VII, 268.36(a)&(b), and 268.40/Table; Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes & TCLP Use with MGP Waste (67 FR 11251, 03/13/02)(Checklist 199)/261.2(c)(3), 261.4(a)(17), and 261.24(a); Zinc Fertilizer Rule (67 FR 48393, 07/24/02)(Checklist 200)/261.4, 261.4(a)(20)&(21), 267.20, 267.20(d), 267.20(d)(1)&(2), and 268.40; Performance Track (69 FR 21737, 04/22/04 and 69 FR 62217, 10/25/04)(Checklists 204 and 204.1)/262.34(k)–(m), effective March 2, 2005.

H. Where Are the Revised State Rules Different From the Federal Rules?

Colorado has requirements that are more stringent than the federal rules at (references are to the Code of Colorado Regulations, except where there is no State analog. Then the reference is to the federal citation): 100.11(f)(2)&(3), 100.11(f)(4)(i)(A)&(C), 100.41(a)(15),(16),&(22), 100 Appendix I, 261.3(a)(2)(iv), 261.3(c)(2)(i), 261.3(h)(1)–(3) no State analogs, 262.34(l)&(m), 264.112(d)(2)(i), 264.113(e)(5), 264.151(i)(2)(d) no State analog, 264.551, 264.552(a)(1), 264.552(a)(1)(ii)(A), 264.552(a)(3)(iii), 264.552(c)(4)&(5), 264.552(c)(7), 264.552(e)(3), 264.552(e)(3)(i) thru (ii)(A) no State analogs, 264.552(e)(4)(i)(A) thru (B), 264.552(e)(4)(v)(E)(5), 264.552(e)(6)(i)(B), 264.552(e)(6)(v), 264.552(e)(6)(v)(B), 264.552(k), & (l), 264.555(a) thru (g) no State analogs, 265.112(e), 265.113(e)(5), 266.16(i)(1), 266.16(j)(1), 266.16(k)(1), 266.18(h)(2), 266.18(i) thru (k), 268.40(e), 268.7(a)(7), 268.40/Table ''Treatment Standards for Hazardous Wastes'', 268.48/Table UTS, 270.14(b)(15)&(16).

Colorado is broader-in-scope than the federal rules at: 261.32 (K140) and 268.40/table (K140 & U408).

Colorado is in the process of adopting the federal regulations regarding Boilers & Industrial Furnaces (BIFs). Until the State is authorized for BIF regulations, some of the above approved rules do not include references to these type of facilities at this time.

I. Who Handles Permits After the Authorization Takes Effect?

Colorado will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which were issued prior to the effective date of this authorization until Colorado has equivalent instruments in place. We

will not issue any new permits or new portions of permits for the provisions listed in Item G after the effective date of this authorization. EPA previously suspended issuance of permits for other provisions on the effective date of Colorado's final authorization for the RCRA base program and each of the revisions listed in Item F. EPA will continue to implement and issue permits for HSWA requirements for which Colorado is not yet authorized.

J. How Does This Action Affect Indian Country (18 U.S.C. 1151) in Colorado?

Colorado is not authorized to carry out its RCRA program in ''Indian country'', as defined in 18 U.S.C. 1151. This includes: (1) Lands within the exterior boundaries of the following Indian reservations located within or abutting the State of Colorado, (a) Southern Ute Indian Reservation and (b) Ute Mountain Ute Indian Reservation; (2) any land held in trust by the United States for an Indian tribe, and (3) any other areas which are ''Indian country'' within the meaning of 18 U.S.C. 1151.

Therefore, this program revision does not extend to Indian country where EPA will continue to implement and administer the RCRA program in these lands.

K. What is Codification and is EPA Codifying Colorado's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart G for the codification of Colorado's updated program until a later date.

L. Statutory and Executive Order Reviews

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective May 12, 2008.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation-by-reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 28, 2008.

Carol Rushin,

Acting Regional Administrator, Region 8.

[FR Doc. E8–4978 Filed 3–11–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94–129; FCC 07–223]

Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission revises its requirements concerning verification of a consumer's intent to switch carriers. These new requirements will ensure that each verification includes the date; expand

the disclosure obligations of third party verifiers when consumers have questions during the verification; and otherwise clarify the required disclosures by verifiers to ensure that consumers better comprehend precisely what service changes they are approving. The Commission believes that these requirements will increase consumer confidence, decrease the administrative costs for carriers, and alleviate the enforcement burden on state regulatory authorities and the Commission.

DATES: Effective April 11, 2008 except for 47 CFR 64.1120(c)(3)(iii) which contains information collection requirements that have not been approved by the Office of Management and Budget (OMB), The Commission will publish a document in the **Federal Register** announcing the effective date for the amendment and information collection requirements. Interested parties (including the general public, OMB, and other Federal agencies) that wish to submit written comments on the Paperwork Reduction Act (PRA) information collection requirements must do so on or before May 12, 2008.

ADDRESSES: Interested parties may submit PRA comments identified by OMB Control Number 3060–0787 and CC Docket No. 94–129 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/*. Follow the instructions for submitting comments.
- *E-mail:* Parties who choose to file by email should submit their PRA comments to *PRA@fcc.gov*. Please include OMB Control Number 3060–0787 and CC Docket No.94–129 in the subject line of the message.
- *Mail/Fax:* Parties who choose to file by paper should submit their PRA comments to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Stevenson, Consumer & Governmental Affairs Bureau at (202) 418–7039 (voice), or e-mail *Nancy.Stevenson@fcc.gov*. For additional information concerning the PRA information collection requirements contained in this document, send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: The Commission's rules implementing section 258 of the Act have been promulgated through a series of orders. In the *Second Report and Order* (FCC 98–334) published at 64 FR 7746, February 16, 1999, the Commission sought to eliminate the profits associated with slamming by broadening the scope of its carrier change rules and adopting more rigorous slamming liability and carrier change verification measures. In the *Third Reconsideration Order* (FCC 03–42), published at 68 FR 19152, April 18, 2003, the Commission modified certain rules concerning verification of carrier change requests and liability for slamming. In the *Fifth Reconsideration Order* (FCC 04–214), published at 70 FR 14567, March 23, 2005, the Commission denied petitions filed by a coalition of rural independent local exchange carriers (Rural LECs) seeking reconsideration of the Commission's verification requirement for in-bound carrier change request calls. In the *Third Report and Order* (FCC 00–255), published at 66 FR 12877, March 1, 2001, the Commission declined to mandate specific language for third party verification calls, but did adopt minimum content requirements for such calls. Based on the Commission's experience since the effective date of the *Third Report and Order* (FCC 00–255), in the *Second FNPRM* (FCC 03–42) published at 68 FR 19152, April 18, 2003, the Commission sought comment on the need for additional minimum requirements for third party verification calls in order to maximize accuracy and efficiency for consumers, carriers, and the Commission. This is a summary of the Commission's *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94–129, FCC 07–223, adopted December 18, 2007, released January 9, 2008 (*Fourth Report and Order*), revising its requirements concerning verification of a consumer's intent to switch carriers.

The full text of document FCC 07–223 and copies of subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Document FCC 07–223 and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact the Commission's duplicating contractor at their Web site: *http://www.bcpiweb.com* or call 1–800–378–3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). Document FCC 07–223 can also be downloaded in Word and Portable Document Format (PDF) at: *http://www.fcc.gov/cgb/policy*.

Paperwork Reduction Act of 1995 Analysis

Document FCC 07–223 contains modified information collection requirements subject to the PRA of 1995. It will be submitted to OBM for review under section 3507 of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collection requirements contained in this proceeding. Public and agency comments are due May 12, 2008.

In addition, pursuant to the Small Business Paperwork Review Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission has assessed the effect of rule changes and find that there likely will be an increased administrative burden on businesses with fewer than 25 employees. The Commission has taken steps, however, to minimize the information collection burden for small business concerns, including those with fewer than 25 employees. The rules permit carriers to decide how the date of verification will be ascertained. In addition, though in some instances the rules require verifiers to inform the consumer that the carrier change can be effectuated once the verification is completed, they require verifiers to do so only in situations where the subscriber has additional questions for the carrier's sales representative. The Commission also declines to prohibit verifiers from using compound questions during the verification process. These measures should substantially alleviate any burdens on businesses with fewer than 25 employees.

Synopsis

1. The requirements adopted in the *Fourth Report and Order* address issues the Commission has seen repeatedly in its enforcement of the slamming liability rules. They are also fully consistent with *AT&T* v. *FCC*, in which the Court of Appeals for the District of Columbia Circuit recognized that section 258 of the Act ''authorizes the Commission to prescribe verification procedures.'' In light of this decision, the Commission's

experiences in dealing with slamming complaints since the implementation of section 258 of the Act, and the comments filed in response to the *Second FNPRM*, the Commission believes that further enhancement of the verification procedures is warranted.

2. In the *Second FNPRM*, the Commission sought comment on whether third party verifiers should be required to state the date of the verification call during the verification process.

3. The Commission concludes that the date of the verification should be obtained at the time of the verification and should be readily identifiable by parties that review the verification at a later date. Requiring that the date of verification be obtained and recorded at the time of the verification, in a readily identifiable manner, protects consumers against unauthorized carrier changes, and conversely prevents customers from fraudulently revoking a validly executed agreement. This requirement also helps to prevent mistakes and confusion that could arise in the verification process, and enhances the evidentiary case on which regulatory authorities may rely in order to determine whether a slam occurred. The Commission also notes that carriers that do not wish to use third party verifications are free to use one of the other approved forms of verification. Therefore, in light of these experiences and this previous rule change, as well as the substantial support by most commenters for a requirement that verifications include the date, the Commission finds that the date of the verification should be ascertained and recorded at the time of the verification, and should be readily identifiable by parties that review the verification at a later date. The Commission agrees that carriers should be free to decide how this information will be ascertained, and therefore declines to mandate that the third party verifier must, in all cases, confirm the date verbally with the consumer during the verification. The Commission declines to require that verifications also include the time of the call, because the Commission believes that including the date is sufficient to address the concerns raised by commenters regarding multiple switches.

4. The record reflects that undated verifications have resulted in abuses to the system. In addition, given that the subscriber need not identify the displaced carrier during the verification process, the potential for a slam to occur based on an outdated verification is even greater, because there is no identifying information concerning the date of the verification or the carrier from whom the subscriber is switching. Given the generally widespread support of this proposal by the carrier commenters, the Commission is skeptical that this particular requirement is overly burdensome. It appears that many carriers already register this information; for carriers that do not, the Commission believes that this requirement will only incrementally affect costs of the existing third party verification requirement, particularly since the Commission has given carriers latitude to devise their own methods of obtaining and recording this information.

5. In the *Third Report and Order*, the Commission required that the carrier or carrier's sales representative drop off the call once the connection has been established between the consumer and the third party verifier. In the *Second FNPRM*, the Commission sought comment on whether the verifier should explicitly state that, if the customer has additional questions for the carrier's sales representative regarding the carrier change after verification has begun, the verification will be terminated, and further verification proceedings will not be carried out until after the customer has finished speaking with the sales representative (''Verification Termination Proposal''). In addition, the Commission sought comment on whether the verifier should be required to convey to the customer that the carrier change can be effectuated once the verification has been completed in full (''Verification Completion Proposal''), regardless of whether the customer has further contact with the carrier.

6. The Commission declines to adopt the Verification Termination Proposal, but does adopt what is in effect a modified Verification Completion Proposal. The Commission agrees with those commenters that question the utility of having verifiers provide this information to customers at the outset of the verification. The Commission agrees that doing so likely would increase rather than decrease consumer confusion while unnecessarily increasing costs. This determination does not alter existing requirements. Moreover, the record reflects that under prevailing practices, the verifier generally offers the customer the option to either terminate the verification, if the customer wishes to speak to a sales representative before completing the verification, or to complete the verification and defer the question until after completion.

7. The Commission concludes that, if customers have questions which a verifier can not answer and the verifier indicates it will complete the verification and the question is to be deferred to a carrier's sales representative after completion of the verification, the verifier must state that the carrier change can be effectuated once the verification has been completed. When customers wait until after the verification is completed to ask sales agents questions that might affect their choice of whether to switch carriers, this creates a potential problem. In such cases, customers may erroneously believe that if they choose not to switch carriers after further discussions with the carrier's agent, the previously completed verification is, in all cases, automatically invalidated. As with the Verification Termination Proposal, however, carriers argue that implementing the Verification Completion Proposal would be superfluous, impose unnecessary costs on carriers, and ultimately cause consumer confusion. Some commenters maintain that implementing this proposal would cause undue anxiety for the consumer, delay the verification process and ultimately altogether dissuade consumers from consummating the carrier switches.

8. The Commission adopts what is in effect a modified Verification Completion Proposal, to accommodate these competing concerns. To avoid consumer confusion, while minimizing obligations on carriers, the Commission requires verifiers to directly state that the carrier change can be effectuated once the verification has been completed in full, even where the consumer has additional questions for the carrier's sales representative after the verification process. Such a requirement will avoid consumer misperception that the verification automatically will be invalidated if the consumer decides that they do not want to go through with the carrier switch, and will encourage the consumer to address any potentially confusing issues prior to consummating the verification. The Commission rejects a proposal that verifiers convey this information only at the end of the verification, because it believes that waiting until that point likely will deter consumers from asking questions, out of fear they must go through the whole process again. Some carriers do allow customers to revoke their carrier change authorizations within a certain amount of time after completing the verification process. Therefore, they maintain that requiring third party verifiers to inform consumers that the effectuation can occur after verification is complete could create a conflict with information

provided by a sales representative. In these cases, the Commission agrees the verifier should simply inform the consumer of the carrier's verification revocation policy.

9. In the *Second FNPRM,* the Commission sought comment on whether verifiers must clarify to a customer that she is not verifying an intention to retain existing service, but is in fact asking for a carrier change. The Commission noted examples of carriers seeking to obtain customer authorization for carrier changes merely stating to customers that they are consenting to an ''upgrade'' of the customers' service or to bill consolidation.

10. The Commission agrees with the commenting state utility commissions and Verizon that it should require verifiers to convey explicitly to customers that the carrier change transaction is exactly that, and not a mere upgrade to existing service or any other misleading description. The record reflects that carriers using ambiguous language to describe the nature of the transaction may lead to consumer confusion concerning the true purpose of the solicitation call. The Ohio PUC, for instance, cites instances in which solicitors promised consumers that they would not be changing carriers, inducing these consumers into authorizing carrier changes under the guise of offering discounts and other ''upgrades'' to their current services. The Commission believes that such practices are misleading and unreasonable, and warrant specific treatment in our rules. Thus, the Commission amends § 64.1120(c)(3)(iii) of its rules to provide for verifications to elicit ''confirmation that the person on the call understands that a carrier change, not an upgrade to existing service, bill consolidation, or any other misleading description of the transaction, is being authorized.'' The Commission finds that making these clarifications for the third party verification process will eliminate these sources of confusion.

11. The Commission rejects the contentions of some carriers that this requirement is redundant with existing regulations. Though § 64.1120(c)(3)(iii) of the Commission's rules already requires, *inter alia*, that the verifier confirm that the person on the call wants to make a carrier change, the record reflects that some carriers introduce ambiguity into what should be a straightforward interaction by describing the carrier change offer as a mere ''upgrade'' to existing service or in other ways that obscure the true purpose. As the Commission concluded when it first considered proposals for third party verifier script requirements, ''the scripts used by the independent third party verifier should clearly and conspicuously confirm that the subscriber has previously authorized a carrier change.'' The Commission concludes that requiring the verifier to convey explicitly that the consumers will have authorized a carrier change, and not, for instance, an upgrade to existing service, is a small refinement that will eliminate a significant source of ambiguity to consumers while minimally burdening carriers.

12. IDT opposes this requirement on Constitutional grounds arguing that the Commission ''has long avoided requiring specific language in communicating with consumers, in deference to carriers' First Amendment rights.'' IDT misconstrues the requirement. The Commission did not propose, nor does it adopt, a specific incantation that verifiers must recite. Rather, the Commission seeks to ensure that verifiers confirm the consumer's intent to receive service from a different carrier, regardless of whether that is phrased as a ''change,'' a ''switch,'' or any other non-misleading term. Thus, First Amendment issues are not implicated by the action the Commission takes today.

13. In the *Second FNPRM,* the Commission asked commenters to address whether each piece of information that a third party verifier must gather under its rules should be the subject of a separate and distinct third party verifier inquiry and subscriber response. The Commission notes that § 64.1120(b) of its rules already requires the carrier to obtain separate authorization and verification for each service that is being changed. In addition, customers should be aware of the separate and distinct nature of the types of services they are consenting to switch. Thus, the Commission concludes that its rules provide sufficient protection for consumers, such that a prohibition on compound questions would be unnecessary and unduly burdensome for carriers and consumers alike.

14. In the *Second FNPRM,* the Commission sought comment on whether, when verifying a long distance service change, the verifier should specify that long distance service encompasses both international and state-to-state calls, and whether a verifier should define the terms ''intraLATA toll'' and ''interLATA toll'' service. The Commission noted its observation that carriers sometimes use different terms for these services. For example, a carrier might refer to intraLATA service as ''short haul long distance, local toll, local long distance, or long distance calls within your state.'' The Commission noted receiving numerous complaints from consumers who assert they unknowingly gave up the flat rate for intraLATA service they paid to their LEC when consenting to a carrier change for different services. The Commission declines to require third party verifiers to define for subscribers the terms ''intraLATA toll'' and interLATA toll'' service. The Commission concludes that to do so could increase consumer confusion and add unnecessary time and cost to the verification process. In addition, the Commission believes that other requirements adopted in the *Fourth Report and Order* will go a long way toward alleviating consumer confusion about the services to which they subscribe. The Commission does, however, require third party verifiers to verify that the consumer understands that long distance service includes both international and long distance service.

15. While most commenters acknowledge that distinguishing intraLATA service from interLATA service is particularly complicated, only some support the inclusion of explicit definitions in the verification process. Many carriers believe instead that, in the context of carrier changes, this responsibility should be allocated to the carriers themselves, rather than the third party verifiers. These carriers are concerned primarily that requiring third party verifiers to define complicated terms such as interLATA service and intraLATA service will confuse consumers and cause them to ask questions beyond the verifier's capacity to answer, resulting in likely termination of the verification and an unnecessary and costly reconnection with the carrier's sales representative. The Commission agrees that requiring a third party verifier to explain the differences between intraLATA service and interLATA service could confuse consumers, a majority of whom are unfamiliar with the terms, and increase verification costs. Therefore, the Commission declines to adopt such a requirement. The Commission also notes that these terms have little, if any significance since the former Bell Operating Companies have now been granted permission to re-enter the InterLATA market and provide both IntraLATA and InterLATA service by grant of applications filed pursuant to section 271 of the Act. The Commission does, however, revise certain paragraphs in Subpart K of part 64 of the Commission's rules, 47 CFR 64.1100 *et*

seq., to clarify terminology which heretofore could have been construed to render ''intraLATA'' synonymous with ''intrastate'' and ''interLATA'' synonymous with ''interstate.''

16. In adopting the proposal that verifiers specify that long distance service also includes international calls, the Commission disagrees with carriers who suggest that the proposal is unnecessary due to many consumers' purported disinterest in international services. The record reflects that customers have an interest in how carrier changes will affect all aspects of their telecommunications services. Moreover, given the expense of international calling plans, the Commission believes that these services merit special consideration during the verification process. The cost of international connectivity varies widely from carrier to carrier. According to the National Association of State Utility Consumer Advocates (NASUCA), carriers often will charge exorbitant prices after executing an unauthorized carrier change, and international charges are among the most frequently abused. Consequently, customers who erroneously believe that their international rates have not been affected by a carrier change can receive charges for such calls that exceed by many times the rates they expect. In light of the risks of such uninformed consent, the Commission disagrees that many consumers simply are ''not interested'' in this aspect of their telecommunications services.

17. The Commission notes that some carriers have conducted campaigns that target minorities and consumers with modest English speaking abilities. The Commission believes that these measures are appropriate and necessary to protect such consumers. Finally, the Commission rejects the argument of some carriers that carriers are better situated than verifiers to specify that long distance service also encompasses international service. While the Commission encourages carriers to keep their subscribers informed in this regard, we believe that assigning this role to verifiers will burden the verification process only minimally, if at all. The Commission further believes that doing so will alleviate, rather than exacerbate, consumer confusion.

18. The Commission declines to adopt rule changes proposed by the Joint Commenters regarding the preemption of state slamming regulations that differ from the Commission's. The Commission also rejects a proposal to change the Commission's requirement that carrier sales representatives drop off the sales call once the connection has been established between the subscriber and the verifier. The Commission does, however, adopt clerical changes to its rules to correct previous typographical errors, or to reflect changes in Commission organization.

Final Regulatory Flexibility Certification (FRFA)

19. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

20. The *Fourth Report and Order* adopts clarifications and modifications to §§ 64.1110, 64.1120, 64.1130, 64.1150, 64.1160, and 64.1190 of the Commission's rules pertaining to changes in preferred telecommunications service providers that do not have a significant economic impact on entities subject to those rules. The modifications to § 64.1110(a) and (b) clarify to whom state notification of the election to administer our carrier-change rules is to be sent at the Commission. The modification to § 64.1120(b) clarifies examples of the types of services for which a verifier conducting a third party verification must obtain separate authorization. The Commission modifies § 64.1120(c)(3) to add the date of the third-party verification. The Commission modifies § 64.1120(c)(iii) to add the requirement that the verifier clarify what constitutes long distance service, and to add the requirement that, when a subscriber has a question for the sales representative, the verifier must explain that the subscriber will have authorized a carrier change at the end of the verification. Section 64.1130(e) is modified to clarify examples of the types of services switched through the use of a letter of agency. The Commission modifies § 64.1150(d) to clarify which subsections apply concerning proof of verification. Section 64.1160(c) is modified to correct a grammatical error. In § 64.1190(c) and § 64.1190(d)(3)(ii)(B) the Commission clarifies the types of services for which a subscriber may request a preferred carrier freeze.

21. As noted above, the modified verification requirements in the *Fourth Report and Order* provide that a third-party verification must include the date of the verification, and that the verifier must convey to the consumer that long distance service includes international service, and, if the subscriber has additional questions for the carrier's sales representative, the verifier must indicate that once the verification is completed, the subscriber's service will be switched. These additions should require only minor modifications to third-party verifications. Specifically, from the Commission's experience with verifications, as well as from the record in this proceeding, the Commission believes that most verifications already contain the date; in addition, the Commission will allow carriers to decide themselves how they would like this information to be ascertained. Likewise, from our experience, as well as from the record in this proceeding, the Commission believes that customers have additional questions in relatively few cases, and thus will generally not trigger the requirement that the verifier inform the customer that the service will still be switched if the verification is completed. Other rule changes in the *Fourth Report and Order* are minor clarifications (such as grammatical corrections to the existing rules) that would not generate any additional burdens. Thus, the Commission believes that the compliance burden, and resulting economic impact on entities subject thereto, will be *de minimus*. Therefore, the Commission certifies for purposes of the RFA that the clarifications and modifications adopted in the *Fourth Report and Order* will not have a significant economic impact on a substantial number of small entities.

22. The Commission will send a copy of the *Fourth Report and Order,* including a copy of this Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.

Congressional Review Act

The Commission will send a copy of FCC 07–223 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).

Ordering Clauses

Pursuant to sections 1, 4(i), 4(j), 201, 206–208 and 258 of the

Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201, 206–208, and 258, and § 1.421 of the Commission's rules, 47 CFR 1.421, document FCC 07–223 is adopted, and that part 64 of the Commission's rules, 47 CFR part 64, is amended.

The requirements of the *Fourth Report and Order* shall become effective April 11, 2008, except § 64.1120 (c)(3)(iii) which contains information collections that have not been approved by OMB. These information collections will go into effect upon announcement in the **Federal Register** of OMB approval.

The information collections contained herein are contingent upon approval by the Office of Management and Budget.

The Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, shall send a copy of document FCC 07–223 in CC Docket No. 94–129, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B),(c), Public Law 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, and 254 (k) unless otherwise noted.

■ 2. Section 64.1110 is amended by revising the first sentence in paragraph (a) and the first sentence in paragraph (b), to read as follows:

§ 64.1110 State notification of election to administer FCC rules.

(a) * * * State notification of an intention to administer the Federal Communications Commission's unauthorized carrier change rules and remedies, as enumerated in §§ 64.1100 through 64.1190, shall be filed with the Commission Secretary in CC Docket No. 94–129 with a copy of such notification provided to the Consumer & Governmental Affairs Bureau Chief.* * *

(b) * * * State notification of an intention to discontinue administering the Federal Communications Commission's unauthorized carrier change rules and remedies, as enumerated in §§ 64.1100 through 64.1190, shall be filed with the Commission Secretary in CC Docket No. 94–129 with a copy of such amended notification provided to the Consumer & Governmental Affairs Bureau Chief.* * *

■ 3. Section 64.1120 is amended by revising the first sentence in paragraphs (b) and (c)(3), and revising paragraph (c)(3)(iii), to read as follows:

§ 64.1120 Verification of orders for telecommunications service.

* * * * *

(b) Where a telecommunications carrier is selling more than one type of telecommunications service (*e.g.*, local exchange, intraLATA toll, and interLATA toll), that carrier must obtain separate authorization from the subscriber for each service sold, although the authorizations may be obtained within the same solicitation.* * *

(c) * * *

(3) An appropriately qualified independent third party has obtained, in accordance with the procedures set forth in paragraphs (c)(3)(i) through (c)(3)(iv) of this section, the subscriber's oral authorization to submit the preferred carrier change order that confirms and includes appropriate verification data (*e.g.*, the subscriber's date of birth or social security number).* * *

(iii) *Requirements for content and format of third party verification.* Any description of the carrier change transaction by a third party verifier must not be misleading, and all third party verification methods shall elicit, at a minimum: The date of the verification; the identity of the subscriber; confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call wants to make the carrier change; confirmation that the person on the call understands that a carrier change, not an upgrade to existing service, bill consolidation, or any other misleading description of the transaction, is being authorized; the names of the carriers affected by the change (not including the name of the displaced carrier); the telephone numbers to be switched; and the types of service involved (including a brief description of a service about which the subscriber demonstrates confusion regarding the nature of that service). Except in Hawaii, any description of interLATA or long distance service shall convey that it encompasses both international and state-to-state calls, as well as some intrastate calls where applicable. If the subscriber has additional questions for the carrier's sales representative during the verification, the verifier shall indicate to the subscriber that, upon completion of the verification process, the subscriber will have authorized a carrier change. Third party verifiers may not market the carrier's services by providing additional information, including information regarding preferred carrier freeze procedures.

* * * * *

■ 4. Section 64.1130 is amended by revising the second sentence in paragraph (e)(4), to read as follows:

§ 64.1130 Letter of agency form and content.

* * * * *

(e) * * *

(4) * * * To the extent that a jurisdiction allows the selection of additional preferred carriers (*e.g.*, local exchange, intraLATA toll, interLATA toll, or international interexchange), the letter of agency must contain separate statements regarding those choices, although a separate letter of agency for each choice is not necessary; and

* * * * *

■ 5. Section 64.1150 is amended by revising the second sentence in paragraph (d), to read as follows:

§ 64.1150 Procedures for resolution of unauthorized changes in preferred carrier.

* * * * *

(d) * * * This proof of verification must contain clear and convincing evidence of a valid authorized carrier change, as that term is defined in §§ 64.1120 through 64.1130.* * *

* * * * *

■ 6. Section 64.1160 is amended by revising the second sentence in paragraph (c), to read as follows:

§ 64.1160 Absolution procedures where the subscriber has not paid charges.

* * * * *

(c) * * * An allegedly unauthorized carrier choosing to challenge such allegation shall immediately notify the complaining subscriber that: The complaining subscriber must file a complaint with a State commission that has opted to administer the FCC's rules, pursuant to § 64.1110, or the FCC within 30 days of either the date of removal of charges from the complaining subscriber's bill in accordance with paragraph (b) of this section, or the date

the allegedly unauthorized carrier notifies the complaining subscriber of the requirements of this paragraph, whichever is later; and a failure to file such a complaint within this 30-day time period will result in the charges removed pursuant to paragraph (b) of this section being reinstated on the subscriber's bill and, consequently, the complaining subscriber will only be entitled to remedies for the alleged unauthorized change other than those provided for in § 64.1140(b)(1).* * * * * * * * *

■ 7. Section 64.1190 is amended by revising the first sentence in paragraph (c), and the second sentence in paragraph (d)(3)(ii)(B), to read as follows:

§ 64.1190 Preferred carrier freezes.

* * * * *

(c) Preferred carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (*e.g.*, local exchange, intraLATA toll, and interLATA toll) subject to a preferred carrier freeze.* * *

(d) * * *

(3) * * *

(ii) * * *

(B) * * * To the extent that a jurisdiction allows the imposition of preferred carrier freezes on additional preferred carrier selections (*e.g.*, for local exchange, intraLATA toll, and interLATA toll), the authorization must contain separate statements regarding the particular selections to be frozen;

* * * * *

[FR Doc. E8–4976 Filed 3–11–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA–2007–28874]

Final Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of final theft data.

SUMMARY: This document publishes the final data on thefts of model year (MY) 2005 passenger motor vehicles that occurred in calendar year (CY) 2005. The final 2005 theft data indicate an increase in the vehicle theft rate experienced in CY/MY 2005. The final theft rate for MY 2005 passenger vehicles stolen in calendar year 2005 (1.85 thefts per thousand vehicles) increased by 1.1 percent from the theft rate for CY/MY 2004 (1.83 thefts per thousand vehicles) when compared to the theft rate experienced in CY/MY 2004. As explained in this notice, NHTSA is not concerned at this time about this minor increase. Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data and publish the information for review and comment.

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue, SE., Washington, DC 20590. Ms. Ballard's telephone number is (202) 366–0846. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR part 541. The standard specifies performance requirements for inscribing and affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data and publish the data for review and comment. To fulfill this statutory mandate, NHTSA has published theft data annually beginning with MYs 1983/84. Continuing to fulfill the section 33104(b)(4) mandate, this document reports the final theft data for CY 2005, the most recent calendar year for which data are available.

In calculating the 2005 theft rates, NHTSA followed the same procedures it used in calculating the MY 2004 theft rates. (For 2004 theft data calculations, see 71 FR 59400, October 10, 2006). As in all previous reports, NHTSA's data were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a government system that receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The 2005 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 2005 vehicles of that line stolen during calendar year 2005 by the total number of vehicles in that line manufactured for MY 2005, as reported to the Environmental Protection Agency (EPA).

The final 2005 theft data show a slight increase in the vehicle theft rate when compared to the theft rate experienced in CY/MY 2004. The final theft rate for MY 2005 passenger vehicles stolen in calendar year 2005 increased to 1.85 thefts per thousand vehicles produced, an increase of 1.1 percent from the rate of 1.83 thefts per thousand vehicles experienced by MY 2004 vehicles in CY 2004. NHTSA is not currently concerned with this minor increase in the theft rate. While NHTSA has seen an overall downward trend in theft rates since CY 1993, there have been periods of increase from one year to the next. This increase is lower than any seen in this period. Therefore, NHTSA does not expect that it indicates the beginning of an upward trend for theft rates.

For MY 2005 vehicles, out of a total of 233 vehicle lines, 24 lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991. (See 59 FR 12400, March 16, 1994). Of the 24 vehicle lines with a theft rate higher than 3.5826, 21 are passenger car lines, two are multipurpose passenger vehicle lines, and one is a light-duty truck line.

4

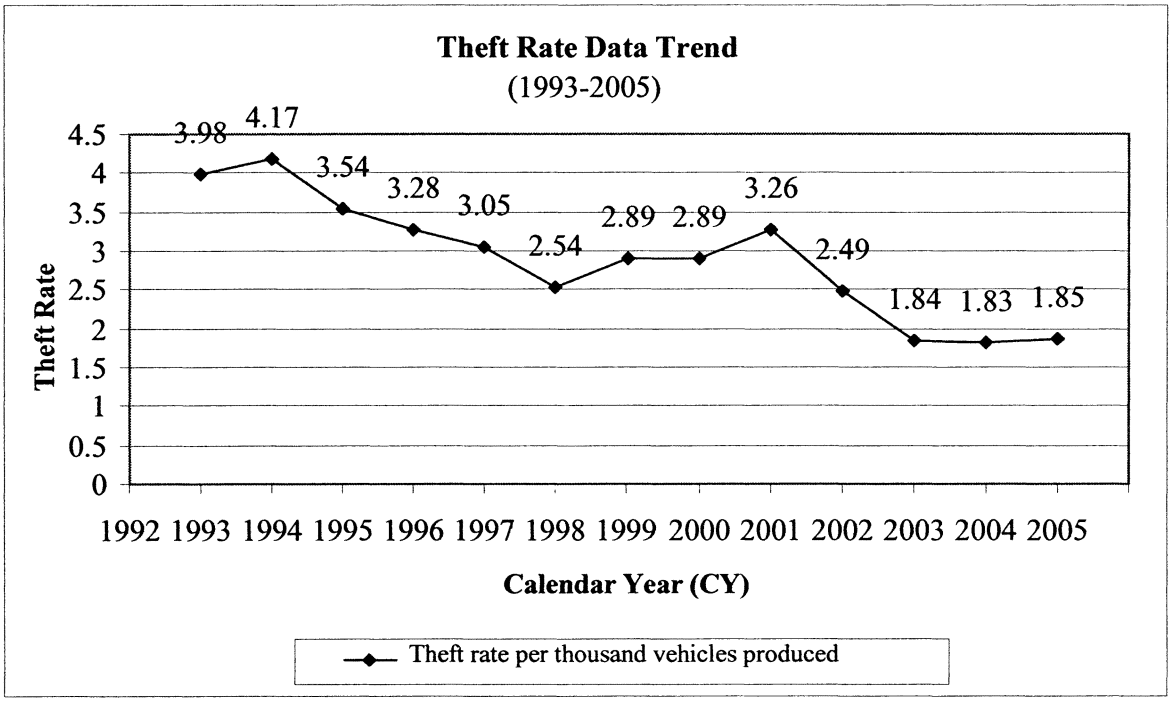

Figure 1: Theft Rate Data Trend (1993-2005)

On Monday, October 15, 2007, NHTSA published the preliminary theft rates for CY 2005 passenger motor vehicles in the **Federal Register** (72 FR 58268). The agency tentatively ranked each of the MY 2005 vehicle lines in descending order of theft rate. The public was requested to comment on the accuracy of the data and to provide final production figures for individual vehicle lines. The agency received no comments in the public docket.

However, subsequent to publishing the MY 2005 preliminary theft rate notice (72 FR 58268), the agency was informed that corrections to the original production figures for some Suzuki vehicle lines had been reported to EPA. The agency has revised the MY 2005 final theft data to reflect those corrections. Specifically, as a result of the new production figures provided the Suzuki Aerio which ranked No. 2 with a theft rate of 6.5232, is still ranked No. 2 with a new theft rate of 5.9386; the Suzuki Forenza which ranked No. 19 with a theft rate of 3.8638, is now ranked No. 20 with a new theft rate of 3.7157; the Suzuki Vitara/Grand Vitara which ranked No. 28 with a theft rate of 3.3005, is now ranked No. 29 with a new theft rate of 3.2630; and the Suzuki Verona which ranked No. 32 with a theft rate of 3.1043, is still ranked No. 32 with a new theft rate of 3.1039.

The following list represents NHTSA's final calculation of theft rates for all 2005 passenger motor vehicle lines. This list is intended to inform the public of calendar year 2005 motor vehicle thefts of model year 2005 vehicles and does not have any effect on the obligations of regulated parties under 49 U.S.C. Chapter 331, Theft Prevention.

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2005 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2005

Manufacturer	Make/model (line)	Thefts 2005	Production (Mfr's) 2005	2005 Theft rate (per 1,000 vehicles produced)
1 TOYOTA	TOYOTA TUNDRA PICKUP	265	14,194	18.6699
2 SUZUKI	AERIO	77	12,966	5.9386
3 KIA	RIO	156	26,328	5.9253
4 MERCEDES BENZ	215 (CL–CLASS)	9	1,601	5.6215
5 JAGUAR	XKR	4	748	5.3476
6 GENERAL MOTORS	CHEVROLET MONTE CARLO	188	35,876	5.2403
7 MITSUBISHI	GALANT	150	28,808	5.2069
8 DAIMLERCHRYSLER	DODGE NEON	783	154,231	5.0768
9 DAIMLERCHRYSLER	DODGE MAGNUM	387	79,254	4.8830
10 DAIMLERCHRYSLER	CHRYSLER SEBRING	242	49,892	4.8505
11 DAIMLERCHRYSLER	DODGE STRATUS	452	94,735	4.7712
12 KIA	OPTIMA	145	31,362	4.6234
13 MITSUBISHI	LANCER	141	31,226	4.5155
14 NISSAN	SENTRA	519	116,354	4.4605

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2005 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2005—Continued

Manufacturer	Make/model (line)	Thefts 2005	Production (Mfr's) 2005	2005 Theft rate (per 1,000 vehicles produced)
15 GENERAL MOTORS	CHEVROLET MALIBU	908	212,400	4.2750
16 TOYOTA	TOYOTA ECHO	43	10,540	4.0797
17 GENERAL MOTORS	PONTIAC GRAND AM	248	61,502	4.0324
18 TOYOTA	LEXUS GS	12	3,004	3.9947
19 NISSAN	INFINITI FX45	7	1,850	3.7838
20 SUZUKI	FORENZA	129	34,718	3.7157
21 GENERAL MOTORS	CHEVROLET CAVALIER	351	95,838	3.6624
22 HONDA	ACURA RSX	69	19,135	3.6060
23 KIA	SPECTRA	191	53,027	3.6019
24 HONDA	S2000	32	8,921	3.5870
25 MASERATI	SPYDER/F1	1	289	3.4602
26 GENERAL MOTORS	PONTIAC SUNFIRE	132	38,239	3.4520
27 DAIMLERCHRYSLER	CHRYSLER SEBRING CONVERTIBLE	114	33,498	3.4032
28 TOYOTA	TOYOTA MR2 SPYDER	3	912	3.2895
29 SUZUKI	VITARA/GRAND VITARA	81	24,824	3.2630
30 TOYOTA	LEXUS IS	20	6,343	3.1531
31 DAIMLERCHRYSLER	CHRYSLER 300	499	158,545	3.1474
32 SUZUKI	VERONA	23	7,410	3.1039
33 HYUNDAI	ACCENT	158	51,121	3.0907
34 GENERAL MOTORS	CHEVROLET AVEO	196	64,250	3.0506
35 HYUNDAI	TIBURON	46	15,100	3.0464
36 GENERAL MOTORS	CHEVROLET IMPALA	701	230,633	3.0395
37 NISSAN	350Z	82	27,146	3.0207
38 MITSUBISHI	ECLIPSE	25	8,471	2.9512
39 FORD MOTOR CO.	LINCOLN LS	64	21,743	2.9435
40 GENERAL MOTORS	CHEVROLET COBALT	410	140,975	2.9083
41 NISSAN	INFINITI QX56	36	12,666	2.8423
42 NISSAN	MAXIMA	209	73,931	2.8270
43 NISSAN	ALTIMA	1,035	368,779	2.8066
44 MAZDA	6	191	68,252	2.7985
45 SUZUKI	RENO	16	5,736	2.7894
46 TOYOTA	SCION XB	187	67,396	2.7746
47 SUBARU	IMPREZA	103	38,390	2.6830
48 GENERAL MOTORS	PONTIAC GRAND PRIX	284	107,972	2.6303
49 FORD MOTOR CO.	FORD TAURUS	527	201,826	2.6112
50 FORD MOTOR CO.	FORD FOCUS	637	245,780	2.5917
51 TOYOTA	TOYOTA CELICA	11	4,258	2.5834
52 BMW	M3	14	5,471	2.5589
53 GENERAL MOTORS	PONTIAC GTO	28	11,065	2.5305
54 ROLLS ROYCE	PHANTOM	1	399	2.5063
55 FORD MOTOR CO.	FORD MUSTANG	362	145,599	2.4863
56 MITSUBISHI	OUTLANDER	36	14,983	2.4027
57 GENERAL MOTORS	CHEVROLET BLAZER S10/T10	12	5,018	2.3914
58 NISSAN	INFINITI FX35	72	30,172	2.3863
59 DAIMLERCHRYSLER	JEEP WRANGLER	178	74,706	2.3827
60 GENERAL MOTORS	CADILLAC XLR	9	3,828	2.3511
61 BMW	6	25	10,636	2.3505
62 TOYOTA	TOYOTA COROLLA	864	368,744	2.3431
63 TOYOTA	SCION TC	146	62,321	2.3427
64 NISSAN	FRONTIER PICKUP	146	62,799	2.3249
65 MITSUBISHI	ENDEAVOR	46	20,871	2.2040
66 HYUNDAI	SONATA	175	79,781	2.1935
67 MAZDA	B SERIES PICKUP	12	5,686	2.1104
68 HYUNDAI	ELANTRA	277	132,495	2.0906
69 MITSUBISHI	MONTERO	8	3,829	2.0893
70 GENERAL MOTORS	PONTIAC G6	128	62,481	2.0486
71 NISSAN	XTERRA	113	55,179	2.0479
72 KIA	SEDONA VAN	156	76,527	2.0385
73 FORD MOTOR CO.	FORD RANGER PICKUP	209	103,723	2.0150
74 VOLKSWAGEN	GOLF/GTI	29	14,447	2.0073
75 HONDA	CIVIC	577	288,917	1.9971
76 KIA	SORENTO	114	57,272	1.9905
77 MERCEDES BENZ	203 (C–CLASS)	139	70,818	1.9628
78 HONDA	ACURA TSX	70	35,836	1.9533
79 ISUZU	ASCENDER	14	7,219	1.9393
80 MAZDA	RX–8	34	17,608	1.9309
81 KIA	AMANTI	43	22,858	1.8812
82 TOYOTA	SCION XA	60	32,132	1.8673

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2005 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2005—Continued

Manufacturer	Make/model (line)	Thefts 2005	Production (Mfr's) 2005	2005 Theft rate (per 1,000 vehicles produced)
83 TOYOTA	TOYOTA TACOMA PICKUP	283	151,776	1.8646
84 JAGUAR	XJ8/XJ8L	8	4,330	1.8476
85 NISSAN	INFINITI G35	120	65,227	1.8397
86 JAGUAR	S–TYPE	25	13,629	1.8343
87 MAZDA	3	158	86,184	1.8333
88 DAIMLERCHRYSLER	CHRYSLER PT CRUISER	240	133,335	1.8000
89 TOYOTA	LEXUS SC	16	9,019	1.7740
90 NISSAN	INFINITI Q45	3	1,712	1.7523
91 NISSAN	PATHFINDER	143	82,667	1.7298
92 MERCEDES BENZ	208 (CLK–CLASS)	37	21,724	1.7032
93 SUBARU	BAJA	14	8,244	1.6982
94 AUDI	A4/A4 QUATTRO/S4/S4 AVANT	80	47,470	1.6853
95 GENERAL MOTORS	CHEVROLET TRAILBLAZER	311	184,671	1.6841
96 TOYOTA	TOYOTA CAMRY/SOLARA	732	437,173	1.6744
97 NISSAN	QUEST VAN	60	35,913	1.6707
98 GENERAL MOTORS	PONTIAC AZTEK	17	10,197	1.6672
99 DAIMLERCHRYSLER	JEEP GRAND CHEROKEE	356	214,714	1.6580
100 MERCEDES BENZ	170 (SLK–CLASS)	17	10,310	1.6489
101 GENERAL MOTORS	BUICK CENTURY	65	40,051	1.6229
102 FORD MOTOR CO.	FORD EXPLORER	317	196,740	1.6113
103 FORD MOTOR CO.	MERCURY SABLE	58	36,134	1.6051
104 SAAB	9–2X	9	5,713	1.5754
105 HONDA	ACCORD	576	371,940	1.5486
106 FORD MOTOR CO.	FORD EXPLORER SPORT TRAC	83	53,640	1.5474
107 HONDA	ACURA 3.2 TL	125	82,497	1.5152
108 GENERAL MOTORS	CHEVROLET COLORADO	206	136,994	1.5037
109 BMW	3	88	58,554	1.5029
110 BMW	5	42	28,346	1.4817
111 FORD MOTOR CO.	MERCURY MOUNTAINEER	48	32,416	1.4808
112 GENERAL MOTORS	SATURN ION	104	71,021	1.4644
113 DAIMLERCHRYSLER	CHRYSLER CROSSFIRE	36	24,679	1.4587
114 GENERAL MOTORS	GMC ENVOY	102	70,105	1.4550
115 KIA	SPORTAGE	35	24,351	1.4373
116 GENERAL MOTORS	GMC CANYON PICKUP	56	39,149	1.4304
117 FORD MOTOR CO.	LINCOLN TOWN CAR	67	46,853	1.4300
118 MERCEDES BENZ	129 (SL–CLASS)	15	10,586	1.4170
119 NISSAN	MURANO	102	72,482	1.4072
120 TOYOTA	TOYOTA MATRIX	99	72,719	1.3614
121 HYUNDAI	SANTA FE	100	73,979	1.3517
122 HYUNDAI	XG300	27	20,099	1.3434
123 GENERAL MOTORS	PONTIAC VIBE	95	71,357	1.3313
124 GENERAL MOTORS	CADILLAC DEVILLE	76	57,246	1.3276
125 VOLKSWAGEN	JETTA	116	87,710	1.3225
126 AUDI	A8	7	5,336	1.3118
127 VOLKSWAGEN	PHAETON	1	768	1.3021
128 MAZDA	TRIBUTE	68	52,267	1.3010
129 JAGUAR	VANDEN PLAS/SUPER V8	4	3,075	1.3008
130 FORD MOTOR CO.	FORD CROWN VICTORIA	24	18,754	1.2797
131 FORD MOTOR CO.	FORD FREESTAR VAN	92	72,690	1.2656
132 GENERAL MOTORS	CHEVROLET ASTRO VAN	29	23,439	1.2373
133 DAIMLERCHRYSLER	CHRYSLER PACIFICA	146	118,329	1.2338
134 GENERAL MOTORS	PONTIAC BONNEVILLE	26	21,519	1.2082
135 GENERAL MOTORS	CADILLAC CTS	74	61,323	1.2067
136 BMW	7	9	7,495	1.2008
137 DAIMLERCHRYSLER	DODGE CARAVAN/GRAND CARAVAN	440	367,439	1.1975
138 TOYOTA	TOYOTA 4RUNNER	127	106,810	1.1890
139 DAIMLERCHRYSLER	DODGE VIPER	2	1,692	1.1820
140 HYUNDAI	TUCSON	71	61,346	1.1574
141 ASTON MARTIN	DB9	1	874	1.1442
142 GENERAL MOTORS	GMC SAFARI VAN	5	4,441	1.1259
143 FORD MOTOR CO.	FORD FIVE HUNDRED	109	97,689	1.1158
144 VOLVO	V70	9	8,070	1.1152
145 MERCEDES BENZ	220 (S–CLASS)	13	11,831	1.0988
146 FORD MOTOR CO.	FORD THUNDERBIRD	10	9,189	1.0883
147 BMW	X3	31	28,657	1.0818
148 TOYOTA	LEXUS LS	31	29,049	1.0672
149 GENERAL MOTORS	CHEVROLET EQUINOX	192	183,758	1.0449
150 FORD MOTOR CO.	FORD ESCAPE	252	243,658	1.0342

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2005 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2005—Continued

Manufacturer	Make/model (line)	Thefts 2005	Production (Mfr's) 2005	2005 Theft rate (per 1,000 vehicles produced)
151 DAIMLERCHRYSLER	JEEP LIBERTY	178	173,110	1.0282
152 TOYOTA	LEXUS ES	83	80,735	1.0281
153 TOYOTA	LEXUS GX	28	27,260	1.0271
154 TOYOTA	TOYOTA AVALON	59	57,577	1.0247
155 GENERAL MOTORS	CHEVROLET CORVETTE	34	33,810	1.0056
156 GENERAL MOTORS	BUICK LESABRE	105	105,985	0.9907
157 TOYOTA	LEXUS RX	94	96,140	0.9777
158 PORSCHE	BOXSTER	6	6,142	0.9769
159 GENERAL MOTORS	CHEVROLET VENTURE VAN	24	25,341	0.9471
160 ROLLS ROYCE	BENTLEY CONTINENTAL	3	3,176	0.9446
161 VOLVO	S40	24	25,722	0.9331
162 TOYOTA	TOYOTA RAV4	75	82,037	0.9142
163 BMW	Z4	10	11,079	0.9026
164 HONDA	ELEMENT	47	52,440	0.8963
165 FORD MOTOR CO.	MERCURY MARINER	29	32,734	0.8859
166 GENERAL MOTORS	SATURN LS	6	6,790	0.8837
167 FORD MOTOR CO.	MERCURY GRAND MARQUIS	61	69,862	0.8731
168 TOYOTA	TOYOTA HIGHLANDER	113	130,146	0.8683
169 GENERAL MOTORS	BUICK PARK AVENUE	8	9,282	0.8619
170 GENERAL MOTORS	SATURN VUE	56	65,105	0.8601
171 VOLKSWAGEN	PASSAT	30	35,149	0.8535
172 PORSCHE	911	7	8,391	0.8342
173 GENERAL MOTORS	CADILLAC STS	31	37,226	0.8328
174 TOYOTA	TOYOTA SIENNA VAN	144	172,999	0.8324
175 GENERAL MOTORS	BUICK LACROSSE/ALLURE	68	81,894	0.8303
176 LAND ROVER	FREELANDER	2	2,441	0.8193
177 MAZDA	MPV VAN	15	18,902	0.7936
178 HONDA	ACURA 3.5 RL	17	21,526	0.7897
179 VOLKSWAGEN	NEW BEETLE	27	34,410	0.7847
180 AUDI	A6/A6 QUATTRO/S6/S6 AVANT	12	15,432	0.7776
181 DAIMLERCHRYSLER	CHRYSLER TOWN & COUNTRY	195	253,162	0.7703
182 GENERAL MOTORS	BUICK RENDEZVOUS	42	54,775	0.7668
183 VOLVO	XC90	33	43,213	0.7637
184 FORD MOTOR CO.	MERCURY MONTEREY VAN	5	6,703	0.7459
185 MERCEDES BENZ	210 (E–CLASS)	30	40,445	0.7417
186 VOLVO	S80	8	10,918	0.7327
187 GENERAL MOTORS	BUICK RAINIER	10	13,648	0.7327
188 VOLVO	S60	15	23,029	0.6514
189 BMW	MINI COOPER	30	47,444	0.6323
190 HONDA	CR–V	88	144,472	0.6091
191 SAAB	9–3	13	21,433	0.6065
192 LOTUS	ELISE	2	3,320	0.6024
193 SUBARU	LEGACY/OUTBACK	21	34,944	0.6010
194 AUDI	ALLROAD QUATTRO	2	3,420	0.5848
195 HONDA	ACURA MDX	35	60,287	0.5806
196 HONDA	PILOT	81	142,118	0.5699
197 GENERAL MOTORS	CHEVROLET UPLANDER VAN	30	52,713	0.5691
198 GENERAL MOTORS	CADILLAC SRX	13	23,498	0.5532
199 FORD MOTOR CO.	FORD FREESTYLE	40	75,643	0.5288
200 HONDA	ODYSSEY VAN	85	161,742	0.5255
201 FORD MOTOR CO.	FORD GT	1	1,907	0.5244
202 SAAB	9–7X	1	1,999	0.5003
203 MAZDA	MX–5 MIATA	2	4,135	0.4837
204 SUBARU	FORESTER	24	50,942	0.4711
205 FORD MOTOR CO.	MERCURY MONTEGO	13	28,517	0.4559
206 GENERAL MOTORS	PONTIAC MONTANA VAN	14	31,583	0.4433
207 TOYOTA	TOYOTA PRIUS	46	121,020	0.3801
208 SUBARU	OUTBACK	29	79,980	0.3626
209 JAGUAR	X–TYPE	4	11,299	0.3540
210 GENERAL MOTORS	SATURN RELAY	6	17,794	0.3372
211 SAAB	9–5	2	6,137	0.3259
212 VOLVO	V50	2	6,909	0.2895
213 GENERAL MOTORS	BUICK TERRAZA VAN	2	19,848	0.1008
214 MASERATI	GRANSPORT	0	490	0.0000
215 MASERATI	QUATTROPORTE	0	1,311	0.0000
216 HONDA	ACURA NSX	0	249	0.0000
217 ASTON MARTIN	VANQUISH	0	165	0.0000
218 AUDI	TT	0	3,375	0.0000

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2005 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2005—Continued

Manufacturer	Make/model (line)	Thefts 2005	Production (Mfr's) 2005	2005 Theft rate (per 1,000 vehicles produced)
219 ROLLS ROYCE	BENTLEY ARNAGE	0	361	0.0000
220 GENERAL MOTORS	CADILLAC FUNERAL COACH/HEARSE	0	854	0.0000
221 GENERAL MOTORS	CADILLAC LIMOUSINE	0	472	0.0000
222 FERRARI	MARANELLO/F1	0	235	0.0000
223 FERRARI	SCAGLIETTI/F1	0	228	0.0000
224 FERRARI	SPIDER/F1	0	1,093	0.0000
225 GENERAL MOTORS	CHEVROLET CLASSIC	0	83,060	0.0000
226 GENERAL MOTORS	GMC K2500	0	51	0.0000
227 HONDA	INSIGHT	0	591	0.0000
228 JAGUAR	XJR	0	741	0.0000
229 JAGUAR	XK8	0	1,760	0.0000
230 NISSAN	ARMADA	0	34,803	0.0000
231 NISSAN	TITAN	0	77,628	0.0000
232 SPYKER	C8	0	7	0.0000
233 VOLVO	XC70	0	14,806	0.0000

Issued on: March 7, 2008.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E8–4951 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1572

[Docket Nos. TSA–2006–24191; TSA Amendment No. 1572–8]

RIN 1652–AA41

Title: Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License; Correction

AGENCY: Transportation Security Administration, DHS.

ACTION: Correcting amendments.

SUMMARY: This amendment clarifies that E–2 Visa (Treaty Investor) holders are eligible for a Transportation Worker Identification Credential (TWIC), and corrects an error in the final rule published on January 25, 2007 72 FR 4392. The amendment adds the E–2 Visa as one of the permissible visa categories for TWIC applicants. Holders of E–2 Visas were explicitly listed as eligible to hold a TWIC in the preamble of the rule, and therefore, this revision carries out the intent of the rule.

DATES: Effective on March 12, 2008.

FOR FURTHER INFORMATION CONTACT: Christine Beyer, Office of Chief Counsel, TSA–2, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–2657; facsimile (571) 227–1380; e-mail *Christine.Beyer@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

On January 25, 2007, the Department of Homeland Security (DHS), through TSA and the United States Coast Guard (Coast Guard), issued a final rule to further secure the Nation's ports and modes of transportation. The rule implemented the Maritime Transportation Security Act of 2002 and the Security and Accountability for Every Port Act of 2006. Those statutes establish requirements regarding the promulgation of regulations that require credentialed merchant mariners and workers with unescorted access to secure areas of vessels and facilities to undergo a security threat assessment and receive a biometric credential, known as a Transportation Worker Identification Credential (TWIC). Subsequently, TSA corrected and amended the final rule on February 7, 2007 (72 FR 5632); March 26, 2007 (72 FR 14049); March 30, 2007 (72 FR 15195); and September 28, 2007 (72 FR 55043).

In the January 2007 final rule, TSA applied its security threat assessment standards that already applied to commercial drivers authorized to transport hazardous materials in commerce to merchant mariners and workers who require unescorted access to secure areas on vessels and at maritime facilities. Also, TSA amended the qualification standards by changing the list of crimes that disqualify an individual from holding a TWIC or a hazardous materials endorsement (HME), and expanded the immigration standards to permit additional lawful nonimmigrants to apply for and hold a TWIC or HME.

In selecting the immigration status and visa categories that are eligible for a TWIC, TSA focused on the professionals and specialized workers who are employed prevalently in the maritime industry to work on vessels or other equipment unique to the maritime industry. In the final rule, TSA stated that an alien holding one of the following visa categories would be eligible to apply for a TWIC: (1) H–1B Special Occupations; (2) H–1B1 Free Trade Agreement; (3) E–1 Treaty Trader; (4) E–2 Treaty Investor; (5) E–3 Australian in Specialty Occupation; (6) L–1 Intra Company Executive Transfer; (7) O–1 Extraordinary Ability; or (8) TN North American Free Trade Agreement. *See* 72 FR 3551. However, we inadvertently omitted the E–2 Treaty Investor visa category from the immigration standards in the rule text at 49 CFR 1572.105. With this correcting amendment, we revise § 1572.105 to add the E–2 Treaty Investor as an eligible category for TWIC. This addition requires renumbering paragraph (a)(7) and making conforming editorial changes. Former subparagraph (a)(7)(x) is revised so that it correctly applies to all of paragraph (a)(7), not just (a)(7)(i)-(viii).

List of Subjects in 49 CFR Part 1572

Appeals, Commercial drivers license, Criminal history background checks, Explosives, Facilities, Hazardous materials, Incorporation by reference, Maritime security, Motor carriers, Motor vehicle carriers, Ports, Seamen, Security

measures, Security threat assessment, Vessels, Waivers.

■ Accordingly, 49 CFR part 1572 is corrected by making the following correcting amendment:

PART 1572—CREDENTIALING AND SECURITY THREAT ASSESSMENTS

■ 1. The authority citation for part 1572 continues to read as follows:

Authority: 46 U.S.C. 70105; 49 U.S.C. 114, 5103a, 40113, and 46105; 18 U.S.C. 842, 845; 6 U.S.C. 469.49 U.S.C.

■ 2. In § 1572.105, amend paragraph (a) as follows:

■ a. Revise paragraph (a)(7)(ix).

■ b. Redesignate paragraph (a)(7)(x) as paragraph (xi) and revise.

■ c. Add new paragraph (a)(7)(x).

§ 1572.105 Immigration status.

(a) * * *

(7) * * *

(ix) TN North American Free Trade Agreement;

(x) E–2 Treaty Investor; or

(xi) Another authorization that confers legal status, when TSA determines that the legal status is comparable to the legal status set out in paragraph (a)(7) of this section.

* * * * *

Issued in Arlington, Virginia, on March 6, 2008.

Mardi Ruth Thompson,

Deputy Chief Counsel for Regulations, Transportation Security Administration.

[FR Doc. E8–4901 Filed 3–11–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106671–8010–02]

RIN 0648–XG24

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allocation of the 2008 total allowable catch (TAC) of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 9, 2008, until 1200 hrs, A.l.t., September 1, 2008.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allocation of the 2008 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Central Regulatory Area of the GOA is 1,706 metric tons (mt) as established by the 2008 and 2009 harvest specifications for groundfish of the GOA (73 FR 10562, February 27, 2008).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season allocation of the 2008 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,356 mt, and is setting aside the remaining 350 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 6, 2008.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 7, 2008.

Emily H. Menashes

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

[FR Doc. 08–1009 Filed 3–7–08; 2:37 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 49
Wednesday, March 12, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AI10

Enhancements to Emergency Preparedness Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: Availability of preliminary draft rule language.

SUMMARY: The Nuclear Regulatory Commission (NRC) staff is making available preliminary draft rule language that would constitute amendments to its regulations on emergency preparedness (EP). The release of the preliminary draft requirements is intended to inform stakeholders of the current status of the NRC's activities on its EP rulemaking. The goal of this rulemaking is to enhance EP regulations based on operating experience and the post-September 11, 2001, threat environment. The Commission has not reviewed the preliminary draft rule language, and this preliminary draft rule language may be subject to significant revisions during the rulemaking process.

DATES: The NRC is not soliciting formal public comments on the preliminary draft rule language at this time. Comments can be submitted for NRC consideration in the development of the proposed rule through the *www.regulations.gov* Web site until July 1st, 2008. There will be an opportunity for formal public comment on the proposed rule when the notice of proposed rulemaking is published in the **Federal Register**.

ADDRESSES: The preliminary draft rule language can be viewed and downloaded electronically via the Federal rulemaking Web site at *www.regulations.gov* and can be found by searching under Docket ID no. NRC–2008–0122. Along with any publicly available documents related to this rulemaking, the draft information may be viewed electronically on public computers in the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Room O–1 F21, and open to the public on Federal workdays from 7:45 a.m. until 4:15 p.m. The PDR reproduction contractor will make copies of documents for a fee.

FOR FURTHER INFORMATION CONTACT: Lauren Quinones-Navarro, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–2007, e-mail, *lqn@nrc.gov;* or Kathryn Brock, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–2015, e-mail, *kmb3@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC staff is making a preliminary version of the draft proposed rule language available to inform stakeholders of the current status of the NRC's EP rulemaking effort. The staff recognizes that security-based events differ from accidental events at nuclear power plants and that EP regulations and guidance could be enhanced to better reflect the security elements in these regulations. Additionally, the NRC staff has determined that other aspects of the EP regulations could be enhanced based on years of EP inspection program implementation and stakeholder input. The rulemaking would codify security-based response elements of NRC Bulletin 2005–02, ''Emergency Preparedness and Response Actions for Security-Based Events.'' It would also enhance other key EP regulations in the areas of NRC-evaluated biennial exercises, emergency response organization staffing, emergency response facilities and equipment, and emergency plan maintenance and implementation.

The Commission paper (SECY–06–0200) which provided the results of the NRC staff review of the NRC's EP program and its recommendations regarding proposed enhancements to the EP regulations and guidance may be found at the NRC public Web site at *http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2006/secy2006-0200/2006-0200scy.pdf.* The Rulemaking Plan concerning the revision of EP regulations and guidance may be found at *http://www.nrc.gov/about-nrc/regulatory/rulemaking/rulemaking-plans.html.*

Dated at Rockville, Maryland, this 29th day of February, 2008.

For the Nuclear Regulatory Commission.

Arlon Costa,

Chief, Financial Policy and Rulemaking Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. E8–4899 Filed 3–11–08; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0284; Directorate Identifier 2008–CE–006–AD]

RIN 2120–AA64

Airworthiness Directives; Cirrus Design Corporation Model SR20 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Cirrus Design Corporation (CDC) Model SR20 airplanes. This proposed AD would require an inspection and replacement as necessary of the heat exchanger. This proposed AD results from the discovery of engine exhaust fumes in the cabin of CDC Model SR20 airplanes. We are proposing this AD to detect and correct leaks in the exhaust system, which could result in exhaust gases leaking into the cabin heating system. This condition could lead to carbon monoxide in the cabin and incapacitation of the pilot.

DATES: We must receive comments on this proposed AD by May 12, 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 Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811, telephone: (218) 788–3000.

FOR FURTHER INFORMATION CONTACT: Michael Downs, Aerospace Engineer, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–7870; fax: (847) 294–7834.

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–2008–0284; Directorate Identifier 2008–CE–006–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

We received a report from the operator of a fleet of CDC Model SR20 airplanes that an exhaust leak was discovered in the cabin on one of the fleet airplanes. Failure of a spot weld that secures the heater shroud to the muffler caused the exhaust leak. Inspection of the operator's total fleet of 40 airplanes found 24 more airplanes with defective spot welds. One of these defective welds was leaking exhaust into the cabin heating system.

This condition, if not corrected, could lead to carbon monoxide in the cabin and incapacitation of the pilot.

Relevant Service Information

We have reviewed Cirrus Service Bulletin SB 2X–78–07 R1, Revision 1, dated December 18, 2007. The service information describes procedures for:

• Pressurization check of the heat exchanger;

• Installation of an improved heat exchanger if broken welds or exhaust leaks are found; and

• Repetitive 100-hour pressurization checks.

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 require an inspection and replacement as necessary of the exhaust system.

Costs of Compliance

We estimate that this proposed AD would affect 713 airplanes in the U.S. registry.

We estimate the following costs to do the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work-hour × $80 per hour = $80	$0	$80	$57,040

We estimate the following costs to do any necessary replacement that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need this replacement:

Labor cost	Parts cost	Total cost per airplane
1 work-hour × $80 per hour = $80	$848	$928

Warranty credit will be given to the extent specified in Cirrus Service Bulletin SB 2X–78–07 R1, Revision 1, dated December 18, 2007.

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 adding the following new AD:

Cirrus Design Corporation: Docket No. FAA–2008–0284; Directorate Identifier 2008–CE–006–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by May 12, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model SR20 airplanes, serial numbers 1005 through 1815, that are certificated in any category.

Unsafe Condition

(d) This AD results from the discovery of engine exhaust fumes in the cabin of Cirrus Design Corporation Model SR20 airplanes. We are proposing this AD to detect and correct leaks in the exhaust system, which could result in exhaust gases leaking into the cabin heating system. This condition could lead to carbon monoxide in the cabin and incapacitation of the pilot.

Compliance

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

Actions	Compliance	Procedures
(1) Perform a pressurization check on the exhaust system.	Initially within the next 25 hours time-in-service (TIS) after the effective date of this AD or within the next 3 months after the effective date of this AD, whichever occurs first. Repetitively thereafter at intervals not to exceed every 100 hours TIS.	Follow Cirrus Service Bulletin SB 2X–78–07 R1, Revision 1, dated December 18, 2007.
(2) If the exhaust system is found defective during any check required in paragraph (e)(1) of this AD or an exhaust odor is detected inside the airplane cabin, replace the heat exchanger weldment and shroud with new improved heat exchanger weldment and new shroud.	Before further flight after the effective date of this AD.	Follow Cirrus Service Bulletin SB 2X–78–07 R1, Revision 1, dated December 18, 2007.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Chicago Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Michael Downs, Aerospace Engineer, Chicago ACO, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–7870; fax: (847) 294–7834. 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 Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811, telephone: (218) 788–3000. 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 March 4, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4864 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0111; Airspace Docket No. 08–AAL–6]

Proposed Revocation of Area Navigation Jet Routes J–889R and J–996R; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA is proposing to remove two Area Navigation (RNAV) Jet Routes designated as Jet Route J–888R and J–996R in Alaska. These routes transiting between Anchorage, and Bethel, AK, and Cape Newenham, and Anchorage, AK, respectively, are no longer required for routings provided by the Anchorage Air Route Traffic Control Center (ARTCC).

DATES: Comments must be received on or before April 28, 2008.

ADDRESSES: Send comments on this proposal to the, U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2008–0111 and Airspace Docket No. 08–AAL–6 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2008–0111 and Airspace Docket No. 08–AAL–6) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2008–0111 and Airspace Docket No. 08–AAL–6.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the **Federal Register**'s Web page at *http://www.gpoaccess.gov/fr/index.html.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Alaska Flight Service Operations, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to remove two RNAV Jet Routes designated as J–888R and J–996R in Alaska. The Anchorage ARTCC has requested that these two Jet Routes be removed from the National Airspace System because they are no longer being used. The first route is J–888R from AMOTT (near Anchorage, AK) and ends at OZZIE south of Bethel, AK. The second route is J–996R from Cape Newenham, AK, and ends at AMOTT near Anchorage, AK.

Alaska Area Navigation routes are published in paragraph 2005 of FAA Order 7400.9R signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Alaska Area Navigation routes listed in this document will be subsequently removed in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to remove Class E airspace from the Federal Airway system within the State of Alaska and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, and effective September 15, 2007, is to be amended as follows:

Paragraph 2005 Alaska Area Navigation Routes.

* * * * *

J–888R [Remove]

J–996R [Remove]

* * * * *

Issued in Washington, DC, March 3, 2008.

Ellen Crum,

Acting Manager, Airspace and Rules Group.

[FR Doc. E8–4929 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0049]

RIN 1625–AA09

Drawbridge Operation Regulations; Gulf Intracoastal Waterway (GIWW), mile 49.8, near Houma, Lafourche Parish, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulation governing the

operation of the SR 316 Blue Bayou Pontoon Bridge across the Gulf Intracoastal Waterway, mile 49.8, near Houma, Lafourche Parish, Louisiana. Currently the bridge opens on signal, but due to high vehicular traffic and school bus traffic Lafourche Parish requested this change. The proposed rule will require the draw of the bridge to open on signal except during the regular school year on Monday through Friday, except Federal holidays, from 7 a.m. to 8:30 a.m., from 2 p.m. to 4 p.m., and from 4:30 p.m. to 5:30 p.m.

DATES: Comments and related material must reach the Coast Guard on or before May 12, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2008–0049 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online: http://www.regulations.gov*.

(2) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Bart Marcules, Bridge Administration Branch, telephone (504) 671–2128.

If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking USCG–2008–0049, indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8 ½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* at any time, click on ''Search for Dockets,'' and enter the docket number for this rulemaking USCG–2008–0049 in the Docket ID box, and click enter. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

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

Public Meeting

We are not at this time planning to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Lafourche Parish Council has requested that a regulation be placed on the SR 316 Blue Bayou Pontoon Bridge across the Gulf Intracoastal Waterway (GIWW), at mile 49.8, near Houma, Louisiana. This bridge currently opens on signal as required by 33 CFR 117.5. Due to a high volume of vehicular traffic on SR 316 and length of time to open and close the SR 316 Blue Bayou Pontoon Bridge, a bridge opening can cause a substantial delay in transit time for school buses having to cross the bridge. To minimize the transit time of school children, Lafourche Parish requested closure periods around the scheduled school bus route times to allow the buses to cross the bridge without delay caused by a bridge opening. Currently, based on twelve months of bridge logs and a two week vehicular traffic count during the school year, the 7 a.m. to 8:30 a.m. period has an average of 87 cars to 3.4 vessels, the 2 p.m. to 4 p.m. period has an average of 112 cars to 6.3 vessels, and the 4:30 p.m. to 5:30 p.m. period has an average of 140 cars to 3.2 vessels. Thus, a substantial delay can occur to the school buses that have to cross this bridge during their routes.

A Test Deviation, USCG–2008–0048, is being issued in conjunction with this Notice of Proposed Rulemaking to test the proposed schedule and to obtain data and public comments. The test period will be in effect from March 27, 2008 until April 28, 2008. The Coast Guard will review the logs of the drawbridge and evaluate public comments from this Notice of Proposed Rulemaking and the above referenced Temporary Deviation to determine if a permanent special drawbridge operating regulation is warranted.

The Test Deviation shall allow the draw to open on signal; except that, the draw need not be opened from 7 a.m. to 8:30 a.m., from 2 p.m. to 4 p.m., and from 4:30 p.m. to 5:30 p.m., Monday through Friday except Federal holidays.

Discussion of Proposed Rule

The proposed rule will allow the SR 316 Blue Bayou Pontoon Bridge to not have to open from 7 a.m. to 8:30 a.m., 2 p.m. to 4 p.m., and 4:30 p.m. to 5:30 p.m. This departure from the current regulation requiring the bridge to open on signal is based on bus route times. The proposed regulation will allow the school buses that transit on SR 316 to deliver their passengers in a timely manner without delays.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

The proposed rule will only allow the bridge to not have to open during three short periods during the day with open on signal periods between each closure period. Given the high vehicular traffic to low vessel count—the 7 a.m. to 8:30 a.m. period has an average of 87 cars to 3.4 vessels, the 2 p.m. to 4 p.m. period has an average of 112 cars to 6.3 vessels, and the 4:30 p.m. to 5:30 p.m. period has an average of 140 cars to 3.2 vessels—we expect very few vessels will be impacted or backed up, and those few vessels should be able to schedule their transit time during an open on signal period.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect a limited number of small entities. These entities include tug boat and trawler operators. This proposed rule will have no significant impact on any small entities because the proposed regulation will only provide for three short closure periods with open on signal periods between each closure period. Thus, small entities may schedule to transit through this bridge during the open on signal periods and avoid any delay.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Bart Marcules, Bridge Administration Branch, telephone (504) 671–2128. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117 Bridges

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

2. In § 117.451, redesignate paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively, and add new paragraph (c) to read as follows:

§ 117.451 Gulf Intracoastal Waterway

* * * * *

(c) The draw of the SR 316 Bayou Blue Bridge, mile 49.8, near Houma shall open on signal; except that, from August 15 to May 31 (the school year), the draw need not be opened from 7 a.m. to 8:30 a.m., from 2 p.m. to 4 p.m., and from 4:30 p.m. to 5:30 p.m., Monday through Friday except Federal holidays.

* * * * *

Dated: February 21, 2008.

J.H. Korn,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard District, Acting.

[FR Doc. E8–4940 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–2005–0036; FRL–8542–2]

RIN 2060–AO89

Control of Hazardous Air Pollutants From Mobile Sources: Early Credit Technology Requirement Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revise the February 26, 2007 mobile source air toxics rule's requirements that specify the benzene control technologies that qualify a refiner to generate early benzene credits. We are proposing to allow another specific benzene control technology, benzene alkylation, in addition to the four operational or technological changes that the 2007 rule currently allows. We are also proposing a general provision that would allow a refiner to submit a request to EPA to approve other benzene-reducing operational changes or technologies for the purpose of generating early credits. In the ''Rules and Regulations'' section of this **Federal Register** we are revising the February 26, 2007 rule as discussed above via a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by April 11, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–2005–0036, by mail to: EPA–HQ–2005–0036, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Christine Brunner, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood, Ann Arbor, MI 48105; telephone number: (734) 214–4287; fax number: (734) 214–4816; e-mail address: *brunner.christine@epa.gov*. Alternative contact: Assessment and Standards Division Hotline, telephone number: (734) 214–4636; e-mail address: *asdinfo@epa.gov.*

SUPPLEMENTARY INFORMATION:

Why is EPA Issuing This Proposed Rule?

This document proposes to revise the early credit technology requirement under the MSAT2 benzene rule. We have published a direct final rule that takes this action in the ''Rules and Regulations'' section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

Does this Action Apply to Me?

This action may affect you if you produce gasoline. The following table gives some examples of entities that may have to follow the regulations.

Category	NAICS [1] codes	SIC [2] codes	Examples of potentially regulated entities
Industry	324110	2911	Petroleum Refiners.

[1] North American Industry Classification System (NAICS).
[2] Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To decide whether your organization might be affected by this action, you should carefully examine today's proposed action and the existing regulations in 40 CFR part 80. If you have any questions regarding the applicability of this action to a

particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Outline of This Preamble

I. Background
II. Today's Action
III. Environmental and Economic Impact
IV. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health & Safety Risks
H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
Statutory Provisions and Legal Authority
List of Subjects

I. Background

The Mobile Source Air Toxics rule (MSAT2), published on February 26, 2007 (72 FR 8428), requires that refiners and importers produce gasoline that has an annual average benzene content of 0.62 volume percent (vol%) or less, beginning in 2011. (See § 80.1230(a).) The rule also requires that no refiner or importer have an actual average gasoline benzene level greater than 1.3 volume percent. After achieving an actual annual average benzene level of 1.3 vol%, refiners and importers may use benzene credits to reduce their average benzene level to 0.62 vol%. Refiners may generate benzene credits for their own use or to sell to others, in two ways. Once the program begins in 2011, a refiner generates credits (known as standard credits) when its average annual gasoline benzene level is less than 0.62 vol%. Importers can also generate standard credits. Refiners may also generate credits prior to 2011.[1] These credits are called early credits. The final rule allowed for the generation of early benzene credits in any annual averaging period prior to 2011 (i.e., 2008, 2009, and 2010), as well as for the partial year period June 1—December 31, 2007. Early credits are generated on a refinery basis. In order to generate early credits, a refinery must meet several requirements:

(1) Establish a benzene baseline based on the average benzene level of the gasoline produced at the refinery during the two-year period 2004–05. (See § 80.1285.)

(2) Make operational changes or improvements in benzene control technology that will result in real benzene reductions. (See § 80.1275(d).)

(3) Achieve an annual average benzene level at least 10% lower than its baseline level. (See § 80.1275(a)).

In § 80.1275(d)(1) of the MSAT2 final rule, we specified four types of operational changes and benzene control technology improvements that would allow a refinery to qualify for generating early credits if it implemented the changes after 2005 and if it also met the other related requirements. These operational changes and technology improvements are:

(1) Treating the heavy straight run naphtha entering the reformer using light naphtha splitting and/or isomerization.

(2) Treating the reformate stream exiting the reformer using benzene extraction or benzene saturation.

(3) Directing additional refinery streams to the reformer for treatment as described in (1) and (2) above.

(4) Directing reformate streams to other refineries with treatment capabilities as described in (2) above.

We included in this list all the strategies we thought would reduce benzene and be cost-effective. The provision was intended to not allow early credit generation solely by benzene reductions achieved through ethanol blending. A refinery needs to implement at least one of the listed improvements.

The final rule did not provide a way for EPA to consider alternative means of reducing benzene, no matter how efficacious the alternative might be. Soon after the rule was finalized, it came to our attention that at least one refinery had plans to install benzene alkylation technology. Benzene alkylation is not one of the four operational or technological changes enumerated in the final rule. Although EPA regards benzene alkylation as a legitimate benzene reduction technology, we did not expect it to be used. (See the Regulatory Impact Analysis (EPA 420–R–07–002, February 2007), Chapter 6, Page 36.)

II. Today's Action

We published a Questions and Answers document related to the MSAT2 program on August 16, 2007. (*http://epa.gov/otaq/regs/toxics/420f07053.pdf*) In that document, we specifically addressed benzene alkylation and indicated that benzene alkylation meets the intent of the technology requirement for early credits. As discussed in the preamble of the final rule, early credits are generated based on innovations in gasoline benzene control technology that result in real benzene reductions prior to the start of the program in 2011. (See 72 FR 8486.) The use of benzene alkylation directly results in lower gasoline benzene levels.

We are proposing to revise § 80.1275(d)(1) to include benzene alkylation in the list of acceptable benzene reduction operational and technological strategies. We are also proposing a general provision that would allow a refiner to petition EPA to use an operational or technological change that is not listed in the regulation for the purpose of generating early credits. The refiner would have to demonstrate that the benzene control technology improvement or operational change results in a net reduction in the refinery's average gasoline benzene level, exclusive of benzene reductions due simply to blending practices. The petition would have to be submitted to EPA prior to the start of the first averaging period in which the refinery plans to generate early credits. EPA expects it would act on such a petition before the end of that averaging period. The refiner would also have to provide additional information requested by EPA.

The other requirements for generating early credits are unchanged. These include submitting a benzene baseline, reducing the refinery's baseline benzene level by at least 10% in a given averaging period, and not moving gasoline or blendstock streams between refineries for the purpose of generating early credits (See 72 FR 8486.)

III. Environmental and Economic Impact

We believe there will be no negative environmental or economic impacts resulting from the proposed changes. This action would allow those companies that have alternative means or strategies for reducing gasoline benzene to request EPA approval to use them for the purpose of generating early benzene credits. Average gasoline benzene levels from such refiners would decrease faster and earlier than if they had not generated early credits, and such credits would help provide for a robust credit pool when the program starts in 2011.

[1] Importers are not allowed to generate early credits because they do not have the ability to make the benzene reduction technology changes that would lower benzene levels in the gasoline pool.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action would revise the February 26, 2007 mobile source air toxics rule's requirements that specify the benzene control technologies that qualify a refiner to generate early benzene credits. It would allow another specific benzene control technology, benzene alkylation, to be used for the purpose of generating early credits, and would allow a refiner to submit a request to EPA to approve other benzene-reducing operational changes or technologies for the purpose of generating early credits. This action is not expected to have an annual impact on the economy of more than $100 million, nor does it raise any novel legal or policy issues. This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order.

B. Paperwork Reduction Act

This proposed action would not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq* because the proposed amendments do not change the information collection requirements of the underlying rule.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR Part 9.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this proposed rule because this action would not have a significant economic impact on a substantial number of small entities.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A petroleum refining company with fewer than 1500 employees or a petroleum wholesaler or broker with fewer than 100 employees, based on the North American Industrial Classification System (NAICS); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This proposed 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. EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This proposed rule simply modifies the original rule in a limited manner, and would not significantly change the original rule. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments, because it applies only to parties that produce gasoline.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The rule would amend existing regulatory provisions applicable only to producers of gasoline and would not alter State authority to regulate these entities. The amendments would impose no direct costs on State or local governments. Thus, Executive Order 13132 does not apply to this proposed rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to

ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have tribal implications, as specified in Executive Order 13175. It would not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. The proposed rule would amend existing regulatory provisions applicable only to producers of gasoline and would impose no direct costs on tribal governments. Thus, Executive Order 13175 does not apply to this proposed rule.

G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined in Executive Order 12866.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. We believe there will be no negative environmental or economic impacts resulting from the proposed changes compared to the February 26, 2007 rule this action proposes to modify.

Statutory Provisions and Legal Authority

The statutory authority for the fuels controls in this proposed rule can be found in sections 202 and 211(c) of the Clean Air Act (CAA), as amended. Support for any procedural and enforcement-related aspects of the fuel controls in this proposal, including recordkeeping requirements, comes from sections 114(a) and 301(a) of the CAA.

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle fuel, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: March 6, 2008.

Stephen L. Johnson,

Administrator.

For the reasons set forth in the preamble, 40 CFR part 80 is amended as set forth below:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7542, 7545 and 7601(a).

2. Section 80.1275 is amended as follows:

a. By adding paragraph (d)(1)(v).

b. By redesignating paragraph (d)(2) as paragraph (d)(3).

c. By adding paragraph (d)(2).

§ 80.1275 How are early benzene credits generated?

* * * * *

(d) * * *

(1) * * *

(v) Providing for benzene alkylation.

(2)(i) A refiner may petition EPA to approve, for purposes of paragraph (d)(1) of this section, the use of operational changes and/or improvements in benzene control technology that are not listed in paragraph (d)(1) of this section to reduce gasoline benzene levels at a refinery.

(ii) The petition specified in paragraph (d)(2)(i) of this section must be sent to: U.S. EPA, NVFEL-ASD, Attn: MSAT2 Early Credit Benzene Reduction Technology, 2000 Traverwood Dr., Ann Arbor, MI 48105.

(iii) The petition specified in paragraph (d)(2)(i) of this section must show how the benzene control technology improvement or operational change results in a net reduction in the refinery's average gasoline benzene level, exclusive of benzene reductions due simply to blending practices.

(iv) The petition specified in paragraph (d)(2)(i) of this section must be submitted to EPA prior to the start of the first averaging period in which the refinery plans to generate early credits.

(v) The refiner must provide additional information as requested by EPA.

(3) Has not included gasoline blendstock streams transferred to, from,

or between refineries, except as noted in paragraph (d)(1)(iv) of this section.

* * * * *

[FR Doc. E8–4915 Filed 3–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R08–RCRA–2006–0382; FRL–8541–6]

Colorado: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Colorado has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA proposes to grant final authorization to the hazardous waste program changes submitted by Colorado. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the State's program changes as an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe these actions are not controversial and do not expect comments to oppose them. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments opposing this authorization during the comment period, the immediate final rule will become effective and the Agency will not take further action on this proposal. If we receive comments that oppose these actions, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect. EPA will then address public comments in a later final rule based on this proposal. Any parties interested in commenting on these actions must do so at this time. EPA may not provide further opportunity for comment.

DATES: Comments must be received on or before April 11, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–RCRA–2006–0382, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *E-mail: daly.carl@epa.gov*.
- *Fax:* (303) 312–6341.
- *Mail:* Send written comments to Carl Daly, Solid and Hazardous Waste Program, EPA Region 8, Mailcode 8P–HW, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery or Courier:* Deliver your comments to Carl Daly, Solid and Hazardous Waste Program, EPA Region 8, Mailcode 8P–HW, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–RCRA–2006–0382. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov*, or e-mail. The federal web site *http://www.regulations.gov* 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 or 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 may not be 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 through *http://www.regulations.gov* or in hard copy at: EPA Region 8, from 9 a.m. to 4 p.m., 1595 Wynkoop Street, Denver, Colorado, contact: Carl Daly, phone number (303) 312–6416, or the Colorado Department of Public Health and Environment, from 9 a.m. to 4 p.m., 4300 Cherry Creek Drive South, Denver, Colorado 80222–1530, contact: Randy Perila, phone number (303) 692–3364.

FOR FURTHER INFORMATION CONTACT: Carl Daly, Solid and Hazardous Waste Program, U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202, (303) 312–6416, *daly.carl@epa.gov*.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: February 28, 2008.

Carol Rushin,

Acting Regional Administrator, Region 8.

[FR Doc. E8–4977 Filed 3–11–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket ID PHMSA–2005–23447; Notice 2]

RIN 2137–AE25

Pipeline Safety: Standards for Increasing the Maximum Allowable Operating Pressure for Gas Transmission Pipelines

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation

ACTION: Notice of proposed rulemaking.

SUMMARY: PHMSA proposes to amend the pipeline safety regulations to prescribe safety requirements for the operation of certain gas transmission pipelines at pressures based on higher stress levels. The result would be an increase of maximum allowable operating pressure (MAOP) over that currently allowed in the regulations. This action would update regulatory standards to reflect improvements in pipeline materials, assessment tools, and maintenance practices, which together have significantly reduced the risk of failure in steel pipeline fabricated and installed over the last twenty-five years. The proposed rule would allow use of an established industry standard for the calculation of

MAOP, but limit application of the standard to pipelines posing a low safety risk based on location, materials, and construction. The proposed rule would generate significant public benefits by boosting the potential capacity and efficiency of pipeline infrastructure, while promoting investment in improved pipe technology and rigorous life-cycle maintenance.

DATES: Anyone interested in filing written comments on the rule proposed in this document must do so by May 12, 2008. PHMSA will consider late filed comments so far as practicable.

ADDRESSES: Comments should reference Docket ID PHMSA–2005–23447 and may be submitted in the following ways:

- *E-Gov Web Site: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590.
- *Hand Delivery:* DOT Docket Management System; Room W12–140, on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket ID, PHMSA–2005–23447, at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*

Note: Comments will be posted without changes or edits to *http://www.regulations.gov* including any personal information provided. Please see the Privacy Act heading in the Regulatory Analyses and Notices section of the Supplemental Information for additional information.

FOR FURTHER INFORMATION CONTACT: For information about this rulemaking, contact Barbara Betsock by phone at (202) 366–4361, by fax at (202) 366–4566, or by e-mail at *barbara.betsock@dot.gov.* For technical information, contact Alan Mayberry by phone at (202) 366–5124, or by e-mail at *alan.mayberry@dot.gov.*

SUPPLEMENTARY INFORMATION:

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A. Purpose of the Rulemaking

The regulatory relief proposed in this rulemaking is made possible by dramatic improvements in pipeline technology and risk controls over the past 25 years. The current standards for calculating maximum allowable operating pressure (MAOP) on gas transmission pipelines were adopted in 1970, in the original pipeline safety regulations promulgated under Federal law. Almost all risk controls on gas transmission pipelines have been strengthened in the intervening years, beginning with the introduction of improved manufacturing, metallurgy, testing, and assessment tools and standards. Pipe manufactured and tested to modern standards is far less likely to contain defects that can grow to failure over time than pipe manufactured and installed a generation ago. Likewise, modern maintenance practices, if consistently followed, significantly reduce the risk that corrosion, or other defects affecting pipeline integrity, will develop in installed pipelines. Most recently, operators' development and implementation of integrity management programs have increased understanding about the condition of pipelines and of how to reduce pipeline risks. In view of these developments, PHMSA believes that certain gas transmission pipelines can be safely and reliably operated at pressures above current Federal pipeline safety design limits. With appropriate conditions and controls, permitting operation at higher pressures will increase energy capacity and efficiency, without diminishing system safety.

PHMSA has granted special permits on a case-by-case basis to allow operation of particular pipeline segments at a higher MAOP than currently allowed under the design requirements. These special permits have been limited to operation in Class 1, 2, and 3 locations and conditioned on demonstrated rigor in the pipeline's design and construction and the operator's performance of additional safety measures. Building on the record developed in the special permit proceedings, PHMSA now proposes to codify the conditions and limitations of the special permits into standards of general applicability.

B. Background

B.1. Current Regulations

The design factor specified in § 192.105 restricts the MAOP of a steel gas transmission pipeline based on stress levels and class location. For most steel pipelines, the MAOP is defined in § 192.619 based on design pressure calculated using a formula, found at § 192.111, that includes the design factor. In sparsely populated Class 1 locations, the design factor specified in § 192.105 restricts the stress level at which a pipeline can be operated to 72 percent of the specified minimum yield strength (SMYS) of the steel. The operating pressures in more populated Class 2 and Class 3 locations are limited to 60 and 50 percent of SMYS, respectively. Paragraph (c) of § 192.619 provides an exception to this calculation of MAOP for pipelines built before the issuance of the Federal pipeline safety standards. A pipeline that is ''grandfathered'' under this section may be operated at a stress level exceeding 72 percent of SMYS (but not

to exceed 80 percent of SMYS) if it was operated at that pressure for five years prior to July 1, 1970.

Part 192 also prescribes safety standards for designing, constructing, operating, and maintaining steel pipelines used to transport gas. Although these standards have always included several requirements for initial and periodic testing and inspection, prior to 2003, part 192 contained no Federal requirements for internal inspection of existing pipelines. Internal inspection is performed using a tool known as an ''instrumented pig'' (or ''smart pig''). Many pipelines constructed before the advent of this technology cannot accommodate an instrumented pig and, accordingly, cannot be inspected internally. Beginning in 1994, PHMSA required operators to design new pipelines so that they could accommodate instrumented pigs, paving the way for internal inspection (59 FR 17281; Apr. 12, 1994).

In December 2003, PHMSA adopted its gas transmission integrity management rule, requiring operators to develop and implement plans to extend additional protections, including internal inspection, to pipelines located in ''high consequence areas'' (68 FR 69816). Integrity management programs, as described in subpart O of part 192, include threat assessments, both baseline and periodic internal inspection or direct assessment, and additional measures designed to prevent and mitigate pipeline failures and their consequences. A high consequence area, as defined in § 192.903, is a geographic territory in which, by virtue of its population density and proximity to a pipeline, a pipeline failure would pose a higher risk to people. For purposes of risk analysis, the regulations establish four classifications based on population density, ranging from Class 1 (undeveloped, rural land) through Class 4 (densely populated urban areas). In addition to class location, one of the criteria for identifying a high consequence area is a potential impact circle surrounding a pipeline. The calculation of the circle includes a factor for the MAOP, with the result that a higher MAOP results in a larger impact circle.

B.2. Evolution in Views on Pressure

Absent any defects, and with proper maintenance, steel pipe can last for decades in gas service. However, the manufacture of the steel or casting of the pipe can introduce flaws. In addition, during construction, improper backfilling can damage pipe coating. Over time, damaged coating can allow corrosion to continue unchecked and cause leaks. During operation, excavators' substandard practices can dent the line or corrosion can thin the wall of the pipe.

The regulations on MAOP in part 192 have their origin in engineering standards developed in the 1950s, when industry had relatively limited information about the material properties of pipe and limited ability to evaluate a pipeline's integrity during its operating lifetime. Early pipeline codes allowed maximum operating pressures to be set at a fixed amount over the pressure of the initial strength test without regard to SMYS. Pipeline engineers developing consensus standards looked for ways to lengthen the time before defects initiated during manufacture, construction, or operation could grow to failure. Their solution focused on tests done at the mill to evaluate the ability of the pipe to contain pressure during operation. They added an additional factor to the hydrostatic test pressure of the mill test. At the time, the consensus standard, known as the B31.8 Code, used this conservative margin of safety for gas pipe design. A 25 percent margin of safety translated into a design factor limiting stress level to 72 percent of SMYS in rural areas. Specifically, the MAOP of 72 percent of SMYS comes from dividing the typical maximum mill test pressure of 90 percent of SMYS by 1.25. When issuing the first Federal pipeline safety regulations in 1970, regulators incorporated this design factor, as found in the 1968 edition of the B31.8 Code, into the requirements for determining the MAOP.

Even as the Federal regulations were being developed, some technical support existed for operation at a higher stress level, provided initial strength testing removed defects. In 1968, the American Gas Association published Report No. L30050 entitled *Study of Feasibility of Basing Natural Gas Pipeline Operating Pressure on Hydrostatic Test Pressure* prepared by the Battelle Memorial Institute. The research study concluded that:

- It is inherently safer to base the MAOP on the test pressure, which demonstrates the actual in-place yield strength of the pipeline, than to base it on SMYS alone.
- High pressure hydrostatic testing is able to remove defects that may fail in service.
- Hydrostatic testing to actual yield, as determined with a pressure-volume plot, does not damage a pipeline.

The report specifically recommended setting the MAOP as a percentage of the field test pressure. In particular, it recommended setting the MAOP at 80 percent of the test pressure when the minimum test pressure is 90 percent of SMYS or higher. Although the committee responsible for the B31.8 Code received the report, the committee deferred consideration of its findings at that time because the Federal regulators had already begun the process to incorporate the 1968 edition of the B31.8 Code into the Federal pipeline safety standards.

More than a decade later, the committee responsible for development of the B31.8 Code, now under the auspices of the American Society of Mechanical Engineers (ASME), revisited the question of design factor it had deferred in the late 1960s. The committee determined pipelines could operate safely at stress levels up to 80 percent of SMYS. ASME updated the design factors in a 1990 addendum to the 1989 edition of the B31.8 Code, and they remain in the current edition. Although part 192 incorporates parts of the B31.8 Code by reference, it does not incorporate the updated design factors. With the benefit of operating experience with pipelines, it seems clear that operating pressure plays a less critical role in pipeline integrity and failure consequence than other factors within the operator's control.

By any measure, new technologies and risk controls have had a far greater impact on pipeline safety and integrity. A great deal of progress has occurred in the manufacture of steel pipe and in its initial inspection and testing. Technological advances in metallurgy and pipe manufacture decrease the risk of incipient flaws occurring and going undetected during manufacture. The detailed standards now followed in steel and pipe manufacture provide engineers considerable information about their material properties. The toughness standards make the new steel pipe more likely to resist fracture and to survive mechanical damage. Knowledge about the material properties allows engineers to predict how quickly flaws, whether inherent or introduced during construction or operation, will grow to failure under known operating conditions.

Initial inspection and hydrostatic testing of pipelines allow operators to discover flaws that have occurred prior to operation, such as during transportation or construction. They also serve to validate the integrity of the pipeline before operation. Initial pressure testing causes longitudinal and some other flaws introduced during manufacture, transportation, or construction to grow to the point of failure. Initial pressure testing detects

all but one type of manufacturing or construction defect that could cause failure in the near term. The one type of defect pressure testing cannot identify is a flaw in a girth weld. Such defects are detectable though pre-operational non-destructive testing, which this proposed rule would require.

The most common defects initiated during operation are caused by mechanical damage or corrosion. Improvements in technology have resulted in internal inspection techniques that provide operators a significant amount of information about defects. Although there is significant variance in the capability of the tools used for internal inspections, they each provide the operator information about flaws in the pipeline that an operator would not otherwise have. An operator can then examine these flaws to determine whether they are defects requiring repair. In addition, internal inspections with inline inspection devices, unlike pressure testing, are not destructive and can be done while the pipeline is in operation. Initial internal inspection establishes a baseline. Operators can use subsequent internal inspections at appropriate intervals to monitor for changes in flaws already discovered or to find new flaws requiring repair or monitoring. Internal inspections, and other improved life cycle management practices, increase the likelihood operators will detect any flaws that remain in the pipe after initial inspection and testing, or that develop after construction, well before the flaws grow to failure.

B.3. History of PHMSA Consideration

Although the agency has never formally revisited its part 192 MAOP standards, developments in related arenas have increasingly set the stage for the more limited action we propose here. Grandfathered pipelines have operated successfully at higher stress levels in the United States during more than 35 years of Federal safety regulation. Many of these grandfathered pipelines have operated at higher stress levels for more than 50 years without a higher rate of failure. We have also been aware of pipelines outside the United States operating successfully at the higher stress levels permitted under the ASME standard. A technical study published in December 2000 by R.J. Eiber, M. McLamb, and W. B. McGehee, *Quantifying Pipeline Design at 72% SMYS as a Precursor to Increasing the Design Stress Level*, GRI–00/0233, further raised interest in the issue.

In connection with our issuance of the 2003 integrity management regulations, PHMSA announced a policy to grant ''class location'' waivers (now called special permits) to operators demonstrating an alternative integrity management program for the affected pipeline. A ''class location'' waiver allows an operator to maintain current operating pressure on a pipeline following an increase in population that changes the class location. Absent a waiver, the operator would have to reduce pressure or replace the pipe with thicker walled pipe. PHMSA held a meeting on April 14–15, 2004 to discuss the criteria for the waivers. In a notice seeking public involvement in the process (69 FR 22116; Apr. 23, 2004), PHMSA announced:

> Waivers will only be granted when pipe condition and active integrity management provides a level of safety greater than or equal to a pipe replacement or pressure reduction.

A second notice (69 FR 38948; June 29, 2004) announced the criteria. The criteria include the use of high quality manufacturing and construction processes, effective coating, and a lack of systemic problems identified in internal inspections. Although the class location waivers do not address increases in stress levels, they do address many of the same concerns by looking at how to handle the risks caused by operating pressure. Many of the specific criteria, and certainly the approach to risk management in the class location waivers, helped PHMSA develop the approach to the special permits discussed below and, ultimately, to this proposed rule.

Beginning in 2005, operators began addressing the issue of stress level directly with requests that PHMSA allow operation at the MAOP levels that the ASME B31.8 Code would allow. With the increasing interest, PHMSA held a public meeting on March 21, 2006, to discuss whether to allow increased MAOP consistent with the updated ASME standards. PHMSA also solicited technical papers on the issue. Papers filed in response, as well as the transcript of the public meeting, are in the docket for this rulemaking. Later in 2006, PHMSA again sought public comment at a meeting of its advisory committee, the Technical Pipeline Safety Standards Committee. The transcript and briefing materials for the June 28, 2006 meeting are in the docket for the advisory committee, Docket ID PHMSA-RSPA–1998–4470–204, 220. This docket can be found at *http://www.regulations.gov*. Comments and papers during these efforts overwhelmingly support examining increased MAOP as a way to increase energy efficiency and capacity without reducing safety.

B.4. Safety Conditions in Special Permits

In 2005, operators began requesting waivers, now called special permits, to allow operation at the MAOP levels that the ASME B31.8 Code would allow. In some cases, operators filed these requests at the same time they were seeking approval from the Federal Energy Regulatory Commission to build new gas transmission pipelines. In other cases, operators sought relief from current MAOP limits for existing pipelines that had been built to more rigorous design and construction standards.

In developing an approach to the requests, PHMSA examined the operating history of lines already operated at higher stress levels. Canadian and British standards have allowed operation at the higher stress levels for some time. The Canadian pipeline authority, which has allowed higher stress levels since 1973, reports the following experience with pipelines operating at stress levels higher than 72 percent of SMYS:

- About 6,000 miles of pipelines on the Alberta system, ranging from 6 to 42 inches in diameter, installed or upgraded between the early 1970s and 2005;
- About 4,500 miles of pipelines on the Mainline system east of the Alberta-Saskatchewan border, ranging from 20 to 42 inches in diameter, installed or upgraded between the early 1970s and 2005; and
- More than 600 miles in the Foothills Pipe Line system, ranging from 36 to 40 inches in diameter, installed between 1979 and 1998.

In the United Kingdom, about 1,140 miles of the Northern pipeline system has been uprated to operate at higher stress level in the past ten years.

In the United States, some 5,000 miles of gas transmission lines that were grandfathered under § 192.619(c) when the Federal pipeline safety regulations were adopted in the early 1970s continue to operate at stress levels higher than 72 percent of SMYS. After some accidents caused by corrosion on grandfathered pipelines, PHMSA considered whether to remove the exception in § 192.619(c). In 1992, PHMSA decided to continue to allow operation at the grandfathered pressures (57 FR 41119; Sept. 9, 1992). PHMSA based its decision on the operating history of two of the operators whose pipelines contained most of the mileage operated at the grandfathered pressures. PHMSA noted the incident rate on these

pipelines, operated at stress levels above 72 percent of SMYS, was between 10 percent and 50 percent of the incident rate of pipelines operated at the lower pressure. Texas Eastern Gas Pipeline Company (now Spectra Energy), the operator of many of the grandfathered pipelines, attributed the lower incident rate to aggressive inspection and maintenance. This included initial hydrostatic testing to 100 percent of SMYS, internal inspection, visual examination of anomalies found during internal inspection, repair of defects, and selective pressure testing to validate the results of the internal inspection. Internal inspection was not in common use in the industry prior to the 1980s. PHMSA's statistics show these pipelines continue to have an equivalent safety record when compared with pipelines operating according to the design factors in the pipeline safety regulations.

PHMSA also considered technical studies and required companies seeking special permits to provide information about the pipeline's design and construction and to specify the additional inspection and testing to be used. PHMSA also considered how to handle findings that could compromise the long term serviceability of the pipe. PHMSA concluded that pipelines can operate safely and reliably at stress levels up to 80 percent of SMYS if the pipeline has well-established metallurgical properties and can be managed to protect it against known threats, such as corrosion and mechanical damage.

Early and vigilant corrosion protection reduces the possibility of corrosion occurring. At the earliest stage, this includes care in applying a protective coating before transporting the pipe to the right-of-way. With the newer coating materials and careful application, coating provides considerable protection against external corrosion and facilitates the application of induced current, commonly called cathodic protection, to prevent corrosion from developing at any breaks that may occur in the coating. Regularly monitoring the level of protection and addressing any low readings corrects conditions that can cause corrosion at an early stage. Vigilant corrosion protection includes close attention to operating conditions that lead to internal corrosion, such as poor gas quality. In addition, for new pipelines, operators' compliance with a rule issued earlier this year requiring greater attention to internal corrosion protection during design and construction (72 FR 20059; Apr. 23, 2007) will prevent internal corrosion. Finally, corrosion protection includes internal inspection and other assessment techniques for early detection of both internal and external corrosion.

One of the major causes of serious pipeline failure is mechanical damage caused by outside forces, such as an equipment strike during excavation activities. Burying the pipeline deeper, increased patrolling, and additional line marking helps prevent the risk that excavation will cause mechanical damage. Further, enhanced pipe properties increase the pipe's resistance to immediate puncture from a single equipment strike. Improved toughness increases the ability of the pipe to withstand mechanical damage from an outside force and also may also limit any failure consequences to leaks rather than ruptures. This toughness usually allows time for the operator to detect the damage during internal inspection well before the pipe fails.

To evaluate each request, PHMSA established a docket and sought public comment on the request. We received few public comments, most in response to the first special permits considered. Many of the comments supported granting the special permits. Those who did not may have been unappreciative of the significance of the safety upgrades required for the special permits. A few raised technical concerns. Among these were questions about the impact of rail crossings and blasting activities in the vicinity of the pipeline. The special permits did not change the current requirements where road crossings exist and added a requirement to monitor activities, such as blasting, that could impact earth movement. Some commenters expressed concern about the impact radius of the pipeline operating at a higher stress level. PHMSA included supplemental safety criteria to address the increased radius. The remainder of the comment addressed concerns, such as compensation or aesthetics, which were outside the scope of the special permits. PHMSA permits do not address issues on siting, which is governed by the Federal Energy Regulatory Commission.

PHMSA has now issued several special permits in response to these requests and continues to receive and evaluate other requests. The following table identifies the status of special permit requests and the dockets containing additional information about them.

TABLE B.4.—STATUS OF SPECIAL PERMITS

Docket ID PHMSA—	Status of request	Type
2005–23448, Maritimes & Northeast Pipeline (Spectra Energy)	Granted, July 11, 2006	Pipeline in operation since 1999.
2005–23387, Alliance Pipeline	Granted, July 11, 2006	Pipeline in operation since 2000.
2006–23998, Rockies Express Pipeline	Granted, July 11, 2006	New pipeline.
2006–25803, Kinder Morgan Louisiana Pipeline	Granted, April 19, 2007	New pipeline.
2006–25802, CenterPoint Energy Gas Transmission	Granted, July 18, 2007	New pipeline.
2006–26533, Gulf South Pipeline	Granted, August 24, 2007	New pipeline.
2006–26616, Ozark Gas Transmission	Pending	New pipeline.
2006–27607, Southeast Supply Header	Pending	New pipeline.
2006–27842, Midcontinent Express (Kinder Morgan)	Pending	New pipeline.
2007–27121, Transwestern Pipeline	Pending	Pipeline in operation since 1992 and 2005.
2007–28994, Gulf South Pipeline (SouthEast Expansion Project)	Pending	New pipeline.
2007–29078, Kern River Gas Transmission Company	Pending	Pipeline in operation since 1992.

In each case, PHMSA provides oversight to confirm the line pipe is, or will be, as free of inherent flaws as possible, that construction and operation do not introduce flaws, and that any flaws are detected before they can fail. PHMSA accomplishes this by imposing a series of conditions on the grant of special permits. The conditions are designed to address the potential additional risk involved in operating the pipeline at a higher stress level. A proposed pipeline must be built to rigorous design and construction standards, and the operator requesting a

special permit for an existing pipeline must be able to demonstrate that the pipeline has been built to rigorous design and construction standards. These additional design and construction standards focus on producing a high quality pipeline that is free from inherent defects that could grow more rapidly under operation at a higher stress level and more resistant to expected operational risks. In addition, the operator of a pipeline receiving a special permit must comply with operation and maintenance requirements that exceed current pipeline safety regulations. These additional operation and maintenance requirements focus on the potential for corrosion and mechanical damage and on detecting defects before the defects can grow to failure.

B.5. Codifying the Special Permits

This proposed rule would put in place a process for managing the life cycle of a pipeline operating at a higher stress level. Integrity management focuses on managing and extending the service life of the pipeline. Life-cycle management goes beyond the operations and maintenance practices, including integrity management, to address steel production, pipeline manufacture, pipeline design, and installation.

Industry experience with integrity management demonstrates the value of life-cycle maintenance. Through baseline assessments in integrity management programs, gas transmission operators identified and repaired 2,883 defects in the first three years of the program (2004, 2005, and 2006). More than 2,000 of these were discovered in the first two years as operators assessed their highest risk, generally older, pipelines. In a September 2006 report, GAO–09–946, the General Accountability Office noted this data as an early indication of improvement in pipeline safety. In order to qualify for operation at higher stress levels under this proposed rule, pipelines will be designed and constructed under more rigorous conditions. Baseline assessment of these lines as proposed will likely uncover few defects, but removing those few defects will result in safer pipelines. In addition, the results of the baseline assessment will aid in evaluating anomalies discovered during future assessments.

This proposed rule, based on the terms and conditions of the special permits allowing operation at higher stress levels, would impose similar terms and conditions and limitations on operators seeking to apply the new rule. The terms and conditions, which include meeting current design standards that go beyond current regulation, address the safety concerns related to operating the pipeline at a higher stress level. PHMSA will step up inspection and oversight of pipeline design and construction, in addition to review and inspection of enhanced life-cycle maintenance requirements for these pipelines.

With special permits, PHMSA individually examined the design, construction, and operation and maintenance plans for a particular pipeline before allowing operation at a higher pressure than currently authorized. In each case, PHMSA conditioned approval based on compliance with a series of rigorous design, construction, operation, and maintenance standards. PHMSA's experience with these requests for special permits leads to the conclusion that a rule of general applicability is appropriate. With a rule of general applicability, the conditions for approval are established for all without need to craft the conditions based on individual evaluation. Thus, this proposed rule would set rigorous safety standards. In place of individual examination, the proposed rule would require senior executive certification of an operator's adherence to the more rigorous safety standards. An operator seeking to operate at a higher pressure than allowed by current regulation would have to certify that a pipeline is built according to rigorous design and construction standards and agree to operate under stringent operation and maintenance standards. After PHMSA receives an operator's certification indicating its intention to operate at a higher stress level, PHMSA could then follow up with the operator to verify compliance. As with the special permits, this proposed rule would allow an operator to qualify both new and existing segments of pipeline for operation at the higher MAOP, provided the operator meets the conditions for the segment.

Several types of segments will not qualify under the proposed rule. These include the following:

- Segments in densely populated Class 4 locations. In addition to the increased consequences of failure in a Class 4 location, the level of activity in such a location increases the risk of excavation damage.
- Segments of grandfathered pipeline already operating at a higher stress level but not constructed in accordance with modern standards. Although grandfathered pipeline has operated successfully at the higher stress level, PHMSA would examine any further increases individually through the special permit process.
- Bare pipe. This pipe lacks the coating needed to prevent corrosion and to make cathodic protection effective.
- Pipe with wrinkle bends. Section 192.315(a) currently prohibits wrinkle bends in pipeline operating at hoop stress exceeding 30 percent of SMYS.
- Pipe experiencing failures indicative of a systemic problem, such as seam flaws, during the initial hydrostatic testing. Such pipe is more likely to have inherent defects that can grow to failure more rapidly at higher stress levels and thus will not qualify.
- Pipe manufactured by certain processes, such as low frequency electric welding process, will not qualify because it could not satisfy the requirements of the proposed rule.
- Segments which cannot accommodate internal inspection devices. These segments would not qualify because the proposed rule would require internal inspection.

We are proposing to establish slightly different requirements for segments that have already been operating and those which are to be newly built. Some variation is necessary or appropriate with an existing pipeline. For example, the requirement for cathodically protecting pipeline within 12 months of construction is an existing requirement for all pipelines. A proposed requirement for the operator of an existing segment to prove that the segment was in fact cathodically protected within 12 months of construction provides greater confidence in the condition of the existing segment. Proposing proof of five percent fewer nondestructive tests done on an existing segment at the time of construction recognizes the possibility that, over time, an operator's records might not be complete. The overriding principal in the variation is to allow qualification of a quality pipeline with minimal distinction. Based on our review of requests for special permits on existing pipelines, PHMSA does not believe the more rigorous standards proposed here are too high for existing segments. Setting the qualification standards lower for existing segments could encourage operators to construct a pipeline at the lower standards and seek to raise the operating pressure at some future date.

Although pipeline proponents have not yet revealed their final plans, PHMSA anticipates the proposed trans-Alaskan gas pipeline will require an alternative design approach to address anticipated operating conditions in the Arctic. This alternative approach will be subject to PHMSA review. To a large

degree, the technical requirements for operation at a higher stress level in this proposed rule will guide agency actions in reviewing the plans for a trans-Alaskan gas pipeline. However, the unique operating environment of the Arctic will dictate changes. For instance, even higher strength steels will be needed. PHMSA will have to look closely at the level of inspection needed to protect the environment and help ensure the long-term safety of the pipeline.

B.6. How To Handle Special Permits and Requests for Special Permits

Table B.4 describes the status of requests for special permits seeking relief from the current design requirements to allow operation at higher stress levels. For the most part, this proposed rule addresses the relief requested. PHMSA has already granted many of these under terms and conditions that vary slightly from those in this proposed rule. In some cases, the relief granted extends beyond the issues addressed in this proposed rule. It may be appropriate for PHMSA to review the special permits already granted after completion of the rulemaking to determine the need for changes. We seek comment on this issue.

PHMSA is also considering how to handle the pending requests and whether to consider others during the course of rulemaking. One option is to continue evaluating each request in light of the terms and conditions proposed here. Any grants of special permits during the course of rulemaking could be limited in time with the intention of revisiting the need for a special permit after completing the rulemaking. Another option is to defer further action on pending requests at least until PHMSA completes the rulemaking.

In any case, issuance of a final rule will not foreclose future requests for relief through the special permit process. We can anticipate, for instance, that operators may seek special permits covering pipeline that does not meet fully some of the terms and conditions in a final rule. In such a case, the operator may be able to demonstrate the existence of other safety measures that address the unmet terms and conditions. Notwithstanding the final rule, the operator would be able to request a special permit which PHMSA would consider under the usual public process for special permits.

B.7. Statutory Considerations

Under 49 U.S.C. 60102(a), PHMSA has broad authority to issue safety standards for the design, construction, operation, and maintenance of gas transmission pipelines. Under 49 U.S.C. 60104(b), PHMSA may not require an operator to modify or replace existing pipeline to meet a new design or construction standard. Although this proposal includes design and construction standards, these standards simply add more rigorous, non-mandatory requirements. This proposal does not require an operator to modify or replace existing pipeline or to design and construct new pipeline in accordance with these non-mandatory standards. If, however, a new or existing pipeline meets these more rigorous standards, the proposal would allow an operator to elect to calculate the MAOP for the pipeline based on a higher stress level. This would allow operation at an increased pressure over that otherwise allowed for pipeline built since the Federal regulations were issued in the 1970s. To operate at the higher pressure, the operator would have to comply with more rigorous operation and maintenance requirements.

Under 49 U.S.C. 60102(b), a gas pipeline safety standard must be practicable and designed to meet the need for gas pipeline safety and for protection of the environment. PHMSA must consider several factors in issuing a safety standard. These factors include the relevant available pipeline safety and environmental information, the appropriateness of the standard for the type of pipeline, the reasonableness of the standard, and reasonably identifiable or estimated costs and benefits. PHMSA has considered these factors in developing this proposed rule and provides its analysis in the preamble.

PHMSA must also consider any comments received from the public and any comments and recommendations of the Technical Pipeline Safety Standards Committee (Committee). Both the public and the Committee have already reviewed the concepts underlying this proposal. As discussed above, PHMSA opened this docket and conducted a public meeting in 2006 to discuss the potential for increasing MAOP. PHMSA subsequently briefed the Committee. Finally, PHMSA has sought public comment on several requests for special permits to allow operation at increased MAOP. PHMSA considered the Committee discussion and public comment in developing this proposed rule. This notice of proposed rulemaking seeks public comment on the proposed rule; the Committee will formally consider it in a future meeting. PHMSA will address the public comments and the Committee's recommendations in preparing final action.

C. The Proposed Rule

C.1. In General

The proposed rule would add a new section (§ 192.620) to Subpart L—Operations. This new section would explain what an operator would have to do to operate at a higher MAOP than currently allowed by the design requirements. Among the conditions set forth in proposed new § 192.620 is the requirement that the pipeline be designed and constructed to more rigorous standards. These additional design and construction standards are set forth in two additional new sections (§§ 192.112 and 192.328) to be located in Subpart C—Pipe Design and Subpart G—General Construction Requirements for Transmission Lines and Mains, respectively. In addition, the proposed rule would make necessary conforming changes to existing sections on incorporation by reference (§ 192.7) and maximum allowable operating pressure (§ 192.619).

C.2. Proposed Amendment to § 192.7—Incorporation by Reference

The proposed rule would add ASTM Designation: A 578/A578M—96 (Re-approved 2001) ''Standard Specification for Straight-Beam Ultrasonic Examination of Plain and Clad Steel Plates for Special Applications'' to the documents incorporated by reference under § 192.7. This specification prescribes standards for ultrasonic testing of steel plates. It is referenced in proposed new § 192.112.

C.3. Proposed New § 192.112—Additional Design Requirements

The proposed rule would add a new section to Subpart C—Pipe Design in 49 CFR Part 192. The new section, § 192.112 would prescribe additional design standards required for the steel pipeline to be qualified for operation at an alternative MAOP based on higher stress levels. These include requirements for rigorous steel chemistry and manufacturing practices and standards. Pipelines designed under these standards contain pipe with toughness properties to resist damage from outside forces and to control fracture initiation and growth. The considerable attention paid to the quality of seams, coatings, and fittings would prevent flaws leading to pipe failure. Unlike other design standards, § 192.112 would apply to a new or existing pipeline only to the extent that an operator elects to operate at a higher

MAOP than allowed in current regulations.

Proposed paragraph (a) sets high manufacturing standards for the steel plate or coil used for the pipe. These include reducing oxygen content to produce more uniform chemistry in the plate and limiting the use of alloys in place of carbon. The pipe would be manufactured in accordance with level 2 of API Specification 5L, with the wall thickness and the ratio between diameter and wall thickness limited to prevent the occurrence of denting and ovality during construction or operation. Improved construction and inspection practices discussed elsewhere in this notice of proposed rulemaking also help prevent denting and ovality.

Proposed paragraph (b) addresses fracture control of the metal. First the metal would have to be tough; that is, deform plastically before fracturing. To the extent that the accepted industry toughness standard does not explicitly address the particular pipe used and expected operating conditions, correction factors would have to be used. Second, the pipe would have to pass several tests designed to reduce the risk that fractures would initiate. Third, to the extent it would be physically impossible for particular pipe to meet toughness standards under certain conditions, crack arrestors would have to be added to stop a fracture within a specified length.

Proposed paragraph (c) provides tests to verify that there are no deleterious imperfections in the plate or coil. The macro-etch test will identify flaws that impact the surface of the plate or coil. Interior flaws will show up in ultrasonic testing.

In addition to the quality of the steel, the integrity of a pipe depends on the integrity of the seams. Proposed paragraph (d) provides for a quality assurance program to assure tensile strength and toughness of the seams so that they resist breaking under regular operations. Hardness and ultrasonic tests would ensure that the seams also resist puncture damage.

Proposed paragraph (e) would require a longer mill test pressure for new pipe at a higher hoop stress than required by current regulations. The mill test is used to discover flaws introduced in manufacture. Because the pipeline will be operated at a higher stress level, the more rigorous mill test is needed to match (or exceed) the level of safety provided for pipelines operated at less than 72 percent of SMYS.

Proposed paragraph (f) would set rigorous standards for factory coating designed to protect the pipe from external corrosion. A quality assurance program would address all aspects of the application of coating that will protect the pipe. This would include applying a coating resistant to damage during installation of the pipe and examining the coated pipe to determine whether the applied coating is uniform and without gaps. Thin spots or holes in the coating make it more likely for corrosion to occur and more difficult to protect the pipe cathodically.

Proposed paragraph (g) would require that factory-made fittings, induction bends, and flanges be certified as to their serviceability. In addition, the amount of non-carbon added in the steel for these fittings and flanges would be limited.

Proposed paragraph (h) would require compressor design to limit the temperature of discharge to a specified maximum. Higher temperature can damage pipe coating. An exception to the specified maximum is allowed if testing of the coating shows it can withstand a higher temperature. The testing must be of sufficient length and rigor to detect coating integrity issues.

C.4. Proposed New § 192.328—Additional Construction Requirements

The proposed rule would also add a new section to Subpart G—General Construction Requirements for Transmission Lines and Mains. The new section, § 192.328, would prescribe additional construction requirements, including rigorous quality control and inspections, as conditions for operation of the steel pipeline at higher stress levels. These include requirements for rigorous quality control and inspection during construction. Unlike other construction standards, § 192.328 would apply to a new or existing pipeline only to the extent that an operator elects to operate at a higher MAOP than allowed in current regulations.

Proposed paragraph (a) would require a quality assurance plan for construction. Quality assurance, also called quality control, is common in modern pipeline construction. Activities such as lowering the pipe into the ditch and backfilling, if poorly done, can damage the pipe. Other construction activities such as nondestructive examination, if poorly done, will result in flaws remaining in the pipeline. Using a quality assurance plan helps to verify that the basic tasks done during construction of a pipeline are done correctly.

Field application of coating is one of these basic tasks to be covered in a quality assurance plan. During the course of analyzing requests for special permits, PHMSA discovered field coatings at one construction site which were applied at lower temperature than needed for good adhesion to the pipe. Because coating is so critical to corrosion protection, proposed paragraph (a) would require quality assurance plans to contain specific performance measures for field coating. Field coating would have to meet substantially the same standards as coating applied at the mill and the individuals applying the coating would have to be appropriately trained and qualified.

Proposed paragraph (b) would require non-destructive testing of all girth welds. Although past industry practice has been to non-destructively test only a sample of girth welds, no alternative exists for verifying the integrity of the remaining welds. The initial pressure testing once construction is complete does not detect flaws in girth welds. PHMSA believes that most modern pipeline construction projects include non-destructive testing of all girth welds. However, because the regulations do not require testing of all girth welds, an operator's records for pipelines already in operation may not be complete. To account for this, proposed paragraph (b) would require testing records for only 95 percent of girth welds on existing segments.

Proposed paragraph (c) would require deeper burial of segments operated at higher stress level. A greater depth of cover decreases the risk of damage to the pipeline from excavation, including farming operations.

Proposed paragraph (d) addresses the results of the initial strength test and the assurance these results provide that the material in the pipeline is free of pre-operational flaws which can grow to failure over time. Since the initial strength test is a destructive test, it only detects flaws relatively close to failure during operation. This could leave in place smaller flaws that could grow more rapidly at higher stress level. To prevent this from occurring, the proposed paragraph would disqualify any segment which experiences a failure during the initial strength test indicative of systemic flaws in the material.

Proposed paragraph (e) addresses cathodic protection on an existing segment. Applying this requirement to new segments is unnecessary since current regulations already require cathodic protection within 12 months of construction. Proposed paragraph (e) would prevent an existing segment not cathodically protected within 12 months after construction from qualifying for operation at a higher stress level under this proposed regulation.

Proposed paragraph (f) addresses electrical interference for new segments. During construction, it is relatively easy to identify sources of electrical interference which can impair future cathodic protection. Addressing interference at this time supports better corrosion control. The proposed additional operation and maintenance requirements of proposed § 192.620(d)(6) require operators electing operation at higher stress levels to address electrical interference on existing pipelines prior to raising the MAOP.

C. 5. Proposed Amendment to § 192.619—Maximum Allowable Operating Pressure

The proposed rule would amend existing § 192.619 by adding a new paragraph (d) Proposed § 192.619(d) would provide an additional means to determine the MAOP for certain steel pipelines. In addition, the proposed rule would make conforming changes to existing paragraph (a) of the section.

C.6. Proposed New § 192.620—Operation at an Alternative MAOP

The proposed rule would add a new section, § 192.620, to subpart L of part 192, to specify what an operator would have to do in order to elect an alternative MAOP based on higher stress levels. The proposed rule would apply to both new and existing pipelines.

C.6.1. Calculating the Alternative MAOP

Proposed § 192.620(a)

Proposed paragraph (a) describes how to calculate the alternative MAOP based on the higher stress levels. Qualifying segments of pipe would use higher design factors to calculate the alternative MAOP. For a segment currently in operation this would result in an increase in MAOP. No changes would be made in the design factors used for segments within compressor or meter stations or segments underlying certain crossings.

C.6.2. Which Pipeline Qualifies

Proposed § 192.620(b)

Proposed paragraph (b) describes which segments of new or existing pipeline are qualified for operation at the alternative MAOP. The alternative MAOP would be allowed only in Class 1, 2, and 3 locations. Only steel pipelines meeting the rigorous design and construction requirements of §§ 192.112 and 192.328 and monitored by supervisory data control and acquisition systems would qualify. Mechanical couplings in lieu of welding would not be allowed. Although the special permits did not expressly mention mechanical couplings, PHMSA would not have granted a special permit if the pipeline involved had mechanical couplings.

C.6.3. How an Operator Selects Operation Under This Section

Proposed §§ 192.620(c)(1) and (2)

Proposed paragraphs (c)(1) and (2) would require an operator to notify PHMSA when it elects to establish the MAOP under this section. An operator notifies PHMSA of the election by submitting a certification by a senior executive that the pipeline meets the rigorous additional design and construction regulations of this proposed rule. A senior executive must also certify that the operator has changed its operation and maintenance procedures to include the more rigorous additional operation and maintenance requirements of the proposed rule. In addition, a senior executive must certify that the operator has reviewed its damage prevention program in light of industry consensus standards and practices and made any needed changes to it to ensure that the program meets or exceeds those standards or practices. An operator would have to submit the certification at least 180 days prior to commencing operations at the MAOP established under this section. This will provide PHMSA sufficient time for appropriate inspection which may include checks of the manufacturing process, visits to the pipeline construction sites, analysis of operating history of existing pipelines, and review of test records, plans, and procedures.

C.6.4. Initial Strength Testing

Proposed § 192.620(c)(3)

Proposed paragraph (c)(3) addresses initial strength testing requirements. In order to establish the MAOP under this section, an operator would have to perform the initial strength testing of a new segment at a pressure at least as great as 125 percent of the MAOP. Since an existing pipeline was previously operated at a lower MAOP, it may have been initially tested at a pressure less than 125 percent of the higher MAOP allowed under this section. If so, paragraph (c) would allow the operator to elect to conduct a new strength test in order to raise the MAOP.

C.6.5. Operation and Maintenance

Proposed § 192.620(c)(4)

Proposed paragraph (c)(4) would require an operator to comply with the additional operating and maintenance requirements of paragraph (d). Compliance with these additional requirements is required if an operator elects to calculate the MAOP for a segment under paragraph (a) and notifies PHMSA of that election under paragraph (c)(1) of this section.

C.6.6. New Construction and Maintenance Tasks

Proposed § 192.620(c)(5)

Proposed paragraph (c)(5) addresses the need for competent performance of both new construction, and future maintenance activities, to ensure the integrity of the segment. PHMSA now requires operators to ensure that individuals who perform pipeline operation and maintenance activities are qualified. During a 2005 review of the qualifications program, PHMSA discussed the need to ensure that construction-related activities are properly done:

> We also have anecdotal information about errors in construction and the problems they cause. One incident [in late 2006] caused serious concern within PHMSA. The incident involved a dig-in by the pipeline company during construction near a large school. If the released gas had ignited, it could have resulted in a catastrophe exceeding the one that led to enactment of the Natural Gas Pipeline Safety Act of 1968. Although the construction project was not new construction, the distinctions between new construction and maintenance are often blurred, and excavation of the right-of-way of an active pipeline for any form of construction requires careful safety oversight. Federal and State inspectors can point to numerous situations in which they found dents or coating damage probably caused by poor backfill, pipeline handling, or equipment damage likely occurring during construction. When these problems become evident after the line has been in operation many years, it is too late for either remediation or enforcement action. Occasionally we have been able to address problems discovered soon after construction. As an example, a multi-agency investigation into construction of a natural gas transmission line in the mid-1990s uncovered numerous violations of pipeline safety and other environmental laws. Our enforcement order directed the operator to undertake a program to remediate the problems associated with numerous instances of improper backfill.
>
> Finally, we analyzed the pipeline incident data. In the first analysis, we reviewed the incidents from 1984 through 2005 where the operator had noted construction as either the primary or a secondary causal factor. Although the number of incidents is small, we observe a trend line increasing for both gas transmission and hazardous liquid pipelines. This is contrary to the general trend in pipeline incidents. We next looked at incidents in which we suspect construction issues were involved, incidents occurring within two years of construction of the pipeline. We eliminated those incidents clearly not caused by construction error, such

as excavation damage occurring during operation of the line. When we add these suspected construction-related incidents to those clearly involving construction error, the trend line, for both gas transmission and hazardous liquid pipelines, is sloped more steeply upward.

FDMS Docket ID PHMSA–RSPA–2004–19857–56, p. 2. Proposed paragraph (c)(5) would require operators seeking to operate at the higher stress levels allowed under this section to take steps designed to reduce incidents caused by errors during new construction and maintenance activities. As part of the 2005 review of the qualifications program, PHMSA sought comment on a broad approach to ensuring that construction-related activities are done properly. Proposed paragraph (c)(5) would incorporate this approach. The approach would allow an operator to select an appropriate way to verify the proper performance of a construction-related activity. For example, non-destructive testing of all girth welds will significantly reduce the risk of a future weld failure. An operator could also effectively use quality controls during construction or qualify the individuals performing the tasks. Both industry consensus standards, and subpart N, provide models for qualifying individuals performing safety tasks.

C.6.7. Recordkeeping

Proposed § 192.620(c)(6)

Proposed paragraph (c)(6) clarifies recordkeeping requirements for operators electing to establish the MAOP under this section. Existing regulations, such as §§ 192.13, 192.517(a), and 192.709, already require operators to maintain records applicable to this section. However, because the additional requirements proposed in this section address requirements found in other subparts of part 192, the recordkeeping requirements may cause confusion. For example, proposed § 192.620(d)(9) would require a baseline assessment for integrity for a segment operated at the higher stress level regardless of its potential impact on a high consequence area. Section 192.947 requires operators to maintain records of baseline assessments for the useful life of the pipeline. However, proposed new § 192.620 would be in subpart L. Section 192.709 requires an operator to retain records for an inspection done under subpart L for a more limited time. Accordingly, this paragraph would clarify the need to maintain all records demonstrating compliance for the useful life of the pipeline.

C.7. Additional Operation and Maintenance Requirements

Proposed § 192.620(d)

Paragraph (d) sets forth 11 operating and maintenance requirements that supplement the existing requirements in part 192. Current § 192.605 requires an operator to develop operation and maintenance procedures to implement the requirements of subpart L and M. Since proposed § 192.620(d) is in subpart L, an operator would have to develop and follow the operation and maintenance procedures developed under this section. These include requirements for an operator to evaluate and address the issues associated with operating at higher pressures. Through its public education program, an operator would inform the public of any risks attributable to higher pressure operations. The additional operating and maintenance requirements address the two main risks the pipelines face, excavation damage and corrosion, through a combination of traditional practices and integrity management. Traditional practices include cathodic protection, control of gas quality, and maintenance of burial depth. Integrity management includes internal inspection on a periodic basis to identify and repair flaws before they can fail. These are discussed in more detail below.

C.7.1. Threat Assessments

Proposed § 192.620(d)(1)

Proposed paragraph (d)(1) would require preparation of a threat assessment consistent with that done under integrity management to address the risks of operating at an increased stress level. This proposed requirement is not limited to high consequence areas, but applies to the entire segment operating at the increased stress level.

This proposed requirement comes from our experience with integrity management and special permits. Under integrity management, operators develop a detailed threat matrix identifying the risks associated with operating their pipelines. These risks include both general risks faced by all pipelines and those risks specific to the particular pipeline and its environment. The matrix lists specific threats and the mitigative measures an operator is using to address each threat. As applied to the special permits, and in this proposed rule, this threat assessment ensures that an operator takes into account any additional risk operation at a higher stress level imposes.

C.7.2. Public Awareness

Proposed § 192.620(d)(2)

Proposed paragraph (d)(2) would require an operator to include any people potentially impacted by operation at a higher stress level within the outreach effort in its public education program required under existing § 192.616. In order to identify this population, an operator would use a broad area measured from the centerline of the pipe plus, in high consequence areas, the potential impact circle recalculated to reflect operation at a higher stress level. This is intended to get necessary information for safety to the people potentially impacted by a failure.

C.7.3. Emergency Response

Proposed § 192.620(d)(3)

Proposed paragraph (d)(3) addresses the additional needs for responding to emergencies for operation at higher stress levels. Consistent with the conditions imposed in the special permits, and past experience with response issues, the paragraph would require methods such as remote control valves to provide more rapid shut-down in the event of an emergency.

C.7.4. Damage Prevention

Proposed § 192.620(d)(4)

Proposed paragraph (d)(4) addresses one of the major risks of failure faced by a pipeline, damage from outside force such as damage occurring during excavation in the right-of-way. Although the improved toughness of pipe reduces the risk of damage, it does not prevent it and additional measures are appropriate for pipelines operating at higher stress levels. This paragraph proposes to add several new or more specific measures to existing requirements designed to prevent damage to pipelines from outside force. Additional attention to this area is important since the trend line for incidents caused by outside force on gas transmission pipelines between 2002 and 2006 is increasing.

The first more specific measure, in proposed paragraph (d)(4)(i), addresses patrolling, required for all transmission pipelines by § 192.705. More frequent patrols of the right-of-way prevent damage by giving the operator more accurate and timely information about potential sources of ground disturbance and other outside force damage. These include both naturally occurring conditions, such as wash outs, and human activity, such as construction in the vicinity of the pipeline. The proposed requirement would be for

patrols on the same frequency as for hazardous liquid pipelines (i.e., a minimum of 26 times a year). This is slightly more frequent than included in the special permits, but PHMSA believes that it is appropriate for a rule of general applicability.

The increased patrols that would be required by this rulemaking, however, represent the majority of the incremental costs imposed by this rule. Therefore, PHMSA specifically requests comment on whether the number of patrols required optimally balances the potential risk reduction and increase in burden. We seek information on:

- Would patrolling less frequently such as four times per year (similar to requirements at highway and railroad crossings) provide a cost-effective alternative?
- How often are pipelines that currently operate at 80% of SMYS patrolled? How effective are these patrols in providing accurate and timely information about potential sources of ground disturbance and other outside force damage?
- How could operators incorporate patrolling in their risk management plan if PHMSA did not mandate a fixed frequency?

Other more specific or new measures to address damage prevention include developing and implementing a plan to monitor and address ground movement, a proposed requirement of paragraph (d)(4)(ii). Ground movement such as earthquakes, landslides, and nearby demolition or tunneling can damage pipe. Since pipelines near the surface are more likely to be damaged by surface activities, proposed paragraph (d)(4)(iii) would require an operator to maintain the depth of cover over a pipeline. Line-of-sight markers alert excavators, emergency responders, and the general public of the presence and general location of pipelines. Proposed paragraph (d)(4)(iv) would require these markers to improve both damage prevention and enhance public awareness.

Damage prevention programs are improving because of the work being done by the Common Ground Alliance, a national, non-profit educational organization dedicated to preventing damage to pipelines and other underground utilities. The Common Ground Alliance has compiled best practices applicable to all parties relevant to preventing damage to underground utilities and actively promotes their use. Proposed paragraph (d)(4)(v) would require operators electing to operate at higher stress levels to evaluate their damage prevention programs in light of industry consensus standards and practices. An operator would have to identify the standards or practices used and make appropriate changes to the damage prevention program. The resulting program would have to meet or exceed the identified standards or practices. This approach is consistent with annual reviews of operation and maintenance programs under § 192.605. An operator would have to include in the certification required under proposed § 192.620(c)(1) that the review and upgrade has occurred.

Proposed paragraph (d)(4) would also require one measure not included as a condition in the special permits, namely a right-of-way management plan. In the past several years, PHMSA has seen recurring similarities in pipeline accidents on construction sites. In each case, better management of the pipeline right-of-way could have prevented the accidents. Better management would include closer attention to the qualifications of individuals critical to damage prevention, better marking practices, and closer oversight of the excavation. In 2006, PHMSA issued two advisory bulletins to alert operators of the need to pay closer attention to these important damage prevention issues. The first advisory bulletin described three accidents in which either operator personnel or contractors damaged gas transmission pipelines during excavation in the rights-of-way (ADB–06–01; 71 FR 2613; Jan. 17, 2006). This bulletin advised operators to pay closer attention to integrating operator qualification regulations into excavation activities and providing that excavation is included as a covered task under operator qualification programs required by subpart N. The second advisory bulletin pointed to an additional excavation accident where the excavator struck an inadequately marked gas transmission pipeline (ADB–06–03; 71 FR 67703; Nov. 22, 2006). This advisory bulletin advised pipeline operators to pay closer attention to locating and marking pipelines before excavation activities begin and pointed to several good practices as well as the best practices described by the Common Ground Alliance. This proposed paragraph would require an operator electing to operate at a higher stress level to develop a plan to manage the protection of their right-of-way from excavation activities. Each operator already has a damage prevention program, under § 192.614, and a program to ensure qualification of pipeline personnel, under subpart N. This management plan would require the operator to integrate activities under those programs to provide better protection for the right-of-way of pipeline operated at higher stress level.

C.7.5. Internal Corrosion Control

Proposed § 192.620(d)(5)

Proposed paragraph (d)(5) would add specificity to the requirements for internal corrosion control now in pipeline safety standards for pipelines operated at higher stress levels. These internal corrosion control programs would have to include mandated use of filter separators, gas quality monitoring equipment, cleaning pigs, and inhibitors. Maximum levels of contaminants that could promote corrosion are set to be monitored quarterly. PHMSA believes the levels are fully consistent with the requirements in Federal Energy Regulatory Commission tariffs designed to prevent internal corrosion.

C.7.6. External Corrosion Control

Proposed §§ 192.620(d)(6), (7), and (8)

Since external corrosion is one of the greatest risks to the integrity of pipelines operating at higher stress levels, the special permits and this proposed rule contain several measures to prevent it from occurring. These include use of effective coating, addressing interference, early installation of cathodic protection, confirming the adequacy of coating and cathodic protection and diligent monitoring of cathodic protection levels. The quality of the coating and installation of cathodic protection are addressed in proposed sections on design and construction. The remaining external corrosion provisions are addressed here.

Interference from overhead power lines, railroad signaling, stray currents, or other sources can interfere with the cathodic protection system and, if not properly mitigated, even accelerate the rate of external corrosion. Proposed paragraph (d)(6) would require an operator to identify and address interference early before damage to the pipe can occur.

Proposed paragraph (d)(7) would require an operator to confirm both the effectiveness of the coating and the adequacy of the cathodic protection system soon after deciding on operation at higher stress levels. This is accomplished through indirect assessment, such as a close interval survey. After completion of the baseline internal inspection required by proposed § 192.620(d)(9), an operator would have to integrate the results of that inspection with the indirect assessments. An operator would have to

also take remedial action to correct any inadequacies. In high consequence areas, an operator would have to periodically repeat indirect assessment to confirm that the cathodic protection system remains as functional as when first installed.

Proposed paragraph (d)(8) would require more rigorous attention to ensure adequate levels of cathodic protection. Regulations now require an operator discovering a low reading, meaning a reduced level of protection, must act promptly to correct the deficiency. This section puts an outer limit of six months on the time for completion of the remedial action and restoration of an adequate level of cathodic protection. In addition, the operator would have to confirm, through a close interval survey, that adequate cathodic protection levels were restored.

C.7.7 Integrity Assessments

Proposed §§ 192.620(d)(9) and (10)

Among the most important ways of ensuring integrity during pipeline operations are the assessments done under the integrity management program requirements in subpart O. Proposed paragraphs (d)(9) and (d)(10) would require operators electing to operate at higher stress levels to perform both baseline and periodic assessments of the entire segment operating at the higher stress level, regardless of whether the segment is located in a high consequence area. The operator would have to use both a geometry tool and a high resolution magnetic flux tool for the entire segment. In very limited circumstances in which internal inspection is not possible because internal inspection tools cannot be accommodated, such as a short crossover segment connecting two pipelines in a right-of-way, an operator would substitute direct assessment. The operator would then integrate the information provided by these assessments with testing done under previously described paragraphs. This analysis would form the basis for mitigating measures described in the operator's threat assessment, and prompt repairs under proposed paragraph (d)(11).

C.7.8. Repair Criteria

Proposed § 192.620(d)(11)

The repair criteria under proposed paragraph (d)(11) for anomalies in a segment operating at a higher stress level are slightly more conservative than for other pipeline, including pipeline covered by a integrity management program. With the tougher pipe, better coating and seams, and careful attention to damage prevention and corrosion protection, a pipeline operated at higher stress levels should experience few anomalies needing evaluation. The higher stress levels of operation can allow more rapid growth of anomalies. Therefore, more conservative repair criteria are needed.

C.8. Overpressure Protection

Proposed § 192.620(e)

The alternative MAOP is higher than the upper limit of the required overpressure protection under existing regulations. Proposed paragraph (e) would increase the overpressure protection limit to 104 percent of the MAOP, which is 83 percent of SMYS, for a segment operating at the alternative MAOP.

D. Regulatory Analyses and Notices

D.1. Privacy Act Statement

Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

D.2. Executive Order 12866 and DOT Policies and Procedures

Due to billions of dollars in benefits, the Department of Transportation (DOT) considers this proposed rulemaking to be a significant regulatory action under section 3(f)(1) of Executive Order 12866 (58 FR 51735; Oct. 4, 1993). Therefore, DOT submitted it to the Office of Management and Budget for review. This proposed rulemaking is also significant under DOT regulatory policies and procedures (44 FR 11034; Feb. 26, 1979).

PHMSA prepared a draft Regulatory Evaluation of the proposed rule. A copy is in Docket ID PHMSA–2005–23447. If you have comments about the Regulatory Evaluation, please file them as described under the **ADDRESSES** heading of this document.

PHMSA estimates that the proposed rule will result in gas transmission pipeline operators uprating 3,500 miles of existing pipelines to an alternative MAOP. Additionally PHMSA estimates that, in the future, the proposed rule will result in an annual additional 700 miles of new pipeline whose operators elect to use an alternative MAOP.

PHMSA expects the benefits of the proposed rule to be substantial and greatly in excess of $100 million per year. This expectation is based on quantified benefits in excess of $100 million per year (see below), coupled with un-quantified benefits associated with the proposed rule that industry and PHMSA technical staff have identified. The expected benefits of the proposed rule that cannot be readily quantified include:

- Reductions in incident consequences
- Increases in pipeline capacity
- Increases in the amount of natural gas filling the line, commonly called line pack
- Reductions in capital expenditures on compressors for new pipelines
- Reductions in adverse environmental impacts

In the case of new pipelines, the ability to use an alternative MAOP will make it possible to transport more product. Quantifying the value of this increased capacity is difficult, and no estimate has been developed for this analysis. Nonetheless, PHMSA expects the value of increased capacity due to use of alternative MAOP by gas pipelines to be significant. Estimates made with respect to the proposed trans-Alaskan gas pipeline include an estimated increase of 14.2 million standard cubic feet of gas per day. In areas where production is already well-established, there is an even greater potential for increased pipeline capacity. For example, one recipient of a special permit estimated a daily increase of at least 62 million standard cubic feet of gas.

Similarly, increases in line pack will produce enormous benefits which are difficult to quantify. The reduced amount of exterior storage capacity resulting from increased line pack may result in capital or operation and maintenance savings for the pipelines or their customers. Increased line pack increases the ability to continue gas delivery during short outages such as maintenance and to increase the amount of gas quickly during peak periods. These benefits are not readily quantifiable.

The quantified benefits consist of

- Fuel cost savings
- Capital expenditure savings on pipe for new pipelines

Of these, pipeline fuel cost savings is the most important contributor to the estimated benefits. Although these quantified benefits do not capture the full benefits of the proposed rule, they exceed $100 million per year.

As a consequence of the proposed rule, PHMSA estimates that pipeline operators will realize annually recurring benefits due to fuel cost savings of $58.8 million that begin in the initial year after the rule goes into effect and $9.8 million that begin in each subsequent year. Additionally, PHMSA estimates that each year pipeline operators will

realize one-time benefits for savings in capital expenditures of $54.6 million (since 700 miles of new pipeline operating at an alternative MAOP are added each year, the one-time benefits resulting from this added mileage will be the same each year.) The benefits of the proposed rule over 20 years are expected to be as presented in the following table:

TABLE D.2.–1—SUMMARY AND TOTAL FOR THE ESTIMATED BENEFITS OF THE PROPOSED RULE

Benefit	Estimate for year 1 (millions of dollars per year)	Estimate of new benefits occurring in each subsequent year (millions of dollars per year)
Reduced incident consequences	Not quantified	Not quantified.
Fuel cost savings	$49.0 (recurring)	$0.0 (recurring).
Reduced capital expenditures	$54.6 (non-recurring)	$54.6 (non-recurring).
Increased pipeline capacity	Not quantified	Not quantified.
Increased line pack	Not quantified	Not quantified.
Reduced adverse environmental impacts	Not quantified	Not quantified.
Other expected benefits	Not quantified	Not quantified.
Total	$49.0 recurring + $54.6 non-recurring.	$54.6 non-recurring.

The present value of the benefits evaluated over 20 years at a three percent discount rate would be $1,541 million, while the present value of the benefits over 20 years at a seven percent discount rate would be $1,098 million. For both discount rates, the annualized benefits would be $103.6 million.

PHMSA expects the costs attributable to the proposed rule are most likely to be incurred by operators for

- Performing baseline internal inspections
- Performing additional internal inspections
- Performing anomaly repairs
- Installing remotely controlled valves on either side of high consequence areas
- Preparing threat assessments
- Patrolling pipeline rights-of-way
- Preparing the paperwork notifying PHMSA of the decision to use an alternative MAOP

Overall, the costs of the proposed rule over 20 years are expected to be as presented in the following table:

TABLE D.2.–2—SUMMARY AND TOTALS FOR THE ESTIMATED COSTS OF THE PROPOSED RULE

Cost item	Cost by year after implementation (thousands of dollars)			
	1st	2nd–10th	11th	12th–20th
Baseline internal inspections	$29,119	None	None	None.
Additional internal inspections	None	None	$17,471	$2,912 each year.
Anomaly repairs	$1,015	None	$1,218	$203 each year.
Remotely controlled valves	$3,528	$588 each year	$588	$588 each year.
Threat assessments	$180	$30 each year	$30	$30 each year.
Patrolling	$10,080	$11,760 to $25,200	$26,880	$28,560 to $42,000.
Notifying PHMSA	Nominal	Nominal	Nominal	Nominal.
Total	$43,922	$618 each year plus patrolling costs.	$46,187	$3,733 each year plus patrolling costs.

The present value of the costs evaluated over 20 years at a three percent discount rate would be $435 million, while the present value of the costs over 20 years at a seven percent discount rate would be $293 million. The annualized costs at the 3% discount rate would be $29 million, while the annualized costs at the 7% discount rate would be $28 million.

Since the present value of the quantified benefits ($1,541 million at three percent and $1,098 million at seven percent) exceeds the present value of the costs ($435 million at three percent and $293 million at seven percent), the proposed rule is expected to be cost-beneficial.

D.3. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), PHMSA must consider whether rulemaking actions would have a significant economic impact on a substantial number of small entities.

The proposed rule would affect operators of gas pipelines. Based on annual reports submitted by operators, there are approximately 1,450 gas transmission and gathering systems and an equivalent number of distribution systems potentially affected by the proposed rule. The size distribution of these operators is unknown and must be estimated.

The affected gas transmission systems all belong to NAICS 486210, Pipeline Transportation of Natural Gas. In accordance with the size standards published by the Small Business Administration, a business with $6.5 million or less in annual revenue is considered a small business in this NAICS.

Based on August 2006 information from Dunn & Bradstreet on firms in NAICS 486210, PHMSA estimates that 33% of the gas transmission and gathering systems have $6.5 million or less in revenue. Thus, PHMSA estimates that 479 of the gas transmission and gathering systems affected by the proposed rule will have $6.5 million or

less in annual revenue. PHMSA does not expect that any local gas distribution companies or gathering systems will be taking advantage of the potential to use an alternative MAOP.

The proposed rule mandates no action by gas transmission pipeline operators. Rather, it provides those operators with the option of using an alternative MAOP in certain circumstances, when certain conditions can be met. Consequently, it imposes no economic burden on the affected gas pipeline operators, large or small. Based on these facts, I certify that this proposed rule will not have a substantial economic impact on a substantial number of small entities.

PHMSA invites public comment on impacts this proposed rule would have on small entities.

D.4. Executive Order 13175

PHMSA has analyzed this proposed rulemaking according to Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Because the proposed rulemaking would not significantly or uniquely affect the communities of the Indian tribal governments, nor impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

D.5. Paperwork Reduction Act

This proposed rule adds notification and threat assessment paperwork requirements on pipeline operators voluntarily choosing an alternative MAOP for their pipelines. Based on analysis of the regulation, there will be an estimated 2,712 total annual burden hours attributable to the notification and threat assessment requirements in the first year. In following years, the annual burden is expected to decrease to 452 hours. The associated cost of these annual burden hours is $180,289 in year one, and $30,048 thereafter. No other burden hours and associated costs are expected. See the Paperwork Reduction Act analysis in the docket for a more detailed explanation. PHMSA seeks comments on these projections.

D.6. Unfunded Mandates Reform Act of 1995

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more in any one year to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the proposed rulemaking.

D.7. National Environmental Policy Act

PHMSA has analyzed the proposed rulemaking for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). The proposed rulemaking would require limited physical change or other work that would disturb pipeline rights-of-way. In addition, the proposed rulemaking would codify the terms of special permits PHMSA has granted. Although PHMSA sought public comment on environmental impacts with respect to most requests for special permits to allow operation at pressures based on higher stress levels, no commenters addressed environmental impacts. PHMSA has preliminarily determined the proposed rulemaking is unlikely to significantly affect the quality of the human environment. An environmental assessment document is available for review in the docket. PHMSA will make a final determination on environmental impact after reviewing the comments to this proposal.

D.8. Executive Order 13132

PHMSA has analyzed the proposed rulemaking according to Executive Order 13132 (64 FR 43255, Aug. 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The proposed rule does not have a substantial direct effect on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. The proposed rule does not impose substantial direct compliance costs on State or local governments.

Further, no consultation is needed to discuss the preemptive effect of the proposed rule. The pipeline safety law, specifically 49 U.S.C. 60104(c), prohibits State safety regulation of interstate pipelines. The same law provides that Federal regulation would not preempt state law for intrastate pipelines. In addition, 49 U.S.C. 60120(c) provides that the Federal pipeline safety law ''does not affect the tort liability of any person.'' It is these statutory provisions, not the proposed rule, that govern preemption of State law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

D.9. Executive Order 13211

This proposed rulemaking is likely to increase the efficiency of gas transmission pipelines. A gas transmission pipeline operating at an increased MAOP will result in increased capacity, fuel savings, and flexibility in addressing supply demands. This is a positive rather than an adverse effect on the supply, distribution, and use of energy. Thus this proposed rulemaking is not a ''significant energy action'' under Executive Order 13211. Further, the Administrator of the Office of Information and Regulatory Affairs has not identified this proposed rule as a significant energy action.

List of Subjects in 49 CFR Part 192

Design pressure, Incorporation by reference, Maximum allowable operating pressure, and Pipeline safety.

For the reasons provided in the preamble, PHMSA proposes to amend 49 CFR part 192 as follows:

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

1. The authority citation for part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, and 60118; and 49 CFR 1.53.

2. In § 192.7, in paragraph (c)(2) amend the table of referenced material by redesignating items C.(6) through C.(13) as C.(7) through C.(14) and adding a new item C.(6) to read as follows:

§ 192.7 Incorporation by reference.

* * * * *

(c) * * *

(2) * * *

Source and name of referenced material	49 CFR reference
* * * * * * *	
C.* * *	
(6) ASTM Designation: A 578/A578M—96 (Re-approved 2001) ''Standard Specification for Straight-Beam Ultrasonic Examination of Plain and Clad Steel Plates for Special Applications.	§ 192.112(c)(2)(ii)
* * * * * * *	

3. Add § 192.112 to subpart C to read as follows:

§ 192.112 Additional design requirements for steel pipe using alternative maximum allowable operating pressure.

For a new or existing pipeline segment to be eligible for operation at the alternative maximum allowable operating pressure calculated under § 192.620, a segment must meet the following additional design requirements:

To address this design issue:	The pipeline segment must meet this additional requirement:
(a) General standards for the steel pipe	(1) The plate or coil used for the pipe must be micro-alloyed, fine grain, fully killed, continuously cast steel with calcium treatment. (2) The carbon equivalents of the steel used for pipe must not exceed 0.23 percent by weight, as calculated by the Ito-Bessyo formula (Pcm formula), for wall thickness of one inch (25 mm) or less, and 0.25 percent for wall thickness greater than one inch (25 mm). (3) The ratio of the specified outside diameter of the pipe to the specified wall thickness must be less than 100. The wall thickness must prevent denting and ovality anomalies during construction, strength testing and anticipated operational stresses. (4) The pipe must be manufactured using API Specification 5L, product specification level 2 (incorporated by reference, see § 192.7) for maximum operating pressures and minimum operating temperatures and other requirements under this section.
(b) Fracture control	(1) The toughness properties for pipe must address the potential for initiation, propagation and arrest of fractures in accordance with: (i) API Specification 5L (incorporated by reference, see § 192.7); and (ii) Any correction factors needed to address pipe grades, pressures, temperatures, or gas compositions not expressly addressed in API Specification 5L, product specification level 2 (incorporated by reference, see § 192.7). (2) Fracture control must: (i) Ensure resistance to fracture initiation while addressing the full range of operating temperatures, pressures and gas compositions the pipeline is expected to experience; (ii) Address adjustments to toughness of pipe for each grade used and the decompression behavior of the gas at operating parameters; (iii) Ensure at least 99 percent probability of fracture arrest within eight pipe lengths with a probability of not less than 90 percent within five pipe lengths; and (iv) Include fracture toughness testing that is equivalent to that described in supplementary requirements SR5A, SR5B, and SR6 of API Specification 5L (incorporated by reference, see § 192.7) and ensures ductile fracture and arrest with the following exceptions: (A) The results of the Charpy impact test prescribed in SR5A must indicate at least 80 percent minimum shear area for any single test on each heat of steel; and (B) The results of the drop weight test prescribed in SR6 must indicate 80 percent average shear area with a minimum single test result of 60 percent shear area for any steel test samples. (3) If it is not physically possible to achieve the pipeline toughness properties of paragraphs (b)(1) and (2) of this section, mechanical crack arrestors of proper design and spacing must be used to ensure fracture arrest as described in paragraph (b)(2)(iii) of this section.
(c) Plate/coil quality control	(1) There must be a comprehensive mill inspection program to check for defects and inclusions affecting pipe quality. (2) This mill inspection program must include: (i) A macro etch test or other equivalent method to identify inclusions that may form centerline segregation during the continuous casting process. Use of sulfur prints is not an equivalent method. The test must be carried out on the first or second slab of each sequence graded with an acceptance criteria of at least 2 on the Mannesmann scale or equivalent; and (ii) An ultrasonic test of the ends and at least 50 percent of the surface of the plate/coil or pipe to identify imperfections that impair serviceability such as laminations, cracks, and inclusions. At least 95 percent of the lengths of pipe manufactured must be tested. For pipeline designed after [the effective date of the final rule], the test must be done in accordance with Level B of ASTM A 578/A578M (incorporated by reference, see § 192.7) or equivalent.
(d) Seam quality control	(1) There must be a quality assurance program for pipe seam welds: (i) To assure tensile strength provided in API Specification 5L (incorporated by reference, see § 192.7) for appropriate grades; and (ii) To assure toughness of at least 35 foot-pounds at 32 degrees Fahrenheit (or minimum operating temperature). (2) There must be a hardness test, using Vickers (Hv10) hardness test method or equivalent test method to assure a maximum hardness of 280 Vickers of the following: (i) A cross section of the weld seam of one pipe from each heat plus one pipe from each welding line per day; and (ii) For each sample cross section, a minimum of 13 readings (three for each heat affected zone, three in the weld metal, and two in each section of pipe base metal). (3) All of the seams must be ultrasonically tested after cold expansion and hydrostatic testing.
(e) Mill hydrostatic test	(1) All pipe to be used in a new segment must be hydrostatically tested at the mill at a test pressure corresponding to a hoop stress of 95 percent SMYS for 20 seconds, including the allowance for end loading stresses. (2) Pipe previously in operation must have been hydrostatically tested at the mill at a test pressure corresponding to a hoop stress of 90 percent SMYS for 10 seconds.

To address this design issue:	The pipeline segment must meet this additional requirement:
(f) Coating	(1) The pipe must be protected against external corrosion by non-shielding, fusion bonded epoxy coating. (2) Coating on pipe used for trenchless installation must resist abrasions and other damage possible during installation. (3) A quality assurance inspection and testing program for the coating must cover the surface quality of the bare pipe, surface cleanliness and chlorides, blast cleaning, application temperature control, adhesion, cathodic disbondment, moisture permeation, bending, coating thickness, holiday detection, and repair.
(g) Fittings and flanges	(1) There must be certification records of flanges, factory induction bends and factory weld ells. (2) If the carbon equivalents of flanges, bends and ells are greater than 0.42 percent by weight, the qualified welding procedures must include a pre-heat procedure.
(h) Compressor stations	(1) A compressor station must be designed to limit discharge temperature to a maximum of 120 degrees Fahrenheit (49 degrees Centigrade) or the higher temperature allowed in paragraph (h)(2) of this section. (2) If testing shows that the coating will withstand a higher temperature in long-term operations, the compressor station may be designed to limit discharge temperature to that higher temperature.

4. Add § 192.328 to subpart G to read as follows:

§ 192.328 Additional construction requirements for steel pipe using alternative maximum allowable operating pressure.

For a new or existing pipeline segment to be eligible for operation at the alternative maximum allowable operating pressure calculated under § 192.620, a segment must meet the following additional construction requirements:

To address this construction issue:	*The pipeline segment must meet this additional construction requirement:*
(a) Quality assurance	(1) The construction of the segment must be done under a quality assurance plan addressing pipe inspection, hauling and stringing, field bending, welding, non-destructive examination of girth welds, applying and testing field applied coating, lowering of the pipeline into the ditch, padding and backfilling, and hydrostatic testing. (2) The quality assurance plan for applying and testing field applied coating to girth welds must be: (i) Equivalent to that required under § 192.112(f)(3) for pipe; and (ii) Performed by an individual with the knowledge, skills, and ability to assure effective coating.
(b) Girth welds	(1) All girth welds on a new segment must be non-destructively examined in accordance with § 192.243(b) and (c). (2) At least 95 percent of girth welds on a segment that was constructed prior to the effective date of this rule must have been non-destructively examined in accordance with § 192.243(b) and (c).
(c) Depth of cover	(1) Notwithstanding any lesser depth of cover otherwise allowed in § 192.327, there must be at least 36 inches (914 millimeters) of cover. (2) In areas where deep tilling or other activities could threaten the pipeline, the top of the pipeline must be installed at least one foot below the deepest expected penetration of the soil.
(d) Initial strength testing	(1) The segment must not experience any failures indicative of fault in material during strength testing, including initial hydrostatic testing.
(e) Cathodic protection	(1) If the segment has been in operation, the cathodic protection system on the segment must have been operational within 12 months of construction.
(f) Interference currents	(1) For a new segment, the construction must address the impacts of induced alternating current from parallel electric transmission lines and other known sources of potential interference with corrosion control.

5. Amend § 192.619 by revising paragraph (a) introductory text and by adding paragraph (d) to read as follows:

§ 192.619 Maximum allowable operating pressure: Steel or plastic pipelines.

(a) No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure determined under paragraph (c) or (d) of this section, or the lowest of the following:

* * * * *

(d) The operator of a segment of steel pipeline meeting the conditions prescribed in § 192.620(b) may elect to operate the segment at a maximum allowable operating pressure determined under § 192.620(a).

6. Add § 192.620 to subpart L to read as follows:

§ 192.620 Alternative maximum allowable operating pressure for certain steel pipelines.

(a) *How does an operator calculate the alternative maximum allowable operating pressure?* An operator calculates the alternative maximum allowable operating pressure by using different factors in the same formulas used for calculating maximum allowable operating pressure under § 192.619(a) as follows:

(1) In determining the design pressure under § 192.105, use a design factor determined in accordance with § 192.111 (b), (c), or (d) or, if none of these paragraphs apply, in accordance with the following table:

Class location	Design factor (F)
1	0.80
2	0.67
3	0.56

(2) The maximum allowable operating pressure is the lower of the following:

(i) The design pressure of the weakest element in the segment, determined under subparts C and D of this part.

(ii) The pressure obtained by dividing the pressure to which the segment was tested after construction by a factor determined in the following table:

Class location	Factor
1	1.25
2	1.50
3	1.50

(b) *When may an operator use the alternative maximum allowable operating pressure calculated under paragraph (a) of this section?* An operator may use a maximum allowable operating pressure calculated under paragraph (a) of this section if the following conditions are met:

(1) The segment is in a Class 1, 2, or 3 location;

(2) The segment is constructed of steel pipe meeting the additional design requirements in § 192.112;

(3) A supervisory control and data acquisition system provides remote monitoring and control of the segment;

(4) The segment meets the additional construction requirements described in § 192.328;

(5) The segment does not contain any mechanical couplings used in place of girth welds; and

(6) If a segment has been previously operated, the segment has not experienced any failure during normal operations indicative of a fault in material.

(c) *What is an operator electing to use the alternative maximum allowable operating pressure required to do?* If an operator elects to use the maximum allowable operating pressure calculated under paragraph (a) of this section for a segment, the operator must do each of the following:

(1) Certify, by signature of a senior executive officer of the company, as follows:

(A) The segment meets the conditions described in subsection (b) of this section; and

(B) The operating and maintenance procedures include the additional operating and maintenance requirements of subsection (d) of this section; and

(C) The review and any needed program upgrade of the damage prevention program required by subsection (d)(4)(v) of this section has been completed.

(2) Notify PHMSA of its election with respect to a segment at least 180 days before operating at the alternative maximum allowable operating pressure by sending the certification to the Information Resources Manager as provided for reports under § 192.951.

(3) For each segment, do one of the following:

(i) Perform a strength test as described in § 192.505 at a test pressure of at least 125 percent of the maximum allowable operating pressure calculated under paragraph (a) of this section; or

(ii) For a segment in existence prior to the effective date of this regulation, certify, under paragraph (c)(1) of this section, that the strength test performed under § 192.505 was conducted at a test pressure of at least 125 percent of the maximum allowable operating pressure calculated under paragraph (a) of this section.

(4) Comply with the additional operation and maintenance requirements described in paragraph (d) of this section.

(5) If the performance of a construction task affects the integrity of the segment, ensure that the task is performed properly by doing at least one of the following:

(i) Include quality controls during construction addressing performance of the task;

(ii) Use an integrity verification method that addresses performance of the task; or

(iii) Demonstrate that the individual performing the task has the knowledge, skills, and ability to do so.

(6) Maintain, for the useful life of the pipeline, records demonstrating compliance with paragraphs (b), (c)(5), and (d) of this section.

(d) *What additional operation and maintenance requirements apply to operation at the alternative maximum allowable operating pressure?* In addition to compliance with other applicable safety standards in this part, if an operator establishes a maximum allowable operating pressure for a segment under paragraph (a) of this section, an operator must comply with the additional operation and maintenance requirements as follows:

To address increased risk of a maximum allowable operating pressure based on higher stress levels in the following areas:	*Take the following additional step:*
(1) Assessing threats	Develop a threat matrix consistent with § 192.917 to do the following: (i) Identify and compare the increased risk of operating the pipeline at the increased stress level under this section with conventional operation; and (ii) Describe procedures used to mitigate the risk.
(2) Notifying the public	(i) Recalculate the potential impact circle as defined in § 192.903 to reflect use of the alternative maximum operating pressure calculated under paragraph (a) of this section and pipeline operating conditions; and (ii) In implementing the public education program required under § 192.616, do the following: (A) Include persons occupying property within 220 yards of the centerline and within the potential impact circle within the targeted audience; and (B) Include information about the integrity management activities performed under this section within the message provided to the audience.
(3) Responding to an emergency in an area defined as a high consequence area in § 192.903.	(i) Ensure that the identification of high consequence areas reflects the larger potential impact circle recalculated under paragraph (d)(2)(i) of this section. (ii) If personnel response time to mainline valves on either side of the high consequence area exceeds one hour, provide remote valve control through a supervisory control and data acquisition system, other leak detection system, or an alternative method of control. (iii) Remote valve control must include the ability to open and close the valve, monitor the position of the valve, and monitor pressure upstream and downstream. (iv) A line break valve control system using differential pressure, rate of pressure drop or other widely-accepted method is an acceptable alternative to remote valve control.

To address increased risk of a maximum allowable operating pressure based on higher stress levels in the following areas:	*Take the following additional step:*
(4) Protecting the right of way	(i) Patrol the right of way at intervals not exceeding 3 weeks, but at least 26 times each calendar year, to inspect for excavation activities, ground movement, wash outs, leakage, or other activities or conditions affecting the safety operation of the pipeline. (ii) Develop and implement a plan to monitor for and mitigate occurrences of unstable soil and ground movement. (iii) Maintain the depth of cover provided for new pipeline under § 192.327 or § 192.328(c). If observed conditions indicate the possible loss of cover, perform a depth of cover study and replace cover as necessary to restore the depth of cover. (iv) Use line-of-sight line markers satisfying the requirements of § 192.707(d) except in agricultural areas, large water crossings or where prohibited by Federal Energy Regulatory Commission orders, permits, or local law. (v) Review the damage prevention program under § 192.614(a) in light of national consensus standards and practices, to ensure the program provides adequate protection of the right-of-way. Identify the standards or practices considered in the review, and meet or exceed those standards or practices by incorporating appropriate changes into the program. (vi) Develop and implement a right-of-way management plan to protect the segment from damage due to excavation activities.
(5) Controlling internal corrosion	(i) Develop and implement a program to monitor for and mitigate the presence of, deleterious gas stream constituents. (ii) At points where gas with potentially deleterious contaminants enters the pipeline, use filter separators and gas quality monitoring equipment. (iii) Use gas quality monitoring equipment that includes a moisture analyzer, chromatograph, and periodic hydrogen sulfide sampling. (iii) Use cleaning pigs and inhibitors, and sample accumulated liquids. (iv) Address deleterious gas stream constituents as follows: (A) Limit carbon dioxide to 3 percent by volume; (B) Allow no free water and otherwise limit water to seven pounds per million cubic feet of gas; and (C) Limit hydrogen sulfide to 0.50 grain per hundred cubic feet of gas. (v) Review the program at least quarterly based on the gas stream experienced and implement adjustments to monitor for, and mitigate the presence of, deleterious gas stream constituents.
(6) Controlling interference that can impact external corrosion.	(i) Prior to operating an existing segment at a maximum allowable operating pressure calculated under this section, or within six months after placing a new segment in service at a maximum allowable operating pressure calculated under this section, address interference issues on the segment. (ii) To address interference issues, do the following: (A) Conduct an interference survey to detect the presence and level of any electrical current that could impact external corrosion; (B) Analyze the results of the survey; and (C) Take any remedial action needed to protect the segment from deleterious current.
(7) Confirming external corrosion control through indirect assessment.	(i) Within six months after placing the cathodic protection of a new segment in operation, or within six months after recalculating the maximum allowable operating pressure of an existing segment under this section, assess the integrity of the coating and adequacy of the cathodic protection through an indirect method such as close-interval survey, direct current voltage gradient, or alternating current voltage gradient. (ii) Remediate any construction damaged coating with a voltage drop classified as moderate or severe indication under section 4, table 3 of NACE RP–0502–2002 (incorporated by reference, see § 192.7). (iii) Within six months after completing the baseline internal inspection required under paragraph (9) of this section, integrate the results of the indirect assessment required under paragraph (7)(i) of this section with the results of the baseline internal inspection and take any needed remedial actions. (iv) For all segments in high consequence areas, do periodic assessments as follows: (A) Conduct periodic close interval surveys with current interrupted to confirm voltage drops in association with periodic assessments under subpart O of this part. (B) Locate pipe-to-soil test stations at half-mile intervals within each high consequence area ensuring at least one station is within each high consequence area. (C) Integrate the results with those of the baseline and periodic assessments for integrity done under paragraphs (d)(9) and (d)(10) of this section.
(8) Controlling external corrosion through cathodic protection.	(i) If an annual test station reading indicates cathodic protection below the level of protection required in subpart I of this part, complete remedial action within six months of the failed reading; and (ii) After remedial action to address a failed reading, confirm restoration of adequate corrosion control by a close interval survey on either side of the affected test station to the next test station.
(9) Conducting a baseline assessment of integrity.	(i) Except as provided in paragraph (d)(9)(iii) of this section, for a new segment, do a baseline internal inspection as follows: (A) Assess using a geometry tool after the initial hydrostatic test and backfill within six months after placing the new segment in service; and (B) Assess using a high resolution magnetic flux tool within three years after placing the new segment in service.

To address increased risk of a maximum allowable operating pressure based on higher stress levels in the following areas:	*Take the following additional step:*
	(ii) Except as provided in paragraph (d)(9)(iii) of this section, for an existing segment, do a baseline internal assessment using a geometry tool and a high resolution magnetic flux tool before, but within two years prior to, raising pressure as allowed under this section. (iii) If headers, mainline valve by-passes, compressor station piping, meter station piping, or other short portion of a segment cannot accommodate a geometry tool and a high resolution magnetic flux tool, use direct assessment to assess that portion.
(10) Conducting periodic assessments of integrity.	(i) Determine a frequency for subsequent periodic inspections as if the segments were covered by subpart O of this part. (ii) Conduct periodic internal inspections using a high resolution magnetic flux tool on the frequency determined under paragraph (d)(10)(i) of this section. (iii) Use direct assessment for periodic assessment of a portion of a segment to the extent permitted for a baseline assessment under paragraph (d)(9)(iii) of this section.
(11) Making repairs	(i) Do the following when evaluating an anomaly: (A) Use the most conservative calculation for determining remaining strength or an alternative validated calculation based on pipe diameter, wall thickness, grade, operating pressure, operating stress level, and operating temperature: and (B) Take into account the tolerances of the tools used for the inspection. (ii) Repair a defect immediately if any of the following apply: (A) The defect is a dent discovered during the baseline assessment for integrity under paragraph (d)(9) of this section and the defect meets the criteria for immediate repair in § 192.309(b). (B) The defect meets the criteria for immediate repair in § 192.933(d). (C) The maximum allowable operating pressure was based on a design factor of 0.67 under paragraph (a) of this section and the failure pressure is less than 1.25 times the maximum allowable operating pressure. (D) The maximum allowable operating pressure was based on a design factor of 0.56 under paragraph (a) of this section and the failure pressure is less than or equal to 1.4 times the maximum allowable operating pressure. (iii) If paragraph (d)(11)(ii) of this section does not require immediate repair, repair a defect within one year if any of the following apply: (A) The defect meets the criteria for repair within one year in § 192.933(d). (B) The maximum allowable operating pressure was based on a design factor of 0.80 under paragraph (a) of this section and the failure pressure is less than 1.25 times the maximum allowable operating pressure. (C) The maximum allowable operating pressure was based on a design factor of 0.67 under paragraph (a) of this section and the failure pressure is less than 1.50 times the maximum allowable operating pressure. (D) The maximum allowable operating pressure was based on a design factor of 0.56 under paragraph (a) of this section and the failure pressure is less than or equal to 1.80 times the maximum allowable operating pressure. (iv) Evaluate any defect not required to be repaired under paragraph (d)(11)(ii) or (iii) of this section to determine its growth rate, set the maximum interval for repair or re-inspection, and repair or re-inspect within that interval.

(e) *Is there any change in overpressure protection associated with operating at the alternative maximum allowable operating pressure?* Notwithstanding the required capacity of pressure relieving and limiting stations otherwise required by § 192.201, if an operator establishes a maximum allowable operating pressure for a segment in accordance with paragraph (a) of this section, an operator must:

(1) Provide overpressure protection that limits mainline pressure to a maximum of 104 percent of the maximum allowable operating pressure; and

(2) Develop and follow a procedure for establishing and maintaining accurate set points for the supervisory control and data acquisition system.

Issued in Washington, DC, on March 4, 2008.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. E8–4656 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 080229343–8368–01]

RIN 0648–XF87

Listing Endangered and Threatened Species: Notification of Finding on a Petition to List Pacific Eulachon as an Endangered or Threatened Species under the Endangered Species Act

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

ACTION: Notification of finding; request for information, and initiation of status review.

SUMMARY: On November 8, 2007, we, NMFS, received a petition to list populations of Pacific eulachon (*Thaleichthys pacificus*) in Washington, Oregon, and California as a threatened or endangered species under the Endangered Species Act (ESA). We find that the petition presents substantial scientific and commercial information indicating that the petitioned action may be warranted. Accordingly, we will initiate a status review of the species. To ensure that the status review is complete and based upon the best available scientific and commercial information, we solicit information regarding the population structure and status of Pacific eulachon throughout their range in Alaska, British Columbia, Washington, Oregon, and California.

DATES: Information and comments on the subject action must be received by May 12, 2008.

ADDRESSES: You may submit data, information, comments, identified by the code 0648–XF87, addressed to: Chief, NMFS, Protected Resources Division, by any of the following methods:

- Electronic Submissions: Submit all electronic comments via the Federal eRulemaking Portal at *http://www.regulations.gov*
- Facsimile (fax): 503–230–5441
- Mail: 1201 NE Lloyd Boulevard, Suite 1100, Portland, Oregon, 97232.
- Hand delivery: You may hand-deliver written comments to our office during normal business hours at the street address given above.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All personally identifiable information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word or Excel, Corel WordPerfect, or Adobe pdf file formats only.

FOR FURTHER INFORMATION CONTACT: For further information regarding this notice contact Garth Griffin, NMFS, Northwest Region, (503) 231–2005; John Clancy, Southwest Region, (707) 825–5175; or Dwayne Meadows, NMFS, Office of Protected Resources, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

On November 08, 2007, NMFS received a petition from the Cowlitz Indian Tribe to list southern eulachon (populations in Washington, Oregon, and California) as a threatened or endangered species under the ESA. Copies of the petition are available from NMFS via the Internet (*http://www.nwr.noaa.gov/Other-Marine-Species/index.cfm*) or by request (See **ADDRESSES** section, above).

ESA Statutory, Regulatory, and Policy Provisions

Section 4(b)(3) of the ESA contains provisions concerning petitions from interested persons requesting the Secretary of Commerce (Secretary) to list species under the Endangered Species Act (ESA) (16 U.S.C. 1533(b)(3)(A)). Section 4(b)(3)(A) requires that, to the maximum extent practicable, within 90 days after receiving such a petition, the Secretary make a finding whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Joint NOAA-U.S. Fish and Wildlife Service (USFWS) ESA implementing regulations define Asubstantial information@ as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted (50 CFR 424.14(b)(1)). In evaluating a petitioned action, the Secretary considers whether the petition contains a detailed narrative justification for the recommended measure, including: past and present numbers and distribution of the species involved, and any threats faced by the species (50 CFR 424.14(b)(2)(ii)); and information regarding the status of the species throughout all or a significant portion of its range (50 CFR 424.14(b)(2)(iii)). In addition to the information presented in a petition, we review other data and publications readily available to our scientists (i.e., currently within agency files). When it is found that substantial information is presented in the petition, we are required to promptly commence a review of the status of the species concerned. Within 1 year of receipt of the petition, we shall issue one of the following findings: (1) the petitioned action is not warranted; (2) the petitioned action is warranted, in which case we must promptly publish a propped listing determination; or (3) the petitioned action is warranted but that a proposed listing is precluded by pending rulemaking for other species.

Under the ESA, a listing determination may address a species, subspecies, or a distinct population segment (DPS) of any vertebrate species which interbreeds when mature (16 U.S.C. 1532(16)). A joint NOAA-USFWS policy clarifies the agencies' interpretation of the phrase ''distinct population segment'' of any species of vertebrate fish or wildlife (ESA section 3(16)) for the purposes of listing, delisting, and reclassifying a species under the ESA (61 FR 4722, February 7, 1996) (joint DPS policy). The joint DPS policy established two criteria that must be met for a population or group of populations to be considered a DPS: (1) the population segment must be discrete in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the population segment must be significant to the remainder of the species (or subspecies) to which it belongs. A population segment may be considered discrete if it satisfies either one of the following conditions: (1) it is markedly separated from other populations of the same biological taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) it is delimited by international governmental boundaries across which differences exist in exploitation control, habitat management, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the ESA. If a population is determined to be discrete, the agency must then consider whether it is significant to the taxon to which it belongs. Considerations in evaluating the significance of a discrete population include: (1) persistence of the discrete population in an unusual or unique ecological setting for the taxon; (2) evidence that the loss of the discrete population segment would result in a significant gap in the taxon's range; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere outside its historical geographic range; or (4) evidence that the discrete population has marked genetic differences from other populations of the species.

A species, subspecies, or DPS is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range, or ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA Sections 3(6) and 3(20), respectively). Under section 4(a)(1) of the ESA, a species can be determined to be threatened or endangered based on any of the following factors: (1) the present or threatened destruction, modification, or curtailment of a species' habitat or

range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting the species' continuing existence. Listing determinations are based solely on the best available scientific and commercial data after taking into account any efforts being made by any state or foreign nation to protect the species (16 U.S.C. 1533(b)(1)(A)).

Distribution and Life History of Eulachon

Eulachon (commonly called smelt, candlefish, or hooligan) are endemic to the eastern Pacific Ocean ranging from northern California to southwest Alaska and into the southeastern Bering Sea. Eulachon typically spend 3–5 years in saltwater before returning to freshwater to spawn from late winter through mid spring. Spawning grounds are typically in the lower reaches of larger snowmelt-fed rivers (Hay and McCarter, 2000). In the portion of the species' range that lies south of the U.S. Canada border, most eulachon production originates in the Columbia River Basin. Other river basins in the U.S. where eulachon have been documented include: the Sacramento River, Russian River, Humboldt Bay and several nearby smaller coastal rivers (e.g., Mad River), and the Klamath River in California; the Rogue River and Umpqua Rivers in Oregon; and infrequently in coastal rivers and tributaries to Puget Sound in Washington (Emmett *et al.*, 1991; Musick *et al.*, 2000). Within the Columbia River Basin, the major and most consistent spawning runs occur in the mainstem of the Columbia River (from just upstream of the estuary, river mile (RM) 25, to immediately downstream of Bonneville Dam, RM 146) and in the Cowlitz River. Periodic spawning also occurs in the Grays, Skamokawa, Elochoman, Kalama, Lewis, and Sandy rivers (tributaries to the Columbia River)(Emmett *et al.*, 1991; Musick *et al.*, 2000). Throughout the species' range, spawning occurs consistently in the Klamath River, Columbia and Cowlitz Rivers, and the Fraser and Nass rivers (British Columbia), and may occur rarely or intermittently in other coastal river systems from California to Alaska (Wilson *et al.*, 2004).

Spawning occurs in the lower sections of rivers at temperatures from 4 to 10 degrees C (Washington, 2001). Spawning occurs over sand or coarse gravel substrates. Eggs are fertilized in the water column, sink, and adhere to the river bottom typically in areas of gravel and coarse sand. Most eulachon adults die after spawning.

Eulachon eggs hatch in 20–40 days. The larvae are carried downstream and are dispersed by estuarine and ocean currents shortly after hatching. Juvenile eulachon move from shallow nearshore areas to mid-depth midshore areas. Typically eulachon spend 3–5 years in saltwater before returning to freshwater to spawn.

1999 Eulachon Petition

In 1999, Mr. Sam Wright petitioned us under the ESA to add Columbia River eulachon to the list of federally threatened and endangered species. Mr. Wright expressed concern regarding marked declines in eulachon populations in the Columbia River system, and concluded that Columbia River eulachon populations were at risk of extinction and had no reasonable expectation of recovering or being replenished by nearby populations. After reviewing the petition, as well as other information readily available to us, we concluded that the petition provided insufficient information regarding the distinctness of eulachon populations in the Columbia River relative to the other populations in the species' range. In November 1999 we issued our finding that the petition did not present substantial scientific information indicating the petitioned action may be warranted (64 FR 66601; November 29, 1999), and, therefore, no status review was conducted. We acknowledged there was cause for concern over decline in the eulachon catch in the Columbia River to an historical low. We noted, however, that the species' high fecundity and short life span contribute to highly variable and possibly cyclic run size, and it was therefore unclear whether the low catch levels at the time of the petition reflected natural variability in response to variable ocean conditions or an actual decline in stock status. Although we decided that a status review was not warranted, we encouraged state and tribal co-managers to improve their eulachon management and research efforts. In particular, we underscored the need to evaluate whether current harvest strategies adequately protect the species and to initiate more accurate eulachon abundance and life-history surveys.

Analysis of the Cowlitz Indian Tribe's Petition

We reviewed the petition from the Cowlitz Indian Tribe, as well as other information readily available to our scientists (i.e., currently within our files), to determine if the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Specifically, we evaluated whether: (1) the species may warrant delineation into one or more DPSs; and (2) the species, or a putative DPS, may be in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range.

Information Regarding the DPS Structure of Eulachon

The Cowlitz Indian Tribe's petition seeks delineation of a southern eulachon DPS extending from the U.S.-Canada border south to include populations in Washington, Oregon, and California. The petitioner concludes that the available genetic, meristic, and life-history information is inconclusive regarding the discreteness of eulachon populations. However, the petitioner argues that under the DPS policy eulachon populations in Washington, Oregon, and California are collectively ''discrete'' from more northerly populations because they are delimited by an international governmental boundary (i.e., the U.S.-Canada border between Washington and British Columbia) across which there is a significant difference in exploitation control, habitat management, or conservation status. The petitioner notes that the U.S. and Canada differ in their regulatory control of commercial, recreational and tribal eulachon harvest, and also differ in their management of eulachon habitat. The petitioner concluded that there is no assurance that the U.S. and Canada will coordinate management and regulatory efforts sufficiently to conserve eulachon and their habitat, and thus the DPS should be delineated at the border between Washington and British Columbia. The petitioner argues that the southern eulachon population segment is also ''significant'' under the DPS policy because the loss of the discrete population segment would cause a significant gap in the taxon's range. The petitioner notes that eulachon have largely disappeared in rivers throughout the southern portion of their range, and that eulachon in the Columbia River probably represent the southernmost extant population for the species. The loss of the Columbia River eulachon population and any dependent coastal spawning populations could represent the loss of the species throughout its range in the U.S., as well as the loss of a substantial proportion of its historical range.

Although the petitioner felt that the available information is inconclusive, it

was noted that eulachon may be composed of several smaller DPSs differentiable on the basis of differences in run timing, meristic, and genetic characteristics. Initial mitochondrial DNA genetic information (McLean *et al.*, 1999) and elemental analysis of eulachon otoliths (Carolsfeld and Hay, 1998) suggested that eulachon did not exhibit genetic discreteness and represented a panmictic population throughout the species' range. Other biological data including the number of vertebrae, size at maturity, fecundity, river-specific spawning times, and population dynamics indicate that there is substantial local stock structure (Hart and McHugh, 1944; Hay and McCarter, 2000). These latter observations are consistent with the hypothesis that there is local adaptation and genetic differentiation among populations. Recent microsatellite genetic work (Beacham *et al.*, 2005) appears to confirm the existence of significant differentiation among populations. Although the Fraser River, Columbia River mainstem, and the Cowlitz River spawning populations are genetically distinct from each other, they are more closely related to one another than to the more northerly British Columbia populations (Beacham *et al.*, 2005).

After reviewing the information presented in the petition as well as other information readily available to us (i.e., currently within NMFS files), we conclude that the Cowlitz Indian Tribe's petition presents substantial scientific information indicating that eulachon may warrant delineation into one or more DPSs.

Information Regarding Eulachon Status and Threats

Although eulachon abundance exhibits considerable year-to-year variability, nearly all spawning runs from California to southeastern Alaska have declined in the past 20 years, especially since the mid 1990s (Hay and McCarter, 2000). Historically, the Columbia River has exhibited the largest returns of any spawning population throughout the species' range. The petitioner notes that from 1938 to 1992, the median commercial catch of eulachon in the Columbia River was approximately 1.9 million pounds (861,826 kg). From 1993 to 2006, the median catch had declined to approximately 43,000 pounds, representing a 97.7 percent reduction in catch from the prior period. Although there was an increasing trend in Columbia River eulachon catch from 2000–2003, recent catches are extremely low. The preliminary catch data for the 2008 Columbia River eulachon run suggest it may be the second lowest on record (i.e., since 1938) (WDFW, 2008). The petitioner also presents catch per unit effort and larval survey data (WDFW and ODFW, 2006) for the Columbia River and tributaries in Oregon and Washington that similarly reflect the depressed status of Columbia River eulachon during the 1990s, a relative increase during 2000 to 2004, and a decline back to low levels in recent years.

The petitioner also notes that eulachon returns in the Fraser River and other British Columbia rivers similarly suffered severe declines in the mid–1990s and, despite increased returns during 2001 to 2003, presently remain at very low levels (DFO, 2006). Egg and larval surveys conducted in the Fraser River since 1995 also demonstrate that, despite the implementation of fishing restrictions in British Columbia, the stock has not recovered from its mid–1990s collapse and remains at a very low level. An offshore index of Fraser and Columbia River eulachon biomass, calculated from eulachon bycatch in the shrimp trawl fishery off the west coast of Vancouver Island, illustrates highly variable biomass over the time series since 1973, but also reflects stock declines in the mid–1990s and in recent years (DFO, 2006). With respect to eulachon populations further south in the species' range, the petitioner notes that populations in the Klamath River, Mad River, Redwood Creek, and Sacramento River are likely extirpated or nearly so.

The petitioner describes a number of threats facing eulachon range-wide, and facing populations in U.S. rivers in particular. The petitioner organizes this information according to the five factors described in section 4(a)(1) of the ESA: (A) the present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. The following paragraph provides a brief summary of the information on threats presented in the petition.

The petitioner expresses concern that habitat loss and degradation threaten eulachon, particularly in the Columbia River basin. Hydroelctric dams block access to historical eulachon spawning grounds, and affect the quality of spawning substrates through flow management, altered delivery of coarse sediments, and siltation. The petitioner expressed strong concern regarding the siltation of spawning substrates in the Cowlitz River due to altered flow management and the accumulation of fine sediments from the Toutle River. The petitioner believes that efforts to retain and stabilize fine sediments generated by the 1980 eruption of Mount St. Helens are inadequate. The petitioner notes that the release of fine sediments from behind a U.S. Army Corps of Engineers sediment retention structure on the Toutle River has been negatively correlated with Cowlitz River eulachon returns 3 to 4 years later. The petitioner also expressed concern that dredging activities in the Cowlitz and Columbia rivers during the eulachon spawning run may entrain and kill fish, or otherwise result in decreased spawning success. The petitioner also noted that eulachon have been shown to carry high levels of chemical pollutants (US EPA, 2002), and although it has not been demonstrated that high contaminant loads in eulachon result in increased mortality or reduced reproductive success, such effects have been shown in other fish species (Kime, 1995).

The petitioner expressed concern that depressed eulachon populations are particularly susceptible to overharvest in fisheries where they are targeted or taken as bycatch. The petitioner concluded that no evidence suggests that disease currently poses a threat to eulachon, but noted information presented in the 1999 petition to list eulachon that suggested that predation by pinnipeds may be substantial. The petitioner acknowledges that eulachon harvest has been curtailed significantly in response to population declines, and that were it not for continued low levels of harvest there would be little or no status information available for some populations. However, the petitioner concludes that existing regulatory mechanisms have proven inadequate in recovering eulachon stocks, and that directed harvest and bycatch may be important factors limiting the recovery of impacted stocks. The petitioner underscores the need for further fishery-independent monitoring and research. Finally, the petitioner concludes that global climate change is one of the greatest threats facing eulachon, particularly in the southern portion of its range where ocean warming trends may be the most pronounced. The petitioner felt that the risks facing southerly eulachon populations in Washington, Oregon, and California will be exacerbated by such a deterioration of marine conditions. These southerly populations, already exhibiting dramatic declines and impacted by

other threats (e.g., habitat loss and degradation), might be at risk of extirpation if unfavorable marine conditions predominated in the future. The petitioner noted that the Columbia River served as the single refuge for the species during the Wisconsinan glacial period (between 10,000 and 15,000 years before present), and that the loss of the Columbia River and other southerly eulachon populations would imperil the persistence of the taxon as a whole.

Petition Finding

After reviewing the information contained in the petition and other information readily available in our files, we determine that the petition presents substantial scientific and commercial information indicating the petitioned action may be warranted. In accordance with section 4(b)(3)(B) of the ESA and NMFS' implementing regulations (50 CFR 424.14(b)(2)), we will commence a review of the status of the species concerned and make a determination within 12 months of receiving the petition (i.e., by November 8, 2008) whether the petitioned action is warranted.

Information Solicited

DPS Structure and Extinction Risk

To ensure that the updated status review is complete and based on the best available and most recent scientific and commercial data, we solicit information, and comments (see **DATES** and **ADDRESSES**) concerning the status of eulachon. We solicit pertinent information such as: (1) biological or other relevant data pertinent to determining the DPS structure of eulachon (e.g., age structure, genetics, migratory patterns, morphology, physiology); (2) the abundance and biomass, as well as the spatial and temporal distribution of eulachon; (3) trends in abundance and distribution; (4) natural and human-influenced factors that cause variability in survival, distribution, and abundance; and (5) current or planned activities and their possible impact on eulachon (e.g., harvest measures and habitat actions).

Efforts Being Made to Protect Eulachon

Section 4(b)(1)(A) of the ESA requires the Secretary to make listing determinations solely on the basis of the best scientific and commercial data available after conducting a review of the status of a species and after taking into account efforts being made to protect the species. Therefore, in making its listing determinations, we first assess the status of the species and identify factors that have led to the decline. We then assesses conservation measures to determine whether they ameliorate a species' extinction risk (50 CFR 424.11(f)). In judging the efficacy of conservation efforts, NMFS considers the following: the substantive, protective, and conservation elements of such efforts; the degree of certainty that such efforts will reliably be implemented and the degree of certainty that such efforts will be effective in furthering the conservation of the species (68 FR 15100, March 28, 2003); and the presence of monitoring provisions that track the effectiveness of recovery efforts, and that inform iterative refinements to management as information is accrued. In some cases, conservation efforts may be relatively new or may not have had sufficient time to demonstrate their biological benefit. In such cases, provisions of adequate monitoring and funding for conservation efforts are essential to ensure that the intended conservation benefits are realized. We also encourage all parties to submit information on ongoing efforts to protect and conserve eulachon, as well as information on recently implemented or planned activities and their likely impact(s).

References

Copies of the petition and related materials are available on the Internet at *http://www.nwr.noaa.gov/Other-Marine-Species/index.cfm*, or upon request (see **ADDRESSES** section above).

Authority: 16 U.S.C. 1531 *et seq.*

Dated: March 6, 2008.

Samuel D. Rauch III,

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

[FR Doc. E8–4957 Filed 3–11–08; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 73, No. 49

Wednesday, March 12, 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

Notice of Funding Availability (NOFA) for Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year 2008

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

Announcement Type: Initial NOFA inviting pre-applications from qualified applicants for Fiscal Year 2008.

Catalog of Federal Domestic Assistance Numbers (CFDA): 10.405 and 10.427.

SUMMARY: This NOFA announces the timeframe to submit pre-applications for section 514 Farm Labor Housing (FLH) loans and section 516 FLH grants for the construction of new off-farm FLH units and related facilities for domestic farm laborers. The intended purpose of these loans and grants is to increase the number of available housing units for domestic farm laborers. Applications may also include requests for section 521 rental assistance (RA) and operating assistance for migrant units. This document describes the method used to distribute funds, the application process, and submission requirements.

DATES: The deadline for receipt of all applications in response to this NOFA is 5 p.m., local time for each Rural Development State Office on May 12, 2008. The application closing deadline is firm as to date and hour. The Agency will not consider any application that is received after the closing deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline. Acceptance by a post office or private mailer does not constitute delivery. Facsimile (FAX), COD, and postage due applications will not be accepted.

Submission Address

FOR FURTHER INFORMATION CONTACT: Henry Searcy, Senior Loan Specialist, Multi-Family Housing Processing Division, STOP 0781 (Room 1263–S), USDA Rural Development, 1400 Independence Ave., SW., Washington, DC 20250–0781, telephone: (202) 720–1753 (This is not a toll free number.), or e-mail: *Henry.Searcy@wdc.usda.gov*.

Applicants wishing to apply for assistance must contact the Rural Development State Office serving the place in which they desire to submit an application for off-farm labor housing to receive further information and copies of the application package. Rural Development will date and time stamp incoming applications to evidence timely receipt, and, upon request, will provide the applicant with a written acknowledgment of receipt. A listing of Rural Development State Offices, their addresses, telephone numbers, and person to contact follows:

Note: Telephone numbers listed are not toll-free.

Alabama State Office
Suite 601, Sterling Center 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3455 TDD (334) 279–3618, Van McCloud.

Alaska State Office
800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7740 TDD (907) 761–8905, Debbie Andrys.

Arizona State Office
Phoenix Courthouse and Federal Building, 230 North First Ave., Suite 206, Phoenix, AZ 85003–1706, (602) 280–8768 TDD (602) 280–8770, Carol Torres.

Arkansas State Office
700 W. Capitol Ave., Rm. 3416, Little Rock, AR 72201–3225, (501) 301–3250 TDD (501) 301–3063, Clinton King.

California State Office
430 G Street, #4169, Davis, CA 95616–4169, (530) 792–5830 TDD (530) 792–5848, Stephen Nnodim.

Colorado State Office
655 Parfet Street, Room El00, Lakewood, CO 80215, (720) 544–2923 TDD (800) 659–2656, Mary Summerfield.

Connecticut
Served by Massachusetts State Office.

Delaware State Office
1221 College Park Drive, Suite 200, Dover, DE 19904, (302) 857–3615 TDD (302) 857–3585, Pat Baker.

Florida & Virgin Islands State Office
4440 N.W. 25th Place, Gainesville, FL 32606–6563, (352) 338–3465 TDD (352) 338–3499, Elizabeth M. Whitaker.

Georgia State Office
Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2164 TDD (706) 546–2034, Wayne Rogers.

Hawaii State Office
(Services all Hawaii, American Samoa, Guam and Western Pacific).
Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8305 TDD (808) 933–8321, Thao Khamoui.

Idaho State Office
Suite A1, 9173 West Barnes Dr., Boise, ID 83709, (208) 378–5630 TDD (208) 378–5644, Miriam Haylett.

Illinois State Office
2118 W. Park Court, Suite A, Champaign, IL 61821–2986, (217) 403–6222 TDD (217) 403–6240, Barry L. Ramsey.

Indiana State Office
5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100 (ext. 423) TDD (317) 290–3343, Stephen Dye.

Iowa State Office
210 Walnut Street, Room 873, Des Moines, IA 50309, (515) 284–4685 TDD (515) 284–4858, Julie Sleeper.

Kansas State Office
1303 SW First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2721 TDD (785) 271–2767, Virginia M. Hammersmith.

Kentucky State Office
771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7325 TDD (859) 224–7422, Paul Higgins.

Louisiana State Office
3727 Government Street, Alexandria, LA 71302, (318) 473–7962 TDD (318) 473–7655, Yvonne R. Emerson.

Maine State Office
967 Illinois Ave., Suite 4, PO Box 405, Bangor, ME 04402–0405, (207) 990–9110 TDD (207) 942–7331, Bob Nadeau.

Maryland
Served by Delaware State Office.

Massachusetts State Office
451 West Street, Amherst, MA 01002, (413) 253–4315 TDD (413) 253–4590, Paul Geoffroy.

Michigan State Office
3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5192 TDD (517) 337–6795, Ghulam R. Sumbal.

Minnesota State Office
375 Jackson Street Building, Suite 410, St. Paul, MN 55101, (651) 602–7820 TDD (651) 602–7826, Rodney Jackson.

Mississippi State Office
Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4325 TDD (601) 965–5850, Darnella Smith-Murray.

Missouri State Office
601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–9305 TDD (573) 876–9480, Colleen James.

Montana State Office

900 Technology Blvd., Suite B, Bozeman, MT 59715, (406) 585–2565 TDD (406) 585–2562, Deborah Chorlton.

Nebraska State Office

Federal Building, Room 152, 100 Centennial Mall N, Lincoln, NE 68508, (402) 437–5734 TDD (402) 437–5093, Linda Anders.

Nevada State Office

1390 South Curry Street, Carson City, NV 89703–9910, (775) 887–1222 (ext. 25) TDD (775) 885–0633, Angilla Denton.

New Hampshire State Office

Concord Center, Suite 218, Box 317, 10 Ferry Street, Concord, NH 03301–5004, (603) 223–6050 TDD (603) 229–0536, Robert McCarthy.

New Jersey State Office

5th Floor North, Suite 500, 8000 Midlantic Dr., Mt. Laurel, NJ 08054, (856) 787–7740 TDD (856) 787–7784, George Hyatt, Jr.

New Mexico State Office

6200 Jefferson St., NE, Room 255, Albuquerque, NM 87109, (505) 761–4944 TDD (505) 761–4938, Carmen N. Lopez.

New York State Office

The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202, (315) 477–6419 TDD (315) 477–6447, George N. Von Pless.

North Carolina State Office

4405 Bland Road, Suite 2120, Raleigh, NC 27120, (919) 873–2066 TDD (919) 873–2003, Beverly Casey.

North Dakota State Office

Federal Building, Room 208, 220 East Rosser, P.O. Box 1737, Bismarck, ND 58502, (701) 530–2049 TDD (701) 530–2113, Kathy Lake.

Ohio State Office

Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2477, (614) 255–2418 TDD (614) 255–2554, Melodie Taylor-Ward.

Oklahoma State Office

100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1070 TDD (405) 742–1007, Ivan Graves.

Oregon State Office

101 SW Main, Suite 1410, Portland, OR 97204–3222, (503) 414–3325 TDD (503) 414–3387, Sherryl Gleason.

Pennsylvania State Office

One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2282 TDD (717) 237–2261, Martha E. Hanson.

Puerto Rico State Office

IBM Building, 654 Munoz Rivera Ave., Suite 601, San Juan, PR 00918, (787) 766–5095 (ext. 254) TDD 1–800–274–1572, Lourdes Colon.

Rhode Island

Served by Massachusetts State Office.

South Carolina State Office

Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 253–3432 TDD (803) 765–5697, Larry D. Floyd.

South Dakota State Office

Federal Building, Room 210, 200 Fourth Street, SW, Huron, SD 57350, (605) 352–1132 TDD (605) 352–1147, Roger Hazuka or Pam Reilly.

Tennessee State Office

3322 West End Avenue, Suite 300, Nashville, TN 37203–1084, (615) 783–1375 TDD (615) 783–1397, Donald Harris.

Texas State Office

101 South Main St., Suite 102, Temple, TX 76501, (254) 742–9758 TDD (254) 742–9712, Julie Hayes.

Utah State Office

Wallace F. Bennett Federal Building, 125 S. State Street, Room 4311, Salt Lake City, UT 84138, (801) 524–4325 TDD (801) 524–3309, Janice Kocher.

Vermont State Office

City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6021 TDD (802) 223–6365, Heidi Setien.

Virgin Islands

Served by Florida State Office.

Virginia State Office

Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1596 TDD (804) 287–1753, CJ Michels.

Washington State Office

1835 Black Lake Blvd., Suite B, Olympia, WA 98512, (360) 704–7730 TDD (360) 704–7760, Robert Lund.

Western Pacific Territories

Served by Hawaii State Office.

West Virginia State Office

75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4872 TDD (304) 284–4836, David Cain.

Wisconsin State Office

4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7608 (ext. 7145) TDD (715) 345–7614, Peter Kohnen.

Wyoming State Office

P.O. Box 11005, Casper, WY 82602–6733, (307) 233–6715 TDD (307) 233–6733, Jack Hyde.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The reporting requirements contained in this NOFA have been approved by the Office of Management and Budget under Control Number 0575–0045.

Overview

The FLH program is authorized by the Housing Act of 1949 as amended: section 514 (42 U.S.C. 1484) for loans and section 516 (42 U.S.C. 1486) for grants. Tenant subsidies (RA) are available through section 521 (42 U.S.C. 1490a). Sections 514 and 516 provide Rural Development the authority to make loans and grants for financing off-farm housing to broad-based nonprofit organizations, nonprofit organizations of farmworkers, federally recognized Indian tribes and agencies or political subdivisions of State or local government. In addition, loans may be made to limited partnerships in which the general partner is a nonprofit entity.

Program Administration

I. Funding Opportunities Description

Housing that is constructed with FLH loans and grants must meet the Agency design and construction standards contained in 7 CFR part 1924, subparts A and C. Once constructed, off-farm FLH must be managed in accordance with the program's management regulation, 7 CFR part 3560. Tenant eligibility is limited to persons who meet the definition of a ''domestic farm laborer'', a ''retired domestic farm laborer,'' or a ''disabled domestic farm laborer,'' as these terms are defined in 7 CFR 3560.11. Farmworkers who are admitted to this country on a temporary basis under the Temporary Agricultural Workers (H–2A Visa) program are not eligible to occupy section 514/516 off-farm FLH.

In addition, off-farm FLH must be operated on a non-profit basis and tenancy must be open to all qualified domestic farm laborers, regardless of which farm they work.

Operating assistance may be used in lieu of tenant-specific rental assistance in off-farm labor housing projects that serve migrant farmworkers, are financed under section 514 or section 516(i) of the Housing Act of 1949 (U.S.C. 1486(i)), and otherwise meet the requirements of 7 CFR 3560.574. ''Migrants or migrant agricultural laborer'' is defined in 7 CFR 3560.11. Owners of eligible projects may choose tenant-specific RA or operating assistance, or a combination of both; however, any tenant or unit assisted with operating assistance may not also receive RA.

II. Award Information

Applications for Fiscal Year (FY) 2008 will only be accepted through the date and time listed in this NOFA. Because USDA Rural Development has the ability to adjust loan and grant levels, final loan and grant levels will fluctuate, and are subject to the availability of funding. The estimated funds available for FY 2008 for off-farm housing are: section 514, $19,158,807 and section 516, $7,447,500.

Individual requests may not exceed $3 million (total loan and grant). At this time there is no available new construction Rental Assistance available, however if there is Rental Assistance available an announcement will be made when the funding level is announced. Section 516 off-farm FLH grants may not exceed 90 percent of the total development cost of the housing. Applications that require leveraged funding must have firm commitments in place for all of the leveraged funding within 1 year of the issuance of a ''Notice of Pre-application Review Action,'' Form AD–622. In order to be eligible for leveraged funding selection points, the commitment for the initial

preapplication. If leverage funds are in the form of tax credits, the applicant must document a history of receiving tax credits.

III. Eligibility Information

Applicant Eligibility

(1) *To be eligible to receive a section 516 grant for off-farm FLH,* the applicant must be a broad-based nonprofit organization, a broad-based organization, a nonprofit organization of farm workers, a federally recognized Indian tribe, an agency or political subdivision of a State or local government, or a public agency (such as a housing authority).

(2) *To be eligible to receive a section 514 loan for off-farm FLH,* the applicant must be a broad-based nonprofit organization, faith-based organization, a nonprofit organization of farm workers, a federally recognized Indian tribe, an agency or political subdivision of a State or local government, a public agency (such as a housing authority), or a limited partnership which has a nonprofit entity as its general partner, and

(a) Be unable to provide the necessary housing from its own resources; and

(b) Except for State or local public agencies and Indian tribes, be unable to obtain similar credit elsewhere at rates that would allow for rents within the payment ability of eligible residents.

(3) Broad-based nonprofit organizations must have a membership that reflects a variety of interests in the area where the housing will be located.

Cost Sharing or Matching

Section 516 grants for off-farm FLH may not exceed the lesser of 90 percent of the total development cost or the amount provided in 7 CFR 3560.562(c)(2).

Other Administrative Requirements

The following policies and regulations apply to loans and grants made in response to this NOFA:

(1) The policies and regulations contained in 7 CFR part 1901, subpart E regarding equal opportunity requirements;

(2) The requirements of 7 CFR part 3015 and 7 CFR part 3016 or 7 CFR part 3019 (as applicable), which establish the uniform administrative requirements for grants and cooperative agreements to State and local governments and to nonprofit organizations;

(3) The policies and regulations contained in 7 CFR part 1901, subpart F regarding historical and archaeological properties;

(4) The policies and regulations contained in 7 CFR part 1940, subpart G regarding environmental assessments;

(5) The policies and regulations contained in 7 CFR part 3560, subpart L regarding the loan and grant authorities of the off-farm FLH program;

(6) The policies and regulations contained in 7 CFR part 1924, subpart A regarding planning and construction;

(7) The policies and regulations contained in 7 CFR part 1924, subpart C regarding the planning and performing of site development work; and

(8) All other policies and regulations contained in 7 CFR part 3560 regarding the section 514/516 off-farm FLH program.

IV. Application and Submission Information

The application process will be in two phases: The initial pre-application (or proposal) and the submission of a formal application. Only those proposals that are selected for funding will be invited to submit formal applications. In the event that a proposal is selected for further processing and the applicant declines, the next highest ranked unfunded pre-application may be selected.

All pre-applications for sections 514 and 516 funds must be filed with the appropriate Rural Development State Office and must meet the requirements of this NOFA. Incomplete pre-applications will not be reviewed and will be returned to the applicant. No pre-application will be accepted after 5 p.m., local time for each Rural Development State Office on May 12, 2008 unless date and time is extended by another NOFA published in the **Federal Register**.

If a pre-application is accepted for further processing, the applicant must submit a complete, formal application, acceptable to the agency prior to the obligation of Agency funds.

Pre-application Requirements

The pre-application must contain the following:

(1) A summary page listing the following items. This information should be double-spaced between items and not be in narrative form.

(a) Applicant's name.

(b) Applicant's Taxpayer Identification Number.

(c) Applicant's address.

(d) Applicant's telephone number.

(e) Name of applicant's contact person, telephone number, and address.

(f) Amount of loan and grant requested.

(g) For grants, the applicant's Dun and Bradstreet Data Universal Numbering System (DUNS) number. As required by the Office of Management and Budget (OMB), all grant applicants must provide a DUNS number when applying for Federal grants, on or after October 1, 2003. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711. Additional information concerning this requirement is provided in a policy directive issued by OMB and published in the **Federal Register** on June 27, 2003 (68 FR 38402–38405).

(2) A narrative addressing the applicant's ability to meet the eligibility requirements stated in this NOFA.

(3) Application for Federal Assistance (Standard Form 424) which can be found at grants.gov.

(4) A current, dated, and signed financial statement showing assets and liabilities with information on the repayment schedule and status of all debts.

(5) Evidence that the applicant is unable to obtain credit from other sources. Letters from credit institutions who normally provide real estate loans in the area should be obtained and these letters should indicate the rates and terms upon which a loan might be provided. (**Note:** Not required from State or local public agencies or Indian tribes.)

(6) A statement concerning the need for a labor housing grant. The statement should include preliminary estimates of the rents required with and without a grant.

(7) A statement of the applicant's experience in operating labor housing or other rental housing. If the applicant's experience is limited, additional information should be provided to indicate how the applicant plans to compensate for this limited experience (i.e., obtaining assistance and advice of a management firm, non-profit group, public agency, or other organization which is experienced in rental management and will be available on a continuous basis).

(8) A brief statement explaining the applicant's proposed method of operation and management (i.e., on-site manager, contracting for management services, etc.). As stated in this NOFA:

(a) The housing must be managed in accordance with the program's management regulation, 7 CFR part 3560, and

(b) Tenancy is limited to ''domestic farm laborers,'' ''retired domestic farm laborers,'' and ''disabled domestic farm laborers'' as defined in this NOFA.

(9) Applicants must provide:

(a) A copy of, or an accurate citation to, the special provisions of State law

under which they are organized, a copy of the applicant's charter, their Articles of Incorporation, and their By-laws;

(b) The names, occupations, and addresses of the applicant's members, directors, and officers; and

(c) If a member or subsidiary of another organization, the organization's name, address, and nature of business.

(10) A preliminary survey to identify the supply and demand for labor housing in the market area. The market area must be clearly identified and may include only the area from which tenants can reasonably be drawn for the proposed project.

Documentation must be provided to justify a need within the intended market area for housing for ''domestic farm laborers'', as defined in this NOFA. The preliminary survey should address or include the following items:

(a) The annual income level of farmworker families in the area and the probable income of the farm workers who are apt to occupy the proposed housing;

(b) A realistic estimate of the number of farm workers who are home-based in the area and the number of farm workers who normally migrate into the area. Information on migratory workers should indicate the average number of months the migrants reside in the area and an indication of what type of family groups are represented by the migrants (i.e., single individuals as opposed to families);

(c) General information concerning the type of labor intensive crops grown in the area and prospects for continued demand for farm laborers (i.e., prospects for mechanization, etc.);

(d) The overall occupancy rate for comparable rental units in the area and the rents charged and customary rental practices for these units (i.e., will they rent to large families, do they require annual leases, etc.);

(e) The number, condition, adequacy, rental rates and ownership of units currently used or available to farm workers;

(f) A description of the units proposed, including the number, type, size, rental rates, amenities such as carpets and drapes, related facilities such as a laundry room or community room and other facilities providing supportive services in connection with the housing and the needs of the prospective tenants such as a health clinic or day care facility, estimated development timeline, estimated total development cost, and applicant contribution; and

(g) The applicant must also identify all other sources of funds, including the dollar amount, source, and commitment status. (**Note:** A section 516 grant may not exceed 90 percent of the total development cost of the housing.)

(11) A completed Form RD 1940–20, ''Request for Environmental Information,'' and a description of anticipated environmental issues or concerns. The form can be found at *http://www.rurdev.usda.gov/regs/forms/1940–20.pdf*.

(12) A prepared HUD 935.2A, ''Affirmative Fair Housing Marketing Plan.'' The plan will reflect that occupancy is open to all qualified ''domestic farm laborers,'' regardless of which farming operation they work and that they will not discriminate on the basis of race, color, sex, age, disability, marital or familial status or National origin in regard to the occupancy or use of the units. The form can be found at *http://www.hud.gov/offices/admm/hudclips/form/files/935a.pdf.*

(13) Evidence of site control such as an option or sales contract. In addition, a map and description of the proposed site, including the availability of water, sewer, and utilities and the proximity to community facilities and services such as shopping, schools, transportation, doctors, dentists, and hospitals.

(14) Preliminary plans and specifications, including plot plans, building layouts, and type of construction and materials. The housing must meet the Agency's design and construction standards contained in 7 CFR part 1924, subparts A and C and must also meet all applicable Federal, State, and local accessibility standards.

(15) A Supportive Services Plan describing services that will be provided on-site or made available to tenants through cooperative agreements with service providers in the community, such as a health clinic or day care facility. Off-site services must be accessible and affordable to farm workers and their families. Letters of intent from service providers are acceptable documentation at the pre-application stage.

(16) A proposed operating budget utilizing Form RD 3560–7, ''Multiple Family Housing Project Budget/Utility Allowance.'' The form can be found at *www.rurdev.usda.gov/regs/forms/3560–07.pdf*.

(17) An estimate of development cost utilizing Form RD 1924–13, ''Estimate and Certificate of Actual Cost.'' The form can be found at *http://www.rurdev.usda.gov/regs/forms/1924–13.pdf*.

(18) Form RD 3560–30, ''Certification of No Identity of Interest (IOI)'' and Form RD 3560–31, ''Identity of Interest Disclosure/Qualification Certification.'' The form can be found at *http://www.rurdev.usda.gov/regs/form/stoc.html.*

(19) Form HUD 2530, ''Previous Participation Certification.'' The form can be found at *http://www.hud.gov/offices/adm/hudclips/forms/files/2530.pdf*.

(20) If requesting RA or Operating Assistance, Form RD 3560–25, ''Initial Request for Rental Assistance or Operating Assistance.'' The form can be found at *http://www.rurdev.usda.gov/regs/forms/3560–25.pdf*.

(21) A Sources and Uses Statement showing all sources of funding included in the proposed project. The terms and schedules of all sources included in the project should be included in the Sources and Uses Statement.

(22) A separate one-page information sheet listing each of the ''Application Scoring Criteria'' contained in this NOFA, followed by the page numbers of all relevant material and documentation that is contained in the proposal that supports the criteria.

(23) Applicants are encouraged, but not required, to include a checklist of all of the application requirements and to have their application indexed and tabbed to facilitate the review process;

(24) Form, RD 400–4,''Assurance Agreement''.

V. Application Review Information

All applications for sections 514 and 516 funds must be filed with the appropriate Rural Development State Office and must meet the requirements of this NOFA. The Rural Development State Office will base its determination of completeness of the application and the eligibility of each applicant on the information provided in the application.

Selection Criteria

Section 514 loan funds and section 516 grant funds will be distributed to States based on a national competition, as follows:

(1) Rural Development States will accept, review, and score requests in accordance with the NOFA. The scoring factors are:

(a) The presence and extent of leveraged assistance, including donated land, for the units that will serve program-eligible tenants, calculated as a percentage of the Rural Development total development cost (TDC). Rural Development TDC excludes non-Rural Development eligible costs such as a developer's fee. Leveraged assistance includes, but is not limited to, funds for hard construction costs, section 8 or other non-rural development tenant subsidies, and state or federal funds. A minimum of ten percent leveraged assistance is required to earn points;

however, if the total percentage of leveraged assistance is less than ten percent and the proposal includes donated land, two points will be awarded for the donated land. To count as leveraged funds for purposes of the selection criteria, a commitment of funds must be provided with the pre-application. Points will be awarded in accordance with the following table.

PERCENTAGE POINTS

75 or more	20
60–74	18
50–59	16
40–49	12
30–39	10
20–29	8
10–19	5
0–9	0

Donated land in proposals with less than ten percent total leveraged assistance: 2 points.

(b) Percent of units for seasonal, temporary, migrant housing. (5 points for up to and including 50 percent of the units; 10 points for 51 percent or more.)

(c) The selection criteria includes one optional criteria set by the National Office. The National Office initiative will be used in the selection criteria as follows: Up to 10 points will be awarded based on the presence of and extent to which a tenant services plan exists that clearly outlines services that will be provided to the residents of the proposed project. These services may include, but are not limited to, transportation related services, on-site English as a Second Language (ESL) classes, move-in funds, emergency assistance funds, homeownership counseling, food pantries, after school tutoring, and computer learning centers. Two points will be awarded for each resident service included in the tenant services plan up to a maximum of 10 points. Plans must detail how the services are to be administered, who will administer them, and where they will be administered. All tenant service plans must include letters of intent that clearly state the service that will be provided at the project for the benefit of the residents from any party administering each service, including the applicant. (0 to 10 points)

(d) In an effort to implement USDA's nationwide initiative to promote renewable energy and energy conservation, Rural Development has adopted incentives for energy generation and energy conservation. Participation in these nationwide initiatives is voluntary, but is strongly encouraged. Participation in the energy generation and energy conservation will be awarded with 5 points each.

Energy Generation. Applicants will be awarded points if the proposal includes the installation of energy generation systems to be funded by a third party. The proposal must include an overview of the energy generation system being proposed. Evidence that an energy generation system has been funded by a third party and that it has a quantifiable positive impact on energy consumption will be required. (5 points)

Energy Conservation. Applicants will be awarded points to construct (or substantially rehabilitate) housing that earns the ENERGY STAR label for new residential construction. Units earning the ENERGY STAR label must be independently verified to meet guidelines for energy efficiency as set by the U.S. Environmental Protection Agency. All procedures used in verifying a unit for the ENERGY STAR label must comply with National Home Energy Ratings System (HERS) guidelines. ENERGY STAR guidelines for residential construction apply to homes that are three stories or less and single or low-rise multi-family residential buildings.

The Applicant will include in the narrative an explanation of how they plan to incorporate ENERGY STAR. Construction plans pertaining to energy efficiency must be developed with, reviewed, and accepted by a HERS certified rater, the contractor, and the owner. Progress inspections must be made at appropriate times by a HERS certified rater to ensure that the housing is being constructed or rehabilitated according to ENERGY STAR specifications. In order to receive final payment, applicants will be required to submit the appropriate rating reports from the HERS rater to Rural Development as evidence that the housing has been constructed to meet the standards of ENERGY STAR. For further information about ENERGY STAR, see *http://www.energystar.gov* or call the toll-free numbers: (888) 782–7937 or (888) 588–9920 (TTY). (5 points)

(2) Rural Development State Offices will conduct the preliminary eligibility review, score the applications, and forward them to the National Office.

(3) The National Office will rank all requests nationwide and distribute funds to States in rank order, within funding and RA limits. A lottery in accordance with 7 CFR 3560.56(c)(2) will be used for applications with tied point scores when they all cannot be funded. If insufficient funds or RA remain for the next ranked proposal, that applicant will be given a chance to modify their application to bring it within remaining funding levels. This will be repeated for each next ranked eligible proposal until an award can be made or the list is exhausted.

To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call (800) 795–3272 (voice) or (202) 720–6382 (TDD). USDA is an equal opportunity provider, employer, and lender. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Dated: March 5, 2008.

Peter D. Morgan,

Acting Administrator, Rural Housing Service.

[FR Doc. E8–4956 Filed 3–11–08; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funding Availability: Section 514, 515, and 516 Multi-Family Housing Revitalization Demonstration Program (MPR) for Fiscal Year 2008

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

Announcement Type: Inviting applications from eligible applicants for Fiscal Year 2008 funding.

Catalog of Federal Domestic Assistance Number (CFDA): 10.447.

SUMMARY: USDA Rural Development which administers the programs of the Rural Housing Service (RHS) announces the availability of funds and the timeframe to submit applications to participate in a demonstration program to preserve and revitalize existing rural rental housing projects financed by Rural Development under Section 515, Section 514, and Section 516 of the Housing Act of 1949, as amended. The intended effect is to restructure selected existing Section 515 multi-family housing loans and Section 514 and 516 off-farm labor housing loans and grants expressly for the purpose of ensuring

that sufficient resources are available to preserve the rental project for the purpose of providing safe and affordable housing for very low-, low-, or moderate-income residents. Expectations are that properties participating in this program will be revitalized and the affordable use extended without displacing tenants because of increased rents. No additional Rural Development rental assistance units will be made available under this program.

DATES: The deadline for receipt of all pre-applications in response to this Notice of Funding Availability (NOFA) is 5 p.m., Eastern time, May 12, 2008. The pre-application closing deadline is firm as to date and hour. The Agency will not consider any pre-application that is received after the closing deadline. Applicants intending to mail pre-applications must allow sufficient time to permit delivery on or before the closing deadline. Acceptance by a post office or private mailer does not constitute delivery. Facsimile (FAX) and postage-due pre-applications will not be accepted.

FOR FURTHER INFORMATION CONTACT: Sherry Engel, *sherry.engel@wi.usda.gov* (715) 345–7677; Carlton Jarratt, *carlton.jarratt@usda.gov,* (804) 561–0665; Barbara Chism, *barbara.chism@usda.gov,* (202) 690–1436; or Sandra Mercier, *sandra.mercier@usda.gov,* (202) 720–1617, Senior Loan Specialists, Multi-Family Housing Office of Rental Housing Preservation, STOP 0782, (Room 1263–S), U.S. Department of Agriculture, Rural Housing Service, 1400 Independence Avenue, SW., Washington, DC 20250–0782. (Please note these telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in this Notice have received approval from the Office of Management and Budget (OMB) under Control Number 0570–0190.

Overview

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2008 (Pub. L. 110–161), December 26, 2007, provides funding for and authorizes Rural Development to conduct a demonstration program for the preservation and revitalization of the Section 515 multi-family housing portfolio and Section 514 and 516 off-farm labor housing portfolio. Sections 514, 515 and 516 multi-family housing programs are authorized by the Housing Act of 1949, as amended (42 U.S.C. 1484, 1485, 1486) and provide Rural Development with the authority to make loans for low-income multi-family housing and farm labor housing and related facilities.

Program Administration

I. Funding Opportunities Description

This NOFA solicits pre-applications from eligible borrowers/applicants to restructure existing multi-family housing within the Agency's Section 515 multi-family housing portfolio and the 514/516 off-farm labor housing portfolio for the purpose of revitalization and preservation. The demonstration program shall be referred to in this notice as the Multi-Family Housing Revitalization Demonstration program (MPR). Agency regulations for the Section 515 multi-family housing program and for the Sections 514/516 off farm labor housing program are published at 7 CFR part 3560.

The MPR is intended to assure that existing rental projects will continue to deliver decent, safe, and sanitary affordable rental housing for the lesser of the remaining term of the loan or 20 years from the date of the MPR transaction closing. Once an applicant has been confirmed eligible and the project has been selected by the Agency in the process described in this notice, and the applicant agrees to participate in the MPR demonstration by written notification to the Agency, an independent third-party capital needs assessment (CNA) will be conducted to provide a fair and objective review of projected capital needs. The Agency shall implement this NOFA through an MPR Conditional Commitment (MPRCC) with the eligible borrower, which will include all the terms and conditions under this NOFA, including the MPR Debt Deferral Agreement.

The primary restructuring tool to be used in this program is debt deferral up to 20 years of the existing Section 514 and 515 loans obligated prior to October 1, 1991. The cash flow from the deferred payment will be deposited, as directed by the Agency, to the reserve account to help meet the future physical needs of the property or to reduce rents. Debt deferral is described as follows:

Debt Deferral: A deferral of the existing Agency debt for the lesser of the remaining term of the loan or 20 years. All terms and conditions of the deferral will be described in the MPR Debt Deferral Agreement. A balloon payment of principal and accrued interest will be due at the end of the deferral period. Interest will accrue at the promissory note rate and subsidy will be applied as set out in the Agency's Interest Credit Agreement. Interest will not be charged on the deferred interest.

If the resulting cash flow is not adequate to address the long-term needs of the project, the Agency may use the following sources of funds:

(1) other Agency restructuring tools as follows:

(i) *MPR Revitalization Grant:* A revitalization grant (for non-profit applicants/borrowers only) is limited to the cost of correcting health and safety violations as identified by the CNA. The grant administration will be in accordance with applicable provisions of 7 CFR parts 3015 and 3019.

(ii) *MPR Revitalization Zero Percent Loan:* A revitalization loan at zero percent interest that will be amortized over 30 years.

(iii) *MPR Soft-Second Loan:* A loan with a one percent interest rate that will have its accrued interest and principal deferred, to a balloon payment, due at the time the latest maturing Section 514 or Section 515 loan becomes due.

MPR funds cannot be used to add new units, community rooms, playgrounds, and/or laundry rooms. However, other funding sources as outlined below in (2) through (6) can be used either for revitalization or for improvements listed above to the projects.

(2) Rural Development Section 515 Rehabilitation loan funds;

(3) Rural Development Section 514/516 rehabilitation loan and grant funds;

(4) Rural Development Section 538 Guaranteed Rural Rental Housing Program financing;

(5) Rural Development Multi-Family Housing Re-lending Demonstration Program Funds;

(6) Third-party funds in the form of loans with below market rates (below the AFR), grants, tax credits, and tax exempt financing; and

(7) Owner-provided capital contributions in the form of a cash infusion.

Transfers, subordinations, and consolidations may be approved as part of a MPR transaction in accordance with existing servicing authorities of the Agency as available in 7 CFR part 3560. If a transfer is part of the MPR transaction, the transfer must meet the requirements of 7 CFR part 3560.406 before underwriting of the MPR transaction.

For the purposes of the MPR, the restructuring transactions will be identified in three categories:

(1) Simple transactions involve no change in ownership.

(2) Complex transactions will consist of a property transfer to new ownership

processed in accordance with 7 CFR 3560.406, or transactions requiring a subordination agreement as a result of third party funds.

(3) Portfolio Sale transactions that are defined as multiple project sale transactions with a common purchaser all within one state closed no earlier than September 30, 2007.

Each transactional category may utilize any or all restructuring tools. Restructuring tools that may be available to address capital needs during the MPR demonstration are based on the capital needs assessment process and the underwriting feasibility determination.

While all non-deferred Agency debt, either in first lien position or a subordinated lien position must be secured within market value, deferred debt may exceed the market value of the security. Payment of such deferred debt will not be required from normal project operation income, but from excess cash from project operations and the value of the property after all other secured debts are satisfied.

(1) *Pre-application:* Applicants must submit a pre-application described in Section VI. This pre-application process is designed to lessen the cost burden on all applicants including those who may not be eligible or whose proposals may not be feasible.

(2) *Eligible Properties:* Using criteria described below in Section III, USDA will conduct an initial screening for eligibility. As described in Section VIII, USDA will conduct additional eligibility screening later in the selection process.

(3) *Scoring and Ranking:* All eligible, complete and timely-filed pre-applications will be scored, ranked and put in funding categories as discussed in Sections VI and VII.

(4) *Formal Applications:* Top ranked pre-applicants will be invited to submit a formal application. As discussed in Section VIII paragraph (2) of this notice, USDA will require the owner to provide a capital needs assessment in order to determine the proper combination of tools to be offered to the applicant, to perform additional eligibility review, and to underwrite the proposal to determine financial feasibility. Where proposals are found to be ineligible or financially infeasible, owners will be informed and proposals lower in the funding categories will be considered.

(5) *Financial Feasibility:* Using the results of the CNA to help identify the need for resources and applicant provided information regarding anticipated or available third-party financing, the Agency will determine the financial feasibility of each potential transaction, using restructuring tools available either through existing regulatory authorities or specifically authorized through this demonstration program.

Project financial feasibility is determined when a property can provide affordable, safe, decent, and sanitary housing for 20 years or the remaining term of any Agency loan whichever ends later, by using the authorities of this program while minimizing the cost to the Agency, and without increasing rents for tenants and farm laborers, except when necessary to meet normal and necessary operating expenses. If the transaction is determined financially feasible by the Agency, the borrower will be offered a restructuring proposal, which will include the requirement that the borrower will execute, for recordation, a restrictive use covenant for a period of 20 years, the remaining term of any loans, or the remaining term of any existing restrictive-use provisions, whichever ends later. The restructuring proposal will be established in the form of the MPR Conditional Commitment (MPRCC).

MPR Agreements: If the offer is accepted by the applicant, the Agency and applicant will enter into a MPRCC. The applicant must also agree to restrict the property use pursuant to Agency direction when the MPR transaction is closed. Any third-party lender will be required to subordinate to the Agency's restrictive use covenant unless the Agency determines on a case-by-case basis that the lender refuses to subordinate and such refusal will not compromise the purpose of the MPR. The Agency may also request that the applicant sign an agreement that would require the owner to escrow reserve, tax, and insurance payments in accordance with all pertinent current and future Agency regulations.

General Requirements: The MPR transactions may be conducted with a stay-in owner (simple) or may involve a change in ownership (complex or portfolio sale). Any housing or related facilities that are constructed or repaired must meet the Agency design and construction standards and the development standards contained in 7 CFR part 1924, subparts A and C, respectively. Once constructed, Section 515 multi-family housing and Sections 514/516 off farm labor housing must be managed in accordance with 7 CFR part 3560. Tenant eligibility will be limited to persons who qualify as an eligible household under Agency regulations or who are eligible under the requirements established to qualify for housing benefits provided by sources other than the Agency, such as U.S. Department of Housing and Urban Development Section 8 assistance or Low Income Housing Tax Credit Assistance. Additional tenant eligibility requirements are contained in 7 CFR 3560.152.

Voluntary Community Market Rent Demonstration (available for Section 515 properties only): In conjunction with this demonstration, Rural Development also announces the opportunity for all successful Section 515 applicants to participate on a voluntary basis in a viability test of a 30 percent limitation on tenant rents, as proposed in Section 544(b)(7) of Saving America's Rural Housing Act of 2006, H.R. 5039, for post-restructured properties. Owners of properties in the Section 515 restructuring program may elect to participate in the ''community market rent'' demonstration which will allow an owner to set a rent above the approved basic rent for any unit not currently occupied by a tenant receiving Rural Development rental assistance. Eligible tenants for these units must have adjusted annual incomes sufficient to allow them to pay the community market rent using less than 30 percent of their adjusted income. Tenants would be allowed to occupy without paying overage, additional sums that would otherwise be required to bring their rent payment up to 30 percent of income. With Rural Development's consent, up to 50 percent of the difference between the basic rent and the new ''community market rent'' could be retained by the owner as an increased return.

For example, if the basic rent is $350, the owner could create a community market rent at $410, and market the unit to tenants who could pay that rent at less than 30 percent of adjusted income. A percentage of the difference, $60 could be retained by the owner, as negotiated with Rural Development, up to $30.

Prior to implementation of the community market rent demonstrations, Rural Development will issue guidance to successful applicants who have indicated an interest in participating in the demonstration providing further details with respect to the program.

Stay in owners, existing borrowers that will retain their property, who contribute cash to fund any hard costs of construction to meet immediate needs identified by the CNA may receive a return on investment on those funds provided the Agency determines an increased return on investment is financially feasible, and it approves such a return in the revitalization plan presented to the borrower as an MPR offer.

II. Award Information

Public Law 110–161 makes funding available to the Secretary of Agriculture for Rural Development to provide the restructuring tools of the MPR demonstration. $19,860,000 in budget authority will be available during FY 2008.

All funding must be approved no later than September 15, 2008, and obligated by the Agency not later than September 22, 2008. If funds available for the MPR are fully used before all pre-applications that have been determined eligible and selected under this NOFA are funded, the unfunded approved properties may receive priority for funding from the next fiscal year's resources available for multi-family housing revitalization if additional funds become available and the selected properties/owners meet any future eligibility criteria.

III. Eligibility Information

Applicants (and the principals associated with each applicant) must meet the following requirements:

(1) Eligibility under 7 CFR 3560.55; however, the requirements described in 7 CFR 3560.55(a)(5) pertaining to required borrower contributions and 7 CFR 3560.55(a)(6) pertaining to required contributions of initial operating capital are waived for all MPR proposals.

(2) For Section 515 multi-family housing projects an average physical vacancy rate over the twelve months preceding the filing of the pre-application of no more than 10 percent for projects of 16 units or more and 15 percent for projects under 16 units unless an exception applies under Section VI paragraph (1)(ii) of this notice. For Sections 514 and 516 off-farm labor housing projects, rather than an average physical vacancy rate as stated above, the property must have positive cash flow for the previous full three years of operation unless an exception applies under Section VI paragraph (1)(ii) of this Notice .

(3) Ownership of and ability to operate the facility after the transaction is completed. (In the event of a transfer, the proposed transferee with an executed purchase agreement or other evidence of site control will be the applicant.)

(4) A CNA and Agency financial evaluation must be conducted to ensure that utilization of the restructuring tools of the MPR program is financially feasible and necessary for the revitalization and preservation of the property for affordable housing. Eligibility for processing will be determined as of the date of the pre-application filing deadline. The Agency reserves the right to discontinue processing in the event that material changes in the applicant's status occurs any time after the initial determination.

IV. Equal Opportunity and Nondiscrimination Requirements

USDA is an equal opportunity provider, employer, and lender.

(1) Borrowers and applicants will comply with the provisions of 7 CFR 3560.2.

(2) All housing must meet the accessibility requirements found at 7 CFR 3560.60(d).

(3) All MPR participants must submit or have on file a valid Form RD 400–1, ''Equal Opportunity Agreement'' and Form RD 400–4, ''Assurance Agreement.''

The U. S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, sex, marital status, familial status, religion, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (Voice and TDD).

To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call (800) 795–3272 (Voice) or (202) 720–6382 (TDD).

The policies and regulations contained in 7 CFR part 1901, subpart E, apply to this program.

V. Authorities Available for MPR

MPR tools will be used in accordance with 7 CFR part 3560 and its associated handbooks (available in any Rural Development office). The program will be administered within the resources available to the Agency through Public Law 110–161 for the preservation and revitalization of Sections 514/516 and Section 515 financed properties. In the event that provisions of 7 CFR part 3560 conflict with this demonstration program, the provisions of the MPR will take precedence.

VI. Application and Submission Information

(1) The application submission and scoring process will be completed in two phases in order to avoid unnecessary effort and expense on the part of interested borrowers/applicants and to allow additional points for applicants that propose a transfer of a troubled project to an eligible owner.

The first phase is the pre-application process. The applicant must submit a complete pre-application by the deadline date under the **DATES** section of this Notice. The applicant's submission will be classified as ''complete'' when a ''pre-application'' is received by multi-family housing staff for each MPR proposal the applicant wishes to be considered in the demonstration. In the event the MPR proposal involves a project consolidation it will be completed in accordance with 7 CFR 3560.410. One pre-application for the proposed consolidated project is required and must identify each project included in the consolidation. If the MPR proposal involves a portfolio sale, one pre-application for each project in the portfolio is required and each pre-application must identify each project to be purchased as part of the portfolio sale. The suggested form to be used for the pre-application is ''MPR Pre-application'' and is attached at the end of this Notice. An electronic version of this form may be found on the internet at *http://www.rurdev.usda.gov/rd/nofas/index.html.* In addition, a synopsis of this program and the pre-application's universal resource locator (URL) will be listed by Catalog of Federal Domestic Assistance Number or by FedGrants Funding Opportunity Number at *http://www.grants.gov.*

In order for the pre-application to be considered complete, all applicable information requested on the MPR Pre-application form must be provided

Additional information that must be provided with the pre-application, when applicable, includes:

(i) A copy of a purchase agreement if a transfer is being considered.

(ii) A market survey if the projects' occupancy standards cited in Section III (2) above are not met and there is an overwhelming market demand evidenced by waiting lists and a housing shortage confirmed by local housing agencies and realtors. The market survey must show a clear need and demand for the project once a restructuring transaction is completed. The results of the survey of existing or proposed rental or labor housing, including complex name, location, number of units, bedroom mix, family or elderly type, year built, rent charges must be provided as well as the existing vacancy rate of all available rental units in the community, their waiting lists and amenities, and the availability of rental assistance or other subsidies. For proposals where the applicant is requesting low-income housing tax credits (LIHTC), the number of LIHTC

units and the maximum LIHTC incomes and rents by unit size must be provided. The Rural Development State Director will determine whether or not the proposal has market feasibility based on the data provided by the applicant. Any costs associated with the completion of the market survey will not be considered a project expense.

Unless an exception under this section applies, the requirements stated in Section III, paragraph (2) of this notice must be met.

The second phase of the application process will be completed by the Agency based on Agency records and the pre-application information.

All eligible, complete, and timely-filed pre-applications will then be scored and ranked based on points received during this two-phase application process. Further, the Agency will categorize each MPR proposal as being potentially Simple, Complex, or Portfolio Sale based on the information submitted on the pre-application and in accordance with the category description provided in Section I of this Notice.

(2) Pre-applications can be submitted either electronically or in hard copy. The Agency will record pre-applications received electronically by the actual date and time received in the Web site mail box. Hard copy pre-applications received on the deadline date will receive the close of business time of the day received as the receipt time. Assistance for filing electronic and hard copy pre-applications can be obtained from any Rural Development State Office.

The pre-application is stored in the form of an Adobe Acrobat format and may be completed as a fillable form. The form contains a button labeled ''Submit by E-mail.'' Clicking on the button will result in an e-mail containing a completed pre-application being sent to the Office of Rental Housing Preservation in Washington, DC for consideration. If a purchase agreement or market survey is required, these additional documents are to be attached to the resulting e-mail prior to submission.

Pre-application forms may be downloaded from the Agency's internet Web site *http://www.rurdev.usda.gov/rd/nofas/index.html* or obtained by contacting the State Office in the state the project is located. Hard copy pre-applications and additional materials can be mailed to the attention of Sandra L. Mercier or Barbara Chism, Senior Loan Specialists, Multi-Family Housing Office of Rental Housing Preservation-STOP 0782 (Room 1263–S), U. S. Department of Agriculture, Rural Housing Service, 1400 Independence Avenue, SW., Washington, DC 20250–0781.

Note: All documents must be received on or before the pre-application closing deadline to be considered complete and timely filed. Pre-applications that do not include a Purchase Agreement for transfer proposals, and/or market surveys for projects that don't meet the occupancy standards of Section III paragraph (2) of this notice, or if applicable, the requirements for the exception in Section VI paragraph (1)(ii) of this notice, will be considered incomplete and will be returned to the applicant with appeal rights if not submitted by the closing deadline.

VII. Selection Process

Pre-application ranking points will be based on information provided during the submission process and in Agency records. Points will be awarded as follows:

(1) *Contribution of other sources of funds.* Other funds are those discussed in the third paragraph, of Section I ''Funding Opportunities Description'' items (2) through (6). Points awarded are to be based on documented written evidence that the funds are committed. The maximum points awarded for this criterion is 20 points. These points will be awarded in the following manner:

(i) Evidence of a commitment of at least $3,000 to $5,000 per unit per property from other sources—15 points, or

(ii) Evidence of a commitment greater than $5,000 per unit per property from other sources—20 points.

(2) *Owner contribution sufficient to pay transaction costs.* (These funds cannot be from project reserve or operating funds). Transaction costs are defined as those costs required to complete the transaction and include, but are not limited to, the CNA, legal and closing costs, appraisal costs and filing/recording fees. The minimum contribution required to receive these points is $5,000 per project and will be required to be deposited in the property reserve account prior to closing—5 points.

(3) *Age of project.* Since the age of the project and the date that the loan was made are directly related to physical needs, a maximum of 25 points will be awarded on the following criteria:

(i) Projects with initial operational dates prior to December 21, 1979—25 points.

(ii) Projects with initial operational dates on or after December 21, 1979, but before December 15, 1989—20 points.

(iii) Projects with initial operational dates on or after December 15, 1989, but before October 1, 1991—15 points.

Note: For project consolidation or portfolio sale proposals, the project with the earliest operational date will be used.

(4) *Troubled project points.* The Agency may award up to 25 additional points to facilitate the transfer and revitalization of projects the Agency considers as troubled due to an act of nature or where physical and/or financial deterioration or management deficiencies exist. Projects with an Agency classification of ''C'' or ''D'' according to Handbook 2–3560, Chapter 9, Paragraph 9.7 (available at *http://www.rurdev.usda.gov/regs/hblist.html*) will be considered troubled. Projects that are classified ''B'' and do not involve a transfer will also receive consideration. Points will be awarded in the following manner:

(i) For Stay-in Owners only: If the Agency servicing classification is B as a result of a workout plan approved by the Agency prior to January 1, 2008—25 points.

(ii) If the Agency servicing classification is C or D for 24 months or more—20 points.

(iii) If the Agency servicing classification is C or D for less than 24 months—15 points.

(5) *Prior Agency approvals.* In the interest of ensuring timely application processing and underwriting, the Agency will award up to 20 points for properties with CNAs already approved by the Agency. CNAs over 12 months old may not be used for MPR underwriting without an update approved by the Agency. Points will be awarded for:

(i) CNAs approved after October 1, 2006 and prior to October 1, 2007—10 points.

(ii) CNAs approved after October 1, 2007 but before April 1, 2008—20 points.

(6) *Energy generation.* Applicants will be awarded 5 points if the proposal includes the installation of energy generation systems to be funded by a third party. The proposal must include an overview of the energy generation system being proposed. Evidence that an energy generation system has been funded by a third party and that it has a quantifiable positive impact on energy consumption will be required.

(7) *Energy conservation.* Applicants will be awarded 5 points if the proposal includes rehabilitation that earns the ENERGY STAR label for residential construction. Units earning the ENERGY STAR label must be independently verified to meet guidelines for energy efficiency as set by the U.S. Environmental Protection Agency. All procedures used in verifying a unit for the ENERGY STAR label must comply

with National Home Energy Ratings System (HERS) guidelines. ENERGY STAR guidelines for residential construction apply to single or low-rise multi-family residential buildings.

(8) *Tenant service provision.* The Agency will award 5 points for applications that include new services provided by a non-profit organization, which may include a faith-based organization, or by a Government agency. Such services shall be provided at no cost to the project and shall be made available to all tenants. Examples of such services are transportation for the elderly, after-school day care services or after-school tutoring.

For portfolio sales and project consolidations, the Agency will calculate the average score for each project within the sale or consolidation.

The Agency will total the points awarded to each pre-application received within the timeframes of this Notice and rank each pre-application according to total score. If point totals are equal, the earliest time and date the pre-application was received by the Agency will determine the ranking. In the event pre-applications are still tied, they will be further ranked by giving priority to those properties with the earliest Rural Development operational date.

Eligibility will then be confirmed on the 16 highest-scoring and complete pre-applications in each State. If one or more of the 16 highest-scoring pre-applications is determined ineligible, (i.e. the applicant is a borrower that is not in good standing with the Agency or has been debarred or suspended by the Agency, etc.) the next highest-scoring pre-application will be confirmed for eligibility.

If one or more of the 16 highest-ranking pre-applications is a portfolio sale, then eligibility determinations will be conducted on all of the pre-applications associated with the portfolio sale. Should any of the pre-applications associated with the portfolio sale be determined ineligible, that pre-application will be dropped, but the overall eligibility of the portfolio sale will not be affected as long as the requirements in Section I ''Funding Opportunities Description'' are met.

If one or more of the 16 highest-ranking pre-applications is a project consolidation, and one of the projects involved in the consolidation does not meet the occupancy standards cited in Section III(2), that project will be determined ineligible and eliminated from the proposed consolidation transaction.

Once ranking has been established, the Agency will conduct a four-step process to select pre-applications for submission of formal applications. This process is needed to assure that the Agency can process the proposed transactions within available staffing resources, develop a representative sampling of revitalization transaction types, assure geographic distribution, and assure an adequate pipeline of transactions to use all available funding.

Step One: The Agency will review the eligible pre-applications, identify pre-applications as either Simple, Complex, or Portfolio Sale and separate them by state.

Step Two: The Agency will select, for further processing, the top-ranked portfolio sale transactions until a total of $150,000,000 in potential debt deferral is reached. Portfolio sale transactions will be limited to one per State and will count as 1 MPR transaction.

Step Three: The highest ranked complex transactions in each state will be selected for further processing, not to exceed 2 per state.

Step Four: Additional projects will be selected from the highest ranked eligible pre-applications involving simple transactions in that state until a total of 5 pre-applications for MPR transactions per state is reached.

VIII. Processing for Selected Pre-applications

Those proposals that are ranked and then selected for further processing will be invited to submit a formal application on SF 424 ''Application for Federal Assistance.'' Those pre-applications that are rejected by the Agency will be returned to the applicant and the applicant will be given appeal rights pursuant to 7 CFR part 11. Those proposals that are not selected due to low scores will be retained by the Agency unless they are withdrawn by the applicant. In the event that a pre-application is selected for further processing and the pre-applicant declines, the next highest ranked pre-application of the same transaction type in that state will be selected provided there is no change in the preliminary eligibility of the pre-applicant.

If there are no other pre-applications of the same transaction type, then the next highest-ranked pre-application regardless of transaction type will be selected.

Applications (SF 424s) can be obtained and completed online. An electronic version of this form may be found on the Internet at *http://forms.sc.egov.usda.gov/eforms/mainservlet* or a hard copy may be obtained by contacting the State Office in the state where the project is located and can be submitted either electronically or in hard copy.

If a pre-application is accepted for further processing, the applicant will be expected to submit additional information needed to demonstrate eligibility and feasibility (such as a CNA), consistent with this NOFA and the appropriate sections of 7 CFR part 3560, prior to the issuance of a restructuring offer.

Rural Development will work with pre-applicants selected for further processing in accordance with the following steps:

(1) Based on the feasibility of the type of transaction that will best suit the project and the availability of funds, further eligibility confirmation determinations will be conducted by the designated Multi-Family Housing Revitalization Coordinators assigned by each Rural Development State Director with the assistance of the Office of Rental Housing Preservation.

(2) If one is not already available to the Agency, a CNA will be required and conducted in accordance with the requirements of 7 CFR 3560.103(c), Handbook 3–3560, Chapter 7, ''Guidance on the Capital Needs Assessment Process,'' and the CNA Statement of Work together with any non-conflicting amendments (available in any Rural Development State Office.) A CNA is prepared by a qualified independent contractor and is obtained to determine needed repairs and any necessary adjustments to the reserve account for long-term project viability.

While the requirements of the CNA are described in the materials referenced above, at a minimum, to be considered acceptable, a CNA must include:

(i) A physical inspection of the site, architectural features, common areas and all electrical and mechanical systems;

(ii) An inspection of a sample of dwelling units;

(iii) Identify repair or replacement needs;

(iv) Provide a cost estimate of the repair and replacement expenses; and

(v) Provide at least a 20-year analysis of the timing and funding for identified needs which includes reasonable assumptions regarding inflation. The cost of the CNA will be considered a part of the project expense and may be paid from the ''project reserve'' with prior approval of the Agency. The Agency approval for participation in this program will be contingent upon the Agency's final approval of the CNA and concurrence in the scope of work by the owner. The Agency, in its sole discretion, may choose to obtain a CNA, at its expense, if it determines that

doing so is in the best interest of the Government.

(3) Underwriting will be conducted by the designated Multi-Family Housing Revitalization Coordinator assigned by each Rural Development State Director with the assistance of the Office of Rental Housing Preservation. The feasibility and structure of each revitalization proposal will be determined using this underwriting process and will include a determination of the restructuring tools that will minimize the cost to the Government consistent with the purposes of this NOFA. To help assure a balanced utilization of revitalization tools and the long-term economic viability of revitalized projects, the MPR underwriting guidelines include, but are not limited to the following:

(i) The maximum soft-second loan is limited to no more than $5,000 per unit,

(ii) The total assistance provided from a revitalization grant, revitalization zero percent loan, and/or revitalization soft-second loan is limited to $10,000 per unit,

(iii) The maximum Section 515 loan or Section 514/516 loan and grant is limited to no more than $20,000 per unit, and

(iv) Properties receiving tax credits are expected to have sufficient funding sources and generally will receive debt deferral only.

(4) Properties with more than 75 percent of the units receiving significant subsidy such as Rural Development rental assistance or HUD-funded subsidy will be supplemented with Section 514, 515 and 516 loans and grants before revitalization grants and revitalization soft-second loans are considered.

(5) MPR revitalization grants will be limited to $5,000 per unit.

(6) Any rent increases that may be necessary will not exceed 10 percent in any one year.

(7) The approved MPR transaction will include projected revenue sufficient to cover a 10 percent Operations and Maintenance increase in the second year after the transaction.

(8) Full return to owner will be budgeted pursuant to the Loan Agreement.

(9) Budgeted increases to reserve deposit will not exceed 3 percent per annum.

(10) The remaining reserve balance at the end of the 20-year analysis period should be at least 2.0 times the average annual needs, including inflation, over the 20-year analysis period.

These guidelines have been developed based on experience in the FY 2005, FY 2006 and FY 2007 Demonstrations. The Agency believes that these guidelines will be appropriate for typical transactions. However, the Agency reserves the right to waive any of the guidelines if, in the Agency's judgment, doing so would further the objectives of the MPR and is in the best interest of the Government.

The Agency expects that some of the transactions proposed by selected pre-applicants will prove to be infeasible. The applicant entity may be determined to be ineligible under Section III of this Notice. If a proposed transaction is determined infeasible or the applicant determined ineligible, the Agency will then select the next highest ranked project for processing regardless of transaction type.

Each MPR offer will be approved by the Revitalization Review Committee chaired by the Deputy Administrator for Multi-Family Housing or an agency-authorized delegate. Approved MPR offers will be presented to applicants who will then have up to 15 calendar days to accept or reject the offer in writing. Offers will expire after 15 days. The Agency will replace expired applications by selecting the next highest ranked project. Closing of MPR offers will occur within 90 days of acceptance by the applicant unless extended by the Agency.

IX. Funding Restrictions

Applicants will be selected in accordance with selection criteria and the four-step process identified in Section VII of this Notice. Once selected to proceed, the Agency will provide additional guidance to the applicant and request information and documents necessary to complete the underwriting and review process. Since the character of each application may vary substantially depending on the type of transactions proposed, information requirements will be provided as appropriate. Complete project information must be submitted as soon as possible but in no case later than 45 days from the date of Agency notification of the applicant's selection for further processing or September 1, 2008, whichever occurs first. Failure to submit the required information in a timely manner may result in the Agency discontinuing the processing of the request.

Funding under this NOFA will be obligated to selectees that finish the processing steps outlined above first within each of the 3 funding categories described in Section VII of this Notice and to result in a ratio as close as possible to 30 percent portfolio sale transactions, 50 percent complex transactions, and 20 percent simple transactions.

X. Application Review

A review committee will make recommendations for final decision regarding funding to the appropriate Rural Development State Director based on the selection criteria contained in this NOFA.

XI. Appeal Process

All adverse determinations regarding applicant eligibility and the awarding of points as a part of the selection process are appealable. Instructions on the appeal process will be provided at the time an applicant is notified of the adverse action.

Dated: March 5, 2008.

Peter D. Morgan,

Acting Administrator, Rural Housing Service.

BILLING CODE 3410–XV–P

Multi-Family Housing Revitalization Demonstration Program

MPR
Pre-application

Instructions: Please provide the information by entering letters and numbers from left to right. Individuals place last name first, first name, then middle initial. Allow one space between names and do not use symbols like (-), ($), (#), and (,) when entering dollar amounts. Please note that electronic submittals are not on a secured site.

(a) Applicant's name.
__/__

(b) Name of applicant's authorized representative.
__/__

(c) Applicant's address.
Street__/__
Secondary Address __/__
City__/__
State__/__/
Zip Code__/__/__/__/__/__/__/__/__/__/

(d) Applicant's telephone number.
__/__/__/__/__/__/__/__/__/__/

(e) Email address.
__/__

(f) Primary Project Name __/__/__/__/__/__/__/__/__/__/.

(g) Provide the following information for the projects being considered in this proposal:

	Borrower ID No.	Project ID No.	Project Name	For Section 515 Only: Vacancy Percentage
(1)	__/__/__/__/__/__/__/__/__/__/	__/__/__/__/	__/__	__/.__/%
(2)	__/__/__/__/__/__/__/__/__/__/	__/__/__/__/	__/__	__/.__/%
(3)	__/__/__/__/__/__/__/__/__/__/	__/__/__/__/	__/__	__/.__/%
(4)	__/__/__/__/__/__/__/__/__/__/	__/__/__/__/	__/__	__/.__/%
(5)	__/__/__/__/__/__/__/__/__/__/	__/__/__/__/	__/__	__/.__/%
(6)	__/__/__/__/__/__/__/__/__/__/	__/__/__/__/	__/__	__/.__/%
(7)	__/__/__/__/__/__/__/__/__/__/	__/__/__/__/	__/__	__/.__/%
(8)	__/__/__/__/__/__/__/__/__/__/	__/__/__/__/	__/__	__/.__/%
(9)	__/__/__/__/__/__/__/__/__/__/	__/__/__/__/	__/__	__/.__/%
(10)	__/__/__/__/__/__/__/__/__/__/	__/__/__/__/	__/__	__/.__/%

For Section 515 multi-family housing projects: If vacancy percentages for any of the projects listed above that have 16 or more revenue producing units exceed 10.0%, or 15.0% for projects with less than 16 revenue producing units, attach required market survey documentation.

For Section 514/516 off-farm labor housing projects: If cash flow for the previous 3 full years of operation is not positive, attach required market survey documentation.

(h) Does this proposed transaction include a transfer of ownership?
Yes__/ No__/ (Check One)
If "yes", attach a copy of the purchase agreement.

(i) Does this proposal involve a consolidation of multiple projects?
Yes__/ No__/ (Check One)
If "yes", be sure all properties are listed in (g) above.

(j) Is this pre-application part of a portfolio sale?
Yes__/ No__/ (Check One)
If "yes", what is the Portfolio Name? __/__/__/__/__/__/__/__/__/__/__/
A separate pre-application must be submitted for each project and each pre-application must have the same "portfolio name".

(k) Does this proposal include other funding resources that have been committed? Yes__/ No__/ (Check One)
If "yes", provide the amounts for the following sources:

Source:	Amount:
Tax Credits	__/__/__/__/__/__/__/__/__/__/__/
3rd Party Loan	__/__/__/__/__/__/__/__/__/__/__/
3rd Party Grant	__/__/__/__/__/__/__/__/__/__/__/
Tax Exempt Financing	__/__/__/__/__/__/__/__/__/__/__/
RD Section 515 Traditional Loan	__/__/__/__/__/__/__/__/__/__/__/
RD Section 514/516 Traditional Loan/Grant	__/__/__/__/__/__/__/__/__/__/__/
RD Section 538	__/__/__/__/__/__/__/__/__/__/__/
RD Re-lending Demonstration Loan	__/__/__/__/__/__/__/__/__/__/__/
Owner-provided capital contributions	__/__/__/__/__/__/__/__/__/__/__/

(k) Does this proposal include an owner contribution to pay transaction costs? (Transaction costs are those soft costs required to complete the transaction and include, but are not limited to, the capital needs assessment, legal costs, appraisals, and filing fees.)
Yes__/ No__/ (Check One)
If "yes", provide the amount: __/__/__/____/__/__/__/__/__/

(l) Is there an Agency-approved Capital Needs Assessment?
Yes__/ No__/ (Check One)
If "yes", provide the date of the most recent Agency approved CNA:
__/__/__

(m) Does this proposal include the installation of energy generation systems to be funded by a third party?
Yes__/ No__/ (Check One)

(n) Does this proposal include rehabilitation that will earn the ENERGY STAR label for residential construction?
Yes__/ No__/ (Check One)

(o) Does this proposal include new tenant services provided by a non-profit organization or a Government agency that will not use funding generated by project rents?
Yes__/ No__/ (Check One)

[FR Doc. E8–4952 Filed 3–11–08; 8:45 am]
BILLING CODE 3410–XV–C

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funding Availability (NOFA) for the Section 515 Rural Rental Housing Program for New Construction in Fiscal Year 2008

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Notice.

SUMMARY: This NOFA announces the timeframe to submit applications for Section 515 Rural Rental Housing (RRH) loan funds, including applications for the nonprofit set-aside for eligible nonprofit entities, the set-aside for the most Underserved Counties and Colonias (Cranston-Gonzalez National Affordable Housing Act), and the set-aside for Empowerment Zones and Enterprise Communities (EZ/ECs) and Rural Economic Area Partnership (REAP) zones, and a designated reserve for states with rental assistance programs. This document describes the methodology that will be used to distribute funds, the application process, submission requirements, and areas of special emphasis or consideration.

DATES: The deadline for receipt of all applications in response to this NOFA is 5 p.m., local time for each USDA Rural Development State Office on May 12, 2008. The application closing deadline is firm as to date and hour. The Agency will not consider any application that is received after the closing deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

ADDRESSES: Applicants wishing to apply for assistance must contact the USDA Rural Development State Office serving the place in which they desire to submit an application for rural rental housing to receive further information and copies of the application package. USDA Rural Development will date and time stamp incoming applications to evidence timely receipt, and, upon request, will provide the applicant with a written acknowledgment of receipt. A listing of USDA Rural Development State Offices, their addresses, telephone numbers, and person to contact follows:

Note: Telephone numbers listed are not toll-free.

Alabama State Office
Suite 601, Sterling Centre, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3618, TDD (334) 279–3495, Van McCloud.

Alaska State Office
800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7740, TDD (907) 761–8905, Debbie Andrys.

Arizona State Office
Phoenix Courthouse and Federal Building, 230 North First Ave., Suite 206, Phoenix, AZ 85003–1706, (602) 280–8768, TDD (602) 280–8706, Carol Torres.

Arkansas State Office
700 W. Capitol Ave., Room 3416, Little Rock, AR 72201–3225, (501) 301–3250, TDD (501) 301–3063, Greg Kemper.

California State Office
430 G Street, #4169, Davis, CA 95616–4169, (530) 792–5821, TDD (530) 792–5848, Debra Moretton.

Colorado State Office
655 Parfet Street, Room E100, Lakewood, CO 80215, (720) 544–2923, TDD (800) 659–2656, Mary Summerfield.

Connecticut
Served by Massachusetts State Office.

Delaware and Maryland State Office
1221 College Park Drive, Suite 200, Dover, DE 19904, (302) 857–3615, TDD (302) 857–3585, Pat Baker.

Florida & Virgin Islands State Office
4440 N.W. 25th Place, Gainesville, FL 32606–6563, (352) 338–3465, TDD (352) 338–3499, Elizabeth M. Whitaker.

Georgia State Office
Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2164, TDD (706) 546–2034, Wayne Rogers.

Hawaii State Office
(Services all Hawaii, American Samoa Guam, and Western Pacific), Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8305, TDD (808) 933–8321, Thao Khamoui.

Idaho State Office
Suite A1, 9173 West Barnes Dr., Boise, ID 83709, (208) 378–5630, TDD (208) 378–5644, Miriam Haylett.

Illinois State Office
2118 West Park Court, Suite A, Champaign, IL 61821–2986, (217) 403–6222, TDD (217) 403–6240, Barry L. Ramsey.

Indiana State Office
5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100 (ext. 423), TDD (317) 290–3343, Stephen Dye.

Iowa State Office
210 Walnut Street, Room 873, Des Moines, IA 50309, (515) 284–4685, TDD (515) 284–4858, Julie Sleeper.

Kansas State Office
1303 SW First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2721, TDD (785) 271–2767, Virginia M. Hammersmith.

Kentucky State Office
771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7325, TDD (859) 224–7422, Paul Higgins.

Louisiana State Office

3727 Government Street, Alexandria, LA 71302, (318) 473–7962, TDD (318) 473–7655, Yvonne R. Emerson.

Maine State Office
967 Illinois Ave., Suite 4, PO Box 405, Bangor, ME 04402–0405, (207) 990–9110, TDD (207) 942–7331, Bob Nadeau.

Maryland
Served by Delaware State Office.

Massachusetts, Connecticut, & Rhode Island State Office
451 West Street, Amherst, MA 01002, (413) 253–4315, TDD (413) 253–4590, Paul Geoffroy.

Michigan State Office
3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5192, TDD (517) 337–6795, Julie Putnam.

Minnesota State Office
375 Jackson Street Building, Suite 410, St. Paul, MN 55101–1853, (651) 602–7820, TDD (651) 602–7830, Rodney Jackson.

Mississippi State Office
Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4325, TDD (601) 965–5850, Darnella Smith-Murray.

Missouri State Office
601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0990, TDD (573) 876–9480, Colleen James.

Montana State Office
900 Technology Blvd., Suite B, Bozeman, MT 59718, (406) 585–2515, TDD (406) 585–2562, Deborah Chorlton.

Nebraska State Office
Federal Building, Room 152, 100 Centennial Mall N, Lincoln, NE 68508, (402) 437–5734, TDD (402) 437–5093, Linda Anders.

Nevada State Office
1390 South Curry Street, Carson City, NV 89703–5146, (775) 887–1222 (ext. 25), TDD (775) 885–0633, Angilla Denton.

New Hampshire State Office
Concord Center, Suite 218, Box 317, 10 Ferry Street, Concord, NH 03301–5004, (603) 223–6050, TDD (603) 229–0536, Robert McCarthy.

New Jersey State Office
5th Floor North Suite 500, 8000 Midlantic Dr., Mt. Laurel, NJ 08054, (856) 787–7740, TDD (856) 787–7784, George Hyatt, Jr.

New Mexico State Office
6200 Jefferson St., NE, Room 255, Albuquerque, NM 87109, (505) 761–4944, TDD (505) 761–4938, Carmen N. Lopez.

New York State Office
The Galleries of Syracuse, 441 S. Salina Street, Suite 357, 5th Floor, Syracuse, NY 13202, (315) 477–6419, TDD (315) 477–6447, George N. Von Pless.

North Carolina State Office
4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2066, TDD (919) 873–2003, Beverly Casey.

North Dakota State Office
Federal Building, Room 208, 220 East Rosser, P.O. Box 1737, Bismarck, ND 58502, (701) 530–2049, TDD (701) 530–2113, Kathy Lake.

Ohio State Office
Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2477, (614) 255–2418, TDD (614) 255–2554, Melodie Taylor-Ward.

Oklahoma State Office
100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1070, TDD (405) 742–1007, Ivan S. Graves.

Oregon State Office
1201 NE Lloyd Blv., Suite 801, Portland, OR 97232, (503) 414–3325, TDD (503) 414–3387, Sherryl Gleason.

Pennsylvania State Office
One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2281, TDD (717) 237–2261, Martha Eberhart.

Puerto Rico State Office
654 Munoz Rivera Avenue, IBM Plaza, Suite 601, Hato Rey, PR 00918, (787) 766–5095 (ext. 249), TDD (787) 766–5332, Lourdes Colon.

Rhode Island
Served by Massachusetts State Office.

South Carolina State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 253–3432, TDD (803) 765–5697, Larry D. Floyd.

South Dakota State Office
Federal Building, Room 210, 200 Fourth Street, SW, Huron, SD 57350, (605) 352–1132, TDD (605) 352–1147, Roger Hazuka or Pam Reilly.

Tennessee State Office
Suite 300, 3322 West End Avenue, Nashville, TN 37203–1084, (615) 783–1375, TDD (615) 783–1397, Don Harris.

Texas State Office
Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9758, TDD (254) 742–9712, Julie Hayes.

Utah State Office
Wallace F. Bennett Federal Building, 125 S. State Street, Room 4311, Salt Lake City, UT, 84147–0350, (801) 524–4325, TDD (801) 524–3309, Janice Kocher.

Vermont State Office
City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6021, TDD (802) 223–6365, Heidi Setien.

Virgin Islands
Served by Florida State Office.

Virginia State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1596, TDD (804) 287–1753, CJ Michels.

Washington State Office
1835 Black Lake Blvd., Suite B. Olympia, WA 98512, (360) 704–7730, TDD (360) 704–7760, Robert Lund.

Western Pacific Territories
Served by Hawaii State Office.

West Virginia State Office, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4872, TDD (304) 284–4836. David Cain.

Wisconsin State Office
4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7676, TDD (715) 345–7614, Mike Daniels.

Wyoming State Office
P.O. Box 11005, Casper, WY 82602, (307) 233–6715, TDD (307) 233–6733, Alan Brooks.

FOR FURTHER INFORMATION CONTACT: For general information, applicants may contact Barbara Chism, Senior Loan Specialist, Multi-Family Housing Processing Division, Rural Housing Service, United States Department of Agriculture, Stop 0781, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 690–1436 (voice) (this is not a toll free number), (800) 877–8339 (TDD-Federal Information Relay Service), or via e-mail, *Barbara.Chism@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Programs Affected

The Rural Rental Housing program is listed in the Catalog of Federal Domestic Assistance under Number 10.415, Rural Rental Housing Loans. Rental Assistance is listed in the Catalog under Number 10.427, Rural Rental Assistance Payments.

Discussion of Notice

I. Authority and Distribution Methodology

A. Authority

Section 515 of the Housing Act of 1949, as amended, (42 U.S.C. 1485) provides USDA Rural Development with the authority to make loans to any individual, corporation, association, trust, Indian tribe, public or private nonprofit organization, which may include a faith-based organization, consumer cooperative, or partnership to provide rental or cooperative housing and related facilities in rural areas for very-low, low, or moderate income persons or families, including elderly persons and persons with disabilities. Rental assistance (RA) is a tenant subsidy for very-low and low-income families residing in rural rental housing facilities with USDA Rural Development financing. It is anticipated that RA will not be available for new construction in Fiscal Year (FY) 2008.

B. Distribution Methodology

The total amount available for FY 2008 for section 515 is $69,510,000, of which $14,529,124 is available for new construction as follows:

Non-Restricted	$2,341,200
Set-aside for nonprofits	$6,255,900
Set-aside for Underserved Counties and Colonias	$3,475,500
Set-aside EZ, EC, and REAP Zones	$1,456,524
Designated Reserve for States with Rental Assistance Programs	$1,000,000

C. Section 515 New Construction Funds

The section 515 new construction funds will be distributed to states based on a national competition, as follows:

1. States will accept, review, score, and rank requests in accordance with 7 CFR 3560.56. The scoring factors are:

(a) The presence and extent of leveraged assistance for the units that will serve USDA Rural Development income-eligible tenants at basic rents as defined, comparable to those rents if USDA Rural Development provided full financing, computed as a percentage of the USDA Rural Development total development cost (TDC). Loan proposals that include secondary funds which have been requested but have not yet been committed will be processed as follows: The proposal will be scored based on the requested funds, provided (1) the applicant includes evidence of a filed application for the funds; and (2) the funding date of the requested funds will permit processing of the loan request in the current funding cycle, or, if the applicant does not receive the requested funds, will permit processing of the next highest ranked proposal in the current year. Points will be awarded in accordance with the following table.

Percentages will be rounded to the next higher whole number. (0 to 20 points)

Percentage of leveraging	Points
75 or more	20
70–74	19
65–69	18
60–64	17
55–59	16
50–54	15
45–49	14
40–44	13
35–39	12
30–34	11
25–29	10
20–24	9
15–19	8
10–14	7
5–9	6
0–4	0

(b) The units to be developed are in a colonia, tribal land, EZ, EC, or Rural Economic Area Partnership (REAP) community, or in a place identified in the State Consolidated Plan or State Needs Assessment as a high need community for multifamily housing. (20 points)

(c) Pursuant to 7 CFR 3560.56(c)(1)(iii), this year there will be a National Office initiative whereby preference points will be awarded to loan requests that meet the selection criteria as follows: In states where USDA Rural Development has an on-going formal working relationship, agreement, or Memorandum of Understanding (MOU) with the state to provide state resources (state funds, state RA, HOME funds, Community Development Block Grant (CDBG) funds, or Low-Income Housing Tax Credits (LIHTC)) for USDA Rural Development proposals; or where the state provides preference or points to USDA Rural Development proposals in awarding such state resources, 20 points will be provided to loan requests that include such state resources in an amount equal to at least 5 percent of the TDC. Native American Housing and Self-Determination Act (NAHASDA) funds may be considered a state resource if the tribal plan for NAHASDA funds contains provisions for partnering with USDA Rural Development for multi-family housing. (National Office initiative)

(d) The loan request includes donated land meeting the provisions of 7 CFR 3560.56(c)(1)(iv). (5 points)

(e) In an effort to implement USDA's nationwide initiative to promote renewable energy and energy conservation, USDA Rural Development has adopted incentives for energy generation and energy conservation. Participation in these nationwide initiatives is voluntary, but is strongly encouraged.

Energy Generation. Applicants will be awarded points if the proposal includes the installation of energy generation systems to be funded by a third party. The proposal must include an overview of the energy generation system being proposed. Evidence that an energy generation system has been funded by a third party and that it has a quantifiable positive impact on energy consumption will be required. (5 points)

Energy Conservation. Applicants will be awarded points to construct (or substantially rehabilitate) housing that earns the ENERGY STAR label for new residential construction. Units earning the ENERGY STAR label must be independently verified to meet guidelines for energy efficiency as set by the U.S. Environmental Protection Agency. All procedures used in verifying a unit for the ENERGY STAR label must comply with national Home Energy Ratings System (HERS) guidelines. ENERGY STAR guidelines for residential construction apply to homes that are three stories or less and single or low-rise multi-family residential buildings.

The Applicant will include in the summary an explanation of how they plan to incorporate ENERGY STAR. Construction plans pertaining to energy efficiency must be developed with, reviewed, and accepted by a HERS certified rater, the contractor, and the owner. Progress inspections must be made at appropriate times by a HERS certified rater to ensure that the housing is being constructed or rehabilitated according to ENERGY STAR specifications. In order to receive final payment, applicants will be required to submit the appropriate rating reports from the HERS rater to USDA Rural Development as evidence that the housing has been constructed to meet the standards of ENERGY STAR. In the event that housing does not meet ENERGY STAR guidelines for new residential construction, USDA Rural Development shall, at its discretion, deduct 5 points from future funding proposals. For further information about ENERGY STAR, see *http://www.energystar.gov* or call the following toll-free numbers: (888) 782–7939 or (888) 588–9920 (TTY). (5 points)

2. The National Office will rank all requests nationwide and distribute funds to states in rank order, within funding limits. If insufficient funds remain for the next ranked proposal, USDA Rural Development will select the next ranked proposal that falls within the remaining levels. Point score ties will be handled in accordance with 7 CFR 3560.56(c)(2).

D. Applications That Do Not Require New Construction RA

It is anticipated that new construction RA will not be available for FY 2008. Therefore, USDA Rural Development is inviting applications to develop units in markets that do not require RA. The market study for proposals must clearly demonstrate a need and demand for the units by prospective tenants at income levels that can support the proposed rents without tenant subsidies. The proposed units must offer amenities that are typical for the market area at rents that are comparable to conventional rents in the market for similar units.

E. Set-Asides

Loan requests will be accepted for the following set-asides:

1. Nonprofit set-aside. An amount of $6,255,900 has been set aside for nonprofit applicants as defined in 7 CFR 3560.11. All loan proposals must be in designated places in accordance with 7 CFR 3560.57. A state or jurisdiction may receive one proposal from this set-aside, which cannot exceed $1 million. A state could get additional funds from this set-aside if any funds remain after funding one proposal from each participating state. If there are insufficient funds to fund one loan request from each participating state, selection will be made by point score. If there are any funds remaining, they will be handled in accordance with 42 U.S.C. 1485(w)(3). Funds from this set-aside will be available only to nonprofit

entities, which may include a partnership that has as its general partner a nonprofit entity or the nonprofit entity's for-profit subsidiary which will be receiving low-income housing tax credits authorized under section 42 of the Internal Revenue Code of 1986. To be eligible for this set-aside, the nonprofit entity must be an organization that:

(a) Will own an interest in the project to be financed and will materially participate in the development and the operations of the project;

(b) Is a private organization that has nonprofit, tax exempt status under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986;

(c) Has among its purposes the planning, development, or management of low-income housing or community development projects; and

(d) Is not affiliated with or controlled by a for-profit organization.

2. Underserved counties and colonias set-aside. An amount of $3,475,500 has been set aside for loan requests to develop units in the 100 most needy underserved counties or colonias as defined in section 509(f) of the Housing Act of 1949, as amended.

3. EZ, EC, and REAP set-aside. An amount of $1,456,524 has been set-aside to develop units in an EZ, EC, or REAP zone. Loan requests that are eligible for this set aside are also eligible for regular Section 515 funds. If requests for this set-aside exceed available funds, selection will be made in accordance with 7 CFR 3560.56(c).

II. Funding Limits

A. Individual loan requests may not exceed $1 million. This applies to regular section 515 funds and set-aside funds. The Administrator may make an exception to this limit in cases where a State's average total development costs exceed the National average by 50 percent or more.

B. No state may receive more than 20 percent of the total available for new construction, including set-aside funds.

III. Rental Assistance (RA)

New construction RA will not be available for FY 2008. Unused RA may be allocated from within the state jurisdiction to approved new construction projects. New construction RA may not be used in conjunction with a transfer or subsequent loan for repairs or rehabilitation, preservation purposes or for inventory property sales.

IV. Application Process

All applications for section 515 new construction funds must be filed with the appropriate Rural Development State Office and must meet the requirements of 7 CFR 3560.56, as well as comply with the provisions of Section V. of this NOFA. Incomplete applications will not be reviewed and will be returned to the applicant. No application will be accepted after 5:00 p.m., local time, on the application deadline previously mentioned unless that date and time is extended by a Notice published in the **Federal Register**.

V. Application Submission Requirements

A. Each application shall include the information, documentation, forms and exhibits required by 7 CFR 3560.56, as well as comply with the provisions of this NOFA.

Forms to be included in initial application package:

1. Form SF 424, Application for Federal Assistance, which can be found online at *http://apply07.grants.gov/apply/forms/sample/SF424-V2.0.pdf*;

2. Form RD 1940–20, Request for Environmental Information, which can be found online at *http://forms.sc.egov.usda.gov/efcommon/eFileServices/Forms/RD1940-0020_060400V01.pdf*;

3. Form RD 3560–7, Multiple Family Housing Project Budget/Utility Allowance, which can be found online at *http://formsadmin.sc.egov.usda.gov/efcommon/eFileServices/Forms/RD3560-0007_060500V01.pdf*;

4. Form HUD 2530, Previous Participation Certification, which can be found online at *http://www.hud.gov/offices/adm/hudclips/forms/files/2530.pdf*

5. Form RD 1924–13, Estimate and Certificate of Actual Costs, which can be found online at *http://forms.sc.egov.usda.gov/efcommon/eFileServices/Forms/RD1924-0013.pdf*;

6. Form RD 400–4, Assurance Agreement, which can be found online at *http://forms.sc.egov.usda.gov/efcommon/eFileServices/Forms/RD0400-0004_970300V01.pdf*;

7. Form RD 410–9, Statement Required by the Privacy Act (for individuals only), which can be found online at *http://www.rurdev.usda.gov/regs/forms/0410-09.pdf*;

Information requested in initial application package:

I. To establish applicant eligibility:

A. Current (within *6 months*) financial statements with the following paragraph certified by someone with the legal authority to do so:

''I/we certify the above is a true and accurate reflection of my/our financial condition as of the date stated herein. This statement is given for the purpose of inducing the United States of America to make a loan or to enable the United States of America to make a determination of continued eligibility of the applicant for a loan as requested in the loan application of which this statement is a part.''

B. Check for $28 from individual applicants and $40 from organizational applicants made out to United States Department of Agriculture. This will be used to pay for credit reports obtained by the USDA Rural Development.

C. Statement signed by applicants that they will pay any cost overruns.

D. Proposed limited partnership agreement and certificates of limited partners, if applicable. (USDA Rural Development requirements should be contained in one section of the agreement and their location identified by the applicants or their attorney in a cover sheet.)

E. If a nonprofit organization:

1. Tax-exempt ruling from the IRS designating them as a 501(c)(3) or 501(c)(4) organization. If the designation is pending, a copy of the designation request must be submitted.

2. Purpose statement, including the provision of low income housing.

3. Evidence of organization under State and local law, or copies of pending applications.

4. List of Board of Directors.

F. If a limited liability company, proposed operating agreement and the authorized agent who has the authority to complete the loan application and loan closing documents.

G. If a trust, organizational documents and attorney opinion letter that the trust is validly formed and identifying the authorized representative to act on the trust's behalf.

II. To establish project feasibility:

A. Market feasibility documentation: Either a market study or a market survey, as appropriate.

B. Type of project and structures proposed (total number of units by bedroom size, size of each unit type, size and type of other facilities).

C. Schematic drawings:

1. Site plan, including contour lines;

2. Floor plan of each living unit type and other spaces, such as laundry facilities, community rooms, stairwells, etc.;

3. Building exterior elevations;

4. Typical building exterior wall section; and

5. Plot plan.

D. Description and justification of related facilities, schedule of separate charges for related facilities.

E. Type and method of construction (owner builder, negotiated bid, or contractor method).

F. Estimated costs (Form RD 1924–13).

G. Statement of proposed management.

H. Congregate services package/plan (if applicable).

I. Statement of support from other Government services providers to the project (congregate only).

J. Response to the Uniform Relocation Assistance Act (if applicable).

III. To establish project financing:

A. Statement of budget and cash flow (applicant completes Form RD 3560–7), including type of utilities and utility allowance, if applicable and contribution to reserves.

B. Congregate services charges (if applicable).

C. Status of efforts to obtain leveraged funds.

D. Proposed construction financing (interim or multiple advance; if interim financing, letter of interest from intended lender).

IV. Environmental and site information:

A. Environmental information (applicant completes Form RD 1940–20).

B. Evidence of compliance with Executive Order 12372 (A–95) (if applicable) Form SF 424 is sent to a clearinghouse for intergovernmental review.

C. Provide an ASTM Phase I Environmental Site Assessment to cover environmental due diligence. Refer to Chapter 3 of the section 515 Rural Rental Housing Loan Origination Handbook.

D. Map showing location of community services such as schools, hospitals, fire and police departments, shopping malls and employment centers.

E. Evidence of submission of project description to State Housing Preservation Office with request for comments.

F. The applicant's comments regarding relevant offsite conditions.

G. The applicant's explanation of any proposed energy efficiency components.

Applicants are encouraged, but not required, to include a checklist and to have their applications indexed and tabbed to facilitate the review process. The Rural Development state office will base its determination of completeness of the application and the eligibility of each applicant on the information provided in the application.

B. Applicants are advised to contact the Rural Development state office serving the place in which they desire to submit an application for the following:

1. Questions pertaining to the application process; and

2. List of designated places for which applications for new section 515 facilities may be submitted.

VI. Areas of Special Emphasis or Consideration

A. Pursuant to 7 CFR 3560.56(c)(1)(iii), USDA Rural Development encourages the use of funding from other sources in conjunction with Agency loans through its national office initiative, outlined in Section I.C.1(c) of this NOFA.

B. $1,000,000 is available nationwide in a reserve for States with viable State RA programs. In order to participate, States are to submit specific written information about the State RA program, i.e., a memorandum of understanding, documentation from the provider, etc., to the National Office prior to the application deadline.

VII. Non-Discrimination Statement

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call (800) 795–3272 (voice), or (202) 720–6382 (TDD). ''USDA is an equal opportunity provider, employer, and lender.''

Dated: March 5, 2008.

Peter D. Morgan,

Acting Administrator, Rural Housing Service.

[FR Doc. E8–4949 Filed 3–11–08; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funds Availability for the Section 533 Housing Preservation Grants for Fiscal Year 2008

AGENCY: Rural Housing Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Rural Housing Service published a document in the **Federal Register** on February 20, 2008, announcing that it is soliciting competitive applications under its Housing Preservation Grant program. The listing for the Rural Development Oregon State Office address was incorrectly identified in the notice.

FOR FURTHER INFORMATION CONTACT: Bonnie Edwards-Jackson, Senior Loan Specialist, Multi-Family Housing Processing Division, USDA Rural Development, Stop 0781, 1400 Independence Avenue, SW., Washington, DC 20250–0781, telephone (202) 690–0759 (voice) (this is not a toll free number) or (800) 877–8339 (TDD–Federal Information Relay Service) or via e-mail at, *Bonnie.Edwards@wdc.usda.gov.*

Correction

In the **Federal Register** of February 20, 2008, in FR Doc. 08–690, on page 9275, in the first column, the listing for the Rural Development Oregon State Office, address, telephone number and person to contact should read:

Oregon State Office, 1201 NE., Lloyd Blvd., Suite 801, Portland, OR 97232–1274, (503) 414–3340, TDD (503)414–3387, Barb Brandon.

Dated: February 28, 2008.

Russell T. Davis,

Administrator, Rural Housing Service.

[FR Doc. E8–4854 Filed 3–11–08; 8:45 am]

BILLING CODE 3410–XV–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act

DATE AND TIME: Tuesday, March 11, 2008. 3 p.m.–3:45 p.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly

frustrate implementation of a proposed agency action. (5 U.S.C. 552.(c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6)).

FOR FURTHER INFORMATION CONTACT: Persons interested in obtaining more information should contact Timi Nickerson Keneally at (202) 203–4545.

Dated: March 5, 2008.

Timi Nickerson Kenealy,

Acting Legal Counsel.

[FR Doc. 08–1016 Filed 3–10–08; 9:56 am]

BILLING CODE 8610–01–M

BROADCASTING BOARD OF GOVERNORS

Correction; Meeting of the Broadcasting Board of Governors

Date and Time: Wednesday, March 12, 2008. 3 p.m.–3:45 p.m.

Place: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

Closed Meeting: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

FOR FURTHER INFORMATION CONTACT: Persons interested in obtaining more information should contact Timi Nickerson Kenealy at (202) 203–4545.

Dated: March 10, 2008.

Timi Nickerson Kenealy,

Acting Legal Counsel.

[FR Doc. 08–1021 Filed 3–10–08 2:11 p.m.]

BILLING CODE 8610–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

The President's Export Council: Meeting of the President's Export Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The President's Export Council (PEC) will hold a full Council meeting to discuss topics related to export expansion. The meeting will include discussion of trade priorities and initiatives, PEC subcommittee activity, and proposed letters of recommendation to the President. The PEC was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. trade. It was most recently renewed by Executive Order 13446.

Date: April 8, 2008.

Time: 10 a.m. (EDT)

Location: U.S. Department of Commerce, Room 4830, 1401 Constitution Avenue, NW., Washington, DC 20230. Because of building security, all non-government attendees must pre-register. Please RSVP to the PEC Executive Secretariat no later than April 4, 2008, to J. Marc Chittum, President's Export Council, Room 4043, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–1124, or email *Marc.Chittum@mail.doc.gov*.

This program will be physically accessible to people with disabilities. Seating is limited and will be on a first come, first served basis. Requests for sign language interpretation, other auxiliary aids, or pre-registration, should be submitted no later than March 31, 2008, to Marc Chittum, President's Export Council, Room 4043, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–1124, or email *Marc.Chittum@mail.doc.gov*.

FOR FURTHER INFORMATION, CONTACT: The President's Export Council Executive Secretariat, Room 4043, Washington, DC 20230 (Phone: 202–482–1124), or visit the PEC Web site, *http://www.trade.gov/pec.*

Dated: March 6, 2008.

J. Marc Chittum,

Executive Secretary, President's Export Council.

[FR Doc. E8–4893 Filed 3–11–08; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–475–818)

Certain Pasta from Italy: Extension of Time Limits for the Preliminary Results of Eleventh Antidumping Duty Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Christopher Hargett, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230; telephone (202) 482–4161

Background

On August 24, 2007, the U.S. Department of Commerce (''Department'') published a notice of initiation of the administrative review of the antidumping duty order on certain pasta from Italy, covering the period July 1, 2006 to June 30, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 48613 (August 24, 2007). The preliminary results of this review are currently due no later than April 1, 2008.

Extension of Time Limit of Preliminary Results

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 or finding for which a review is requested. Section 751(a)(3)(A) of the Act further states that if it is not practicable to complete the review within the time period specified, the administering authority may extend the 245–day period to issue its preliminary results by up to 120 days.

We determine that completion of the preliminary results of this review within the 245–day period is not practicable for the following reasons. Petitioner[1] timely filed a below–cost allegation for F.Divella SpA and Pasta Zara S.p.A on December 21, 2007.[2] The Department initiated the below–cost investigation

[1] Petitioner is New World pasta Company, American Italian Pasta Company and Dakota Growers Pasta Company.

[2] *See* letters from Petitioner ''Certain Pasta from Italy – Cost Allegation for F.Divella SpA'' and ''Certain Pasta from Italy – Cost allegation for Pasta Zara S.p.A.,'' dated December 21, 2007.

on January 18, 2008.[3] The initial responses to the Department's section D questionnaire were received from each of the respondents on February 15, 2008.[4] Given the timing of the questionnaire responses and the complexity of issues in this case and in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), we are extending the time period for issuing the preliminary results of review by 120 days. Therefore, the preliminary results are now due no later than July 30, 2008. The final results continue to be due 120 days after publication of the preliminary results.

This notice is issued and published pursuant to sections 751(a) and 777(i) of the Act.

Dated: March 5, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–4921 Filed 3–11–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Manufacturing Extension Partnership (MEP) Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Request for nominations of members to serve on the Manufacturing Extension Partnership (MEP) Advisory Board.

SUMMARY: NIST invites and requests nomination of individuals for appointment to the Manufacturing Extension Partnership (MEP) Advisory Board. NIST will consider nominations received in response to this notice for appointment to the MEP Advisory Board, in addition to nominations already received.

DATES: To be considered for the initial MEP Advisory Board, please submit nominations on or before March 27, 2008. After that date, nominations will be accepted on an ongoing basis and will be considered as and when vacancies arise.

ADDRESSES: Please submit nominations to Ms. Karen Lellock, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800. Nominations may also be submitted via Fax to 301–963–6556.

Additional information regarding the Board, including its charter may be found on its electronic home page at: *http://www.mep.nist.gov/about-mep/mep-advisory-board.htm.*

FOR FURTHER INFORMATION CONTACT: Ms. Karen Lellock, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800; telephone 301–975–4269, fax 301–963–6556; or via e-mail at *karen.lellock@nist.gov.*

SUPPLEMENTARY INFORMATION: The Board will advise the Director of the National Institute of Standards and Technology (NIST) on MEP programs, plans, and policies, assess the soundness of MEP plans and strategies, and assess current performance against MEP program plans.

The Board will consist of ten individuals appointed by the Director of the National Institute of Standards and Technology (NIST) and broadly representing stakeholders.

The Board will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act.

Authority: 15 U.S.C. 278k(e), as amended by the America COMPETES Act (Pub. L. 110–69); Federal Advisory Committee Act: 5 U.S.C. App. 2.

Dated: March 5, 2008.

Richard F. Kayser,

Acting Deputy Director.

[FR Doc. E8–4878 Filed 3–11–08; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Technology Innovation Program (TIP) Advisory Committee

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Request for nominations of members to serve on the Technology Innovation Program Advisory Board.

SUMMARY: NIST invites and requests nomination of individuals for appointment to the Technology Innovation Program Advisory Board (Board). NIST will consider nominations received in response to this notice for appointment to the Board, in addition to nominations already received.

DATES: To be considered for the initial TIP Advisory Board, please submit nominations on or before March 27, 2008. After that date, nominations will be accepted on an ongoing basis and will be considered as and when vacancies arise.

ADDRESSES: Please submit nominations to Mr. Marc Stanley, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4700, Gaithersburg, MD 20899–4700. Nominations may also be submitted via fax to 301–869–1150.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Stanley, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4700, Gaithersburg, MD 20899–4700; telephone 301–975–4644, fax 301–869–1150; or via e-mail at *marc.stanley@nist.gov.*

SUPPLEMENTARY INFORMATION: Section 3012 of the America COMPETES Act (Pub. L. 110–69) established the Technology Innovation Program (TIP). Paragraph (k) of section 3012 requires the establishment of a TIP Advisory Board that will advise the Director of the National Institute of Standards and Technology (NIST) on TIP programs, plans, and policies. The Board's charter may be found at: *http://www.nist.gov/tip.*

The Board will consist of ten members appointed by the Director of NIST, at least seven of whom shall be from United States industry, chosen to reflect the wide diversity of technical disciplines and industrial sectors represented in TIP projects. No member will be an employee of the Federal Government.

The Board will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act.

Authority: 15 U.S.C. 278n(k), as amended by the America COMPETES Act (Pub. L. 110–69), Federal Advisory Committee Act: 5 U.S.C. App. 2.

Dated: March 5, 2008.

Richard F. Kayser,

Acting Deputy Director.

[FR Doc. E8–4879 Filed 3–11–08; 8:45 am]

BILLING CODE 3510–13–P

[3] *See* letter from the Department to F.Divella Spa and Pasta Zara ''Initiation of Sales Below the Cost of Production Investigation,'' dated January 18, 2008.

[4] *See* ''Pasta from Italy; Divella Section D Response'' and ''Pasta from Italy; Pasta Zara Section D Response,'' dated February 15, 2008.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF99

Fisheries of the Exclusive Economic Zone off Alaska; Application for an Exempted Fishing Permit

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

ACTION: Notice; receipt of an application for an exempted fishing permit.

SUMMARY: This notice announces receipt of an application for an exempted fishing permit (EFP) from Mr. John Gauvin of Gauvin and Associates, LLC. If granted, this permit would allow the applicant to continue the development and testing of a salmon excluder device for the Bering Sea pollock trawl fishery. This activity is intended to promote the objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) by reducing salmon bycatch in the Bering Sea pollock trawl fishery. Comments will be accepted at the April 1–7, 2008, North Pacific Fishery Management Council (Council) meeting in Anchorage, AK.

DATES: Interested persons may comment on the EFP application and on the environmental assessment during the Council's April 1–7, 2008, meeting in Anchorage, AK.

ADDRESSES: The Council meeting will be held at the Hilton Hotel, 500 West Third Ave., Anchorage, AK.

Copies of the EFP application and the environmental assessment (EA) are available by writing to the Alaska Region, NMFS, P. O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian. The EA and application also are available from the Alaska Region, NMFS website at *http://www.fakr.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, 907–586–7228 or *melanie.brown@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS manages the domestic groundfish fisheries in the Bering Sea and Aleutian Islands Management Area (BSAI) under the FMP. The Council prepared the FMP under the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing the groundfish fisheries of the BSAI appear at 50 CFR parts 600 and 679. The FMP and the implementing regulations at §§ 600.745(b) and 679.6 authorize issuance of EFPs to allow fishing that would otherwise be prohibited. Procedures for issuing EFPs are contained in the implementing regulations.

NMFS received an application for an EFP from Mr. Gauvin on January 29, 2008. The purposes of the EFP project are to improve the performance of the salmon excluder device developed under EFPs in 2004 through 2007 and to validate the performance of this device for pollock trawl gear used in the BSAI. The goal is to develop a device for pollock trawl gear that reduces salmon bycatch without significantly lowering catch rates of pollock.

The EFP would allow for development and testing of the salmon excluder device from September 2008 through March 2010, for several weeks in each pollock A and B season. Testing in each season would allow the device to be used under salmon occurrence and pollock fishing practices specific to each season. Testing in the A season would catch primarily Chinook salmon and roe-bearing pollock, while testing in the B season would catch Chinook and chum salmon and pollock that are not likely to be roe-bearing. EFP fishing would be conducted by one vessel in each season.

To test the salmon excluder device, exemptions would be necessary from regulations for salmon bycatch limits, observer requirements, several closures areas, and total allowable catch amounts (TACs) for groundfish. The taking of salmon during the experiment is crucial for determining the effectiveness of the device. Salmon taken during the experiment would not be counted toward the Chinook and chum salmon bycatch limits under § 679.21(e)(1)(vi) and (vii). The amount of salmon bycatch by the pollock trawl industry during the EFP period could potentially approach or exceed the salmon bycatch limits. If the EFP salmon were counted toward the salmon bycatch limits, the EFP salmon may create an additional burden on the pollock trawl fishermen not participating in the intercooperative agreement for salmon bycatch reduction by causing earlier closures of the salmon savings areas. More information regarding the intercooperative agreement for salmon bycatch reduction is at 72 FR 61070 (October 29, 2007).

Approximately 2,500 chum salmon for each B season and 2,500 Chinook salmon for each A and B season would be required to support the project. In total, the applicant would be limited to harvesting 10,000 Chinook salmon and 5,000 chum salmon for the time period of the EFP. The experimental design requires this quantity of salmon to ensure statistically valid results.

The applicant also has requested an exemption from the Chinook Salmon Savings Areas (§ 679.21(e)(7)(viii)), the Chum Salmon Savings Area (§§ 679.21(e)(7)(vii) and 679.22(a)(10)), the Bering Sea Pollock Restriction Area (§ 679.22(a)(7)(ii)), and the Steller Sea Lion Conservation Area (§ 679.22(a)(7)(vii)). These overlapping areas occur in locations of salmon concentration. The experiment must be conducted in areas of salmon concentration sufficient to ensure a statistically adequate sample size. These locations are ideal for conducting the experiment and ensuring that the vessel encounters sufficient concentrations of salmon and pollock for meeting the experimental design.

Groundfish taken under the EFP would be exempt from the TACs specified in the annual harvest specifications (§ 679.20). A total of 2,500 metric tons (mt) of groundfish (primarily pollock) would be taken during each season of the EFP for a total of 10,000 mt over the duration of the EFP. The experimental design requires this quantity of pollock to ensure a statistically adequate sample size for measuring pollock escapement through the salmon excluder device. The EFP groundfish harvest would not be included in the harvest applied against the Bering Sea groundfish TACs, including the 2008 and 2009 pollock TAC of 1.0 million mt. The 2008 and 2009 Bering Sea pollock acceptable biological catch (ABC) also is 1.0 million mt. For each year of the EFP, the amount of pollock harvest under the EFP would be approximately 0.25 to 0.5 percent of the annual harvest of pollock in the Bering Sea pollock fishery. Even though the EFP would allow for harvest over the ABC, the amount is so small that no discernable effect is expected. Because of very little groundfish incidental catch in the pollock fishery, the harvest of other groundfish species during the EFP fishing is expected to be a negligible amount, less than 25 mt.

Using a catcher/processor for the EFP study would require exemption from the Catcher Vessel Operating Area (CVOA) restriction (§ 679.22(a)(5)) because of the location of the Chinook Salmon Savings Area in the CVOA. Catcher/processors are prohibited from operating in the CVOA during the B season. The EFP fishing may be done by either a catcher vessel or a catcher/processor. It may be necessary for the EFP applicant to use a catcher/processor to conduct tows in this area to ensure encountering sufficient pollock and salmon concentrations to meet the experimental design.

The EFP would include an exemption from the observer requirements at § 679.50. The applicants would use ''sea samplers'' who are NMFS-trained observers. They would not be deployed as NMFS observers, however, at the time of the EFP fishing. The ''sea samplers'' would conduct the EFP data collection and perform other observer duties that would normally be required for vessels directed fishing for pollock.

The activities under the EFP are not expected to have a significant impact on the human environment as analyzed in the EA for this action (see **ADDRESSES**). The EFP would be subject to modifications pending any new relevant information regarding the 2010 fishery, including pollock harvest specifications or restructuring of the salmon bycatch management program.

In accordance with § 679.6, NMFS has determined that the proposal warrants further consideration and has forwarded the application to the Council to initiate consultation. The Council will consider the EFP application during its April 1–7, 2008, meeting, which will be held at the Hilton Hotel in Anchorage, Alaska. The applicant has been invited to appear in support of the application.

Public Comments

Interested persons may comment on the application and on the EA at the April 2008 Council meeting during public testimony. Information regarding the meeting is available at the Council's website at *http://www.fakr.noaa.gov/npfmc/council.htm*. Copies of the application and EA are available for review from NMFS (see **ADDRESSES**).

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

Dated: March 7, 2008.

Emily H. Menashes

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

[FR Doc. E8–4904 Filed 3–11–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XG21

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council to convene its Shrimp Advisory Panel (AP) via conference call.

DATES: The Shrimp AP conference call will be held March 31, 2008, at 10 a.m. EST.

ADDRESSES: The meeting will be held via conference call and listening stations will be available. For specific locations see **SUPPLEMENTARY INFORMATION**.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Rick Leard, Deputy Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The conference call will begin at 10 a.m. EST and conclude no later than 11 a.m. EST. Listening stations are available at the following locations:

The Gulf Council office (see **ADDRESSES***), and the National Marine Fisheries Service (NMFS) offices as follows:*

St. Petersburg, FL

263 13th Avenue South, St. Petersburg, FL 33701, Contact: Stephen Holiman, telephone: (727) 551–5719;

Galveston, TX

4700 Ave U, Conference room - Bldg 305, Galveston, TX 77551, Contact: Ronnie O'Toole, telephone: (409) 766–3500;

Miami, FL

75 Virginia Beach Drive, Miami, FL, 33149, Contact: Sophia Howard, telephone: (305) 361–4259; and

Panama City, FL

3500 Delwood Beach Road, Panama City, FL 32408, Contact: Janice Hamm, telephone: (850) 234–6541.

The Shrimp AP will receive a report from the National Marine Fisheries Service (NMFS) on the final estimates of offshore shrimping effort in 2007. If the estimate is less than 74% of the estimated average annual effort during the 2001–03 period, the Shrimp AP may make recommendations for additional time and area closures in accordance with Amendment 27 to the Reef Fish Fishery Management Plan (FMP)/Amendment 14 to the Shrimp FMP.

The Shrimp AP consists principally of commercial shrimp fishermen, dealers, and association representatives.

Although other non-emergency issues not on the agenda may come before the SEP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during the meeting. Actions will be restricted to the issue specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the SEP's intent to take action to address the emergency.

Special Accommodations

The listening stations are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina Trezza at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: March 7, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–4873 Filed 3–11–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Applications for Trademark Registration

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the extension of a continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 12, 2008.

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

E-mail: Susan.Fawcett@uspto.gov. Include ''0651–0009 comment'' in the subject line of the message.

Fax: 571–273–0112, marked to the attention of Susan K. Fawcett.

Mail: Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Federal e-Rulemaking Portal: http://www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information

should be directed to the attention of Janis Long, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–9573; or by e-mail at *janis.long@uspto.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. 1051 *et seq.*, which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses who use their marks, or intend to use their marks, in commerce regulable by Congress, may file an application with the USPTO to register their marks. Registered marks remain on the register indefinitely so long as the owner of the registration files the necessary maintenance documents.

The rules implementing the Trademark Act are set forth in 37 CFR Part 2. The Act and rules mandate that each certificate of registration include the mark, the particular goods and/or services for which the mark is registered, the owner's name, dates of use of the mark in commerce, and certain other information. The USPTO also provides similar information to the public concerning pending applications. Individuals or businesses may access the register and pending application information through the USPTO's website to determine availability of a mark. Accessing and reviewing the USPTO's publicly available information may reduce the possibility of initiating use of a mark previously registered or adopted by another. The Federal trademark registration process may lessen the filing of papers in court and between parties. The information in this collection is available to the public.

Trademarks can be registered on either the Principal or Supplemental Registers. Registrations on the Principal Register confer all of the benefits of registration provided under the Trademark Act. The Supplemental Register is for descriptive marks capable of functioning as a trademark that cannot be registered on the Principal Register. Registrations on the Supplemental Register do not have all of the benefits of marks on the Principal Register. Registrations on the Supplemental Register cannot be transferred to the Principal Register, but owners of registrations on the Supplemental Register may apply for registration of their marks on the Principal Register.

The information in this collection can be submitted in paper format or electronically through the Trademark Electronic Application System (TEAS). Applicants that file their applications through TEAS Plus must agree to provide a complete application at filing and pay a reduced filing fee. TEAS Plus applications are only available for the trademark/service mark applications. There are no TEAS Plus application forms available for the certification marks, collective marks, collective membership marks, and applications for registration on the supplemental register at this time. This collection contains four paper forms and five electronic forms.

II. Method of Collection

Electronically if applicants submit the information using the TEAS forms. By mail or hand delivery if applicants choose to submit the information in paper form.

III. Data

OMB Number: 0651–0009.

Form Number(s): PTO Forms 4.8, 4.9, 1478, and 1478(a).

Type of Review: Extension of a currently approved collection.

Affected Public: Primarily business or other for-profit organizations.

Estimated Number of Respondents: 291,859 responses per year.

Estimated Time per Response: The USPTO estimates that it takes the public approximately 15 minutes (0.25 hours) to 23 minutes (0.38 hours) to complete this information, depending on the application. This includes the time to gather the necessary information, prepare the applications, and submit the completed request to the USPTO. The time estimates shown for the electronic forms in this collection are based on the average amount of time needed to complete and electronically file the associated form.

Estimated Total Annual Respondent Burden Hours: 84,821 hours.

Estimated Total Annual Respondent Cost Burden: $25,785,584. The USPTO believes that associate attorneys will complete these applications. The professional hourly rate for associate attorneys in private firms is $304. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is $25,785,584 per year.

Item	Estimated time for response (in minutes)	Estimated annual responses	Estimated annual burden hours
Use-Based Trademark/Service Mark Application, including • Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application	23	5,889	2,238
TEAS Use-Based Trademark/Service Mark Application, including • Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application	21	58,378	20,432
TEAS Plus Use-Based Trademark/Service Mark Application	21	37,260	13,041
Intent to Use Trademark/Service Mark Application, including • Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application	17	5,466	1,530
TEAS Intent to Use Trademark/Service Mark Application, including • Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application	15	117,014	29,254
TEAS Plus Intent to Use Trademark/Service Mark Application	15	48,514	12,129

Item	Estimated time for response (in minutes)	Estimated annual responses	Estimated annual burden hours
Application for Registration of Trademark/Service Mark under §§ 44(d) and (e), including • Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application	20	812	268
TEAS Application for Registration of Trademark/Service Mark under §§ 44(d) and (e), including • Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application	19	12,396	3,967
TEAS Plus Application for Registration of Trademark/Service Mark under §§ 44(d) and (e)	19	6,130	1,962
Total	.....	291,859	84,821

Estimated Total Annual Non-hour Respondent Cost Burden: $91,050,313. There are postage costs and filing and processing fees associated with this information collection. This collection does not have any capital start-up, operation, maintenance, or recordkeeping costs.

Applicants incur postage costs when submitting the non-electronic information to the USPTO by mail through the United States Postal Service. The USPTO estimates that the majority (98%) of the paper forms are submitted to the USPTO via first class mail. Out of 12,167 paper forms, the USPTO estimates that 11,924 forms will be mailed, with a first class postage cost of 41 cents. Therefore, the USPTO estimates that the postage costs for this collection will be $4,888.

Item	Responses (yr) (a)	Postage costs (b)	Total cost (yr) (a) × (b)
Use-Based Trademark/Service Mark Application, including • Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application	5,771	$0.41	$2,366.00
Intent to Use Trademark/Service Mark Application, including • Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application	5,357	0.41	2,196.00
Application for Registration of Trademark/Service Mark under §§ 44(d) and (e), including • Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application	796	0.41	326.00
Total	11,924	.....	4,888.00

There is also annual nonhour cost burden in the way of filing fees associated with this collection. Applicants who choose to file their applications electronically instead of submitting them in paper pay a reduced filing fee. Those who choose to file TEAS Plus applications pay a further reduced fee. The filing fees for the applications are based per class of goods and services; therefore the total filing fees can vary depending on the number of classes. The total filing fees of $90,867,325 shown here are the minimum fees associated with this information collection.

Item	Responses (yr) (a)	Filing fees (b)	Total non-hour cost burden (yr) (a) × (b)
Use-Based Trademark/Service Mark Application, including • Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application	5,889	$375.00	$2,208,375.00
TEAS Use-Based Trademark/Service Mark Application, including • Trademark/Service Mark Application • Collective Trademark/Service Mark Application	58,378	325.00	18,972,850.00

Item	Responses (yr) (a)	Filing fees (b)	Total non-hour cost burden (yr) (a) × (b)
• Collective Membership Mark • Certification Mark Application			
TEAS Plus Use-Based Trademark/ Service Mark Application	37,260	275.00	10,246,500.00
Intent to Use Trademark/Service Mark Application, including	5,466	375.00	2,049,750.00
• Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application			
TEAS Intent to Use Trademark/Service Mark Application, including	117,014	325.00	38,029,550.00
• Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application			
TEAS Plus Intent to Use Trademark/ Service Mark Application	48,514	275.00	13,341,350.00
Application for Registration of Trademark/Service Mark under §§ 44(d) and (e), including	812	375.00	304,500.00
• Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application			
TEAS Application for Registration of Trademark/Service Mark under §§ 44(d) and (e), including	12,396	325.00	4,028,700.00
• Trademark/Service Mark Application • Collective Trademark/Service Mark Application • Collective Membership Mark • Certification Mark Application			
TEAS Plus Application for Registration of Trademark/Service Mark under §§ 44(d) and (e)	6,130	275.00	1,685,750.00
Totals	291,859	.....	90,867,325.00

In addition, the USPTO charges a processing fee of $50 to process applications that were originally filed as TEAS Plus applications, but which failed to meet the requirements. The USPTO estimates that out of the 91,904 TEAS Plus use-based, intent to use, and 44(d) and (e) applications filed, 3,562 will be subject to the processing fee. The processing fees are based per class of goods and services, so the total processing fee can vary depending on the number of classes. The total processing fees shown here are the minimum fees associated with this information collection. Therefore, the USPTO estimates that at a minimum, the processing fees will add $178,100 to the filing fees estimated above.

Item	Responses (yr) (a)	Processing fee (yr) (b)	Total non-hour cost burden (yr) (a) × (b)(c)
TEAS Plus Use-Based Applications That Do Not Meet TEAS Plus Requirements	1,880	$50.00	$94,000.00
TEAS Plus Intent-to-Use Applications That Do Not Meet TEAS Plus Requirements	1,444	50.00	72,200.00
TEAS Plus Applications for Registrations of a Trademark/Service Mark under 44(d) and (e) That Do Not Meet TEAS Plus Requirements	238	50.00	11,900.00
Total	3,562	.....	178,100.00

The USPTO estimates that the total nonhour cost burden associated with the filing and processing fees for this collection will be $91,045,425.

The USPTO estimates that the total non-hour respondent cost burden for this collection, in the form of postage costs and filing and processing fees is $91,050,313 per year.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 5, 2008.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division.

[FR Doc. E8–4933 Filed 3–11–08; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Partially Exclusive Patent License; Air Products and Chemicals, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Air Products and Chemicals, Inc. a revocable, non-assignable, partially exclusive license in the U.S. to practice these Government-owned inventions in the field of use of elastomeric armor for structural or vehicle protection, as described in: U.S. Patent No. 7,300,893, entitled ''Armor Including a Strain Rate Hardening Elastomer,'' issued November 27, 2007, PCT International Case No. PCT/US2005/013934.

DATES: Anyone wishing to object to the grant of this license has fifteen (15) days from the date of this notice to file written objections along with supporting evidence, if any.

ADDRESSES: Written objections are to be filed with Carderock Division, Naval Surface Warfare Center, Code 004, 9500 MacArthur Boulevard, West Bethesda, MD 20817–5700.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Teter Ph.D., Director, Technology Transfer Office, Carderock Division, Naval Surface Warfare Center, Code 012, 9500 MacArthur Boulevard, West Bethesda, MD 20817–5700, telephone: 301–227–4299.

(Authority: 35 U.S.C. 207, 37 CFR part 404)

Dated: March 5, 2008.

T.M. Cruz,

Lieutenant, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–4889 Filed 3–11–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Partially Exclusive Patent License; PyroGenesis Canada, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to PyroGenesis Canada, Inc. a revocable, non-assignable, partially exclusive license in the U.S. to practice these Government-owned inventions in the field of use defined by the North American Industry Classification System 2007 (NAICS) code number 5622, entitled Waste Treatment and Disposal, as described in: U.S. Patent No. 5,960,026, entitled ''Organic Waste Disposal System,'' issued September 28, 1999, Patent Application 08/925,994.

DATES: Anyone wishing to object to the grant of this license has fifteen (15) days from the date of this notice to file written objections along with supporting evidence, if any.

ADDRESSES: Written objections are to be filed with Carderock Division, Naval Surface Warfare Center, Code 004, 9500 MacArthur Boulevard, West Bethesda, MD 20817–5700.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Teter Ph.D., Director, Technology Transfer Office, Carderock Division, Naval Surface Warfare Center, Code 012, 9500 MacArthur Boulevard, West Bethesda, MD 20817–5700, telephone: 301–227–4299.

(Authority: 35 U.S.C. 207, 37 CFR part 404)

Dated: March 5, 2008.

T.M. Cruz,

Lieutenant, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–4890 Filed 3–11–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Overview Information; Migrant Education Program (MEP) Consortium Incentive Grants Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008

Catalog of Federal Domestic Assistance (CFDA) Number: 84.144F.

DATES: *Applications Available:* March 12, 2008.

Deadline for Transmittal of Applications: May 7, 2008.

Deadline for Intergovernmental Review: July 7, 2008.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the MEP Consortium Incentive Grants program is to provide incentive grants to State educational agencies (SEAs) that participate in high-quality consortium arrangements with another SEA or other appropriate entity to improve the delivery of services to migrant children whose education is interrupted. Through this program, the Department provides financial incentives to SEAs to participate in high-quality consortium arrangements that improve the intrastate and interstate coordination of migrant education programs by addressing key needs of migratory children who have their education interrupted.

Priorities: These priorities are from the notice of final requirements for this program, published in the **Federal Register** on March 3, 2004 (69 FR 10110) and from the notice of final priority published elsewhere in this issue of the **Federal Register**.

Absolute Priorities: For FY 2008, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet one or more of these priorities. In order for SEAs to be considered for incentive grants, an application from a proposed consortium in which an SEA participates must address one or more of the following absolute priorities:

1. Services designed to improve the proper and timely identification and recruitment of eligible migratory children whose education is interrupted;

2. Services designed (based on a review of scientifically based research) to improve the school readiness of pre-school-aged migratory children whose education is interrupted;

3. Services designed (based on a review of scientifically based research) to improve the reading proficiency of migratory children whose education is interrupted;

4. Services designed (based on a review of scientifically based research) to improve the mathematics proficiency of migratory children whose education is interrupted;

5. Services designed (based on a review of scientifically based research) to decrease the dropout rate of migratory students whose education is interrupted and improve their high school completion rate;

6. Services designed (based on a review of scientifically based research) to strengthen the involvement of migratory parents in the education of migratory students whose education is interrupted;

7. Services designed (based on a review of scientifically based research) to expand access to innovative educational technologies intended to increase the academic achievement of migratory students whose education is interrupted; and

8. Services designed (based on a review of scientifically based research) to improve the educational attainment of out-of-school migratory youth whose education is interrupted.

Program Authority: 20 U.S.C. 6398(d).

Applicable Regulations: (a) The Education Department General

Administrative Regulations (EDGAR) in 34 CFR parts 75 (except 75.232), 76, 77, 79, 80 (except 80.40(b)), 82, 84, 85, 97, 98, and 99; (b) The notice of final requirements, published in the **Federal Register** on March 3, 2004 (69 FR 10110); and (c) The notice of final priority published elsewhere in this issue of the **Federal Register**.

II. Award Information

Type of Award: Formula grants.

Estimated Available Funds: $3,000,000.

Estimated Range of Awards: $85,000–$175,000.

Estimated Average Size of Awards: $130,435.

Maximum Award: By statute, the maximum amount that we may award under this program is $250,000.

Estimated Number of Awards: 23.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

III. Eligibility Information

1. *Eligible Applicants:* State educational agencies (SEAs) receiving MEP Basic State Formula grants.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. Pursuant to the notice of final requirements published in the **Federal Register** on March 3, 2004 (69 FR 10110), the supplement-not-supplant provisions in sections 1120A(b) and 1304(c)(2) of the Elementary and Secondary Education Act of 1965, as amended, are applicable to this program.

IV. Application and Submission Information

1. *Address to Request Application Package:* Alejandra Vélez-Paschke, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E249, LBJ, Washington, DC 20202–6135. *Telephone:* (202) 260–2834 or by *e-mail: alejandra.velez@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

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 program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative (Part IV of the application) is where you, the applicant, describe the proposed consortium, including how the consortium's proposed project meets (1) the Application Requirements listed in the notice of final requirements published in the **Federal Register** on March 3, 2004 (69 FR 10110), (2) one or more of the absolute priorities, and (3) the selection criteria that reviewers use to evaluate your application. You must limit Part IV to no more than 30 double-spaced pages, using the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- 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.
- For charts, tables, and graphs, use a font that is either 12 point or larger or no smaller than 10 pitch.

The page limit applies only to Part IV of the application. It does not apply to Parts I through III or Parts V through VII, or to any appendices, resumes, bibliography, or letters of support. However, an applicant must include all of the application narrative in Part IV.

Department reviewers will not read any pages of the Part IV narrative that exceed the page limit.

3. *Submission Date and Times:*

Applications Available: March 12, 2008.

Deadline for Transmittal of Applications: May 7, 2008.

Applications for grants under this competition must be submitted in paper format by mail or by hand delivery. For information (including dates and times) about how to submit your application by mail or by hand delivery, 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 7, 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 competition must be submitted in paper format by mail or hand delivery.

a. *Submission of Paper Applications by Mail.*

If you submit your application by mail (through the U.S. Postal Service or a commercial carrier), 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:

Alejandra Vélez-Paschke, Office of Migrant Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E249, Washington, DC 20202–6135 or

By mail through a commercial carrier:

U.S. Department of Education, Attention: Alejandra Vélez-Paschke, OESE, 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.

b. *Submission of Paper Applications by Hand Delivery.* If you submit your application by hand delivery, you (or a courier service) 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: Alejandra Vélez-Paschke, Office of Migrant Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E249, Washington, DC 20202–6135.

Note: A person delivering an application must show identification to enter the U.S. Department of Education building.

V. Application Review Information

Selection Criteria: The selection criteria for this program are from 34 CFR 75.210 and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* Grant recipients under this program must submit the annual and final performance and financial reports specified in the notice of final requirements for this program published in the **Federal Register** on March 3, 2004 (69 FR 10110).

4. *Performance Measures:* Consortium grantees are required to report on their project's effectiveness based on the project objectives, performance measures, and scheduled activities outlined in the consortium's application.

In addition, all grantees are required, under 34 CFR 80.40(b), to report on the Government Performance and Results Act (GPRA) indicators as part of their Consolidated State Performance Report. The GPRA indicators established by the Department for the Migrant Education Program, of which the Consortium Incentive Grants are a component, are—

a. the percentage of migrant students at the elementary school level who meet or exceed the proficient level on State assessments in reading;

b. the percentage of migrant students at the middle school level who meet or exceed the proficient level on State assessments in reading;

c. the percentage of migrant students at the elementary school level who meet or exceed the proficient level on State assessments in mathematics;

d. the percentage of migrant students at the middle school level who meet or exceed the proficient level on State assessments in mathematics;

e. the percentage of migrant students who drop out from secondary school (grades 7–12); and

f. the percentage of migrant students who graduate from high school.

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Alejandra Vélez-Paschke, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E249, LBJ, Washington, DC 20202–6135. *Telephone:* (202) 260–2834 or by *e-mail: alejandra.velez@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS) 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 for 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.

You may also view this document in text at the following site: *http://www.ed.gov/about/offices/list/oese/ome/index.html.*

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: March 7, 2008.

Kerri L. Briggs,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. E8–4961 Filed 3–11–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Migrant Education Program Consortium Incentive Grant Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice of final priority.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education announces the addition of an eighth absolute priority to the seven current absolute priorities for the Migrant Education Program (MEP) Consortium Incentive Grant (CIG) program established in the notice of final requirements published in the **Federal Register** on March 3, 2004 (69 FR 10110) (March 2004 notice). The Assistant Secretary may use this proposed absolute priority and the absolute priorities established in the March 2004 notice for competitions in fiscal year (FY) 2008 and later years. We take this action to give State educational agencies (SEAs) the option to propose consortium arrangements that address the educational attainment needs of out-of-school migratory youth whose education is interrupted.

DATES: *Effective Date:* This priority is effective April 11, 2008.

FOR FURTHER INFORMATION CONTACT: Alejandra Velez-Paschke, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E249, LBJ, Washington, DC 20202–6135. *Telephone:* (202) 260–2834 or via Internet: *alejandra.velez@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities can obtain this document in an alternative

format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Background: The MEP CIG program is authorized under section 1308(d) of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (ESEA). The CIG program provides, on a competitive basis, incentive grants to the SEAs receiving MEP Basic Formula Grant awards that participate in high-quality consortium arrangements with another State or appropriate entity. The purpose of these grants is to improve the delivery of services to migratory children whose education is interrupted.

In the March 2004 notice, the Department established seven absolute priorities for the CIG that promote key national objectives. SEAs that have sought funding under the CIG have had to propose a consortium that addressed one or more of these absolute priorities. These seven absolute priorities are—

(1) Services designed to improve the proper and timely identification and recruitment of eligible migratory children whose education is interrupted;

(2) Services designed (based on a review of scientifically based research) to improve the school readiness of pre-school-aged migratory children whose education is interrupted;

(3) Services designed (based on a review of scientifically based research) to improve the reading proficiency of migratory children whose education is interrupted;

(4) Services designed (based on a review of scientifically based research) to improve the mathematics proficiency of migratory children whose education is interrupted;

(5) Services designed (based on a review of scientifically based research) to decrease the dropout rate of migratory students whose education is interrupted and improve their high school completion rate;

(6) Services designed (based on a review of scientifically based research) to strengthen the involvement of migratory parents in the education of migratory students whose education is interrupted; and

(7) Services designed (based on a review of scientifically based research) to expand access to innovative educational technologies intended to increase the academic achievement of migratory students whose education is interrupted.

We published a notice of proposed priority for this program in the **Federal Register** on November 20, 2007 (72 FR 65316). The notice of proposed priority included a discussion of the significant issues surrounding the educational attainment of out-of-school migratory youth. The notice of proposed priority, along with the notice of final requirements published in the **Federal Register** on March 3, 2004 (69 FR 10110), would have allowed SEAs, based on the needs of migratory children in their respective consortium States, to seek CIG program funding for consortium activities that addressed any one or more of the eight absolute priorities.

There are no differences between the notice of proposed priority and this notice of final priority.

Analysis of Comments and Changes

In response to our invitation in the notice of proposed priority, two parties submitted comments on the proposed priority. An analysis of the comments and of any changes in the priority since publication of the notice of proposed priority follows.

Generally, we do not address technical and other minor changes—and suggested changes the law does not authorize us to make under the applicable statutory authority. We also do not address comments pertaining to issues that were not within the scope of the notice of proposed priority.

Comment: One commenter expressed concern that the inclusion of this absolute priority would result in taxpayer dollars being used to provide services to individuals who do not have the necessary legal documentation to reside or work in the United States.

Discussion: The Secretary appreciates the commenter's concern. However, documentation of legal status is not a requirement of the MEP, the CIG Program, or any other Federal elementary or secondary education program. In order to be eligible, and therefore to receive services, under Title I, Part C of the ESEA (under which the MEP CIG Program is authorized), a child or youth must only meet the definition of ''migratory child'' as outlined in the statute; proof of legal residency or legal work status is not required.

Changes: None.

Comments: Another commenter expressed general agreement with the need to serve out-of-school migratory youth, but asserted that the public school system is not the appropriate entity for administering CIG Program services for this population. The commenter maintained that it would be too difficult for the public school system to serve those migratory children both enrolled and not enrolled in school. The commenter suggested junior colleges or private entities as more adequate administrators of the program.

Discussion: The Secretary does not agree that public school systems should be prohibited from operating CIG Program services under the eighth priority. SEAs, not local school districts, administer both the MEP and the CIG Program. Accordingly, SEAs have the statutory authority to operate these CIG Programs directly or through local operating agencies, which may include school districts, institutions of higher education, or any other public or nonprofit private agency with which the SEA makes an arrangement. The Secretary does not want to limit, in this eighth absolute priority, the authority of SEAs to select those entities they want to operate CIG Program services designed to improve the educational attainment of out-of-school migratory youth. Rather, the Secretary believes that SEAs will be able to choose the entities that they believe will be most effective in providing these CIG Program services. Thus, we decline to make the change recommended by the commenter.

Changes: None.

Note: This notice does not solicit applications. In any year in which we choose to use this or any of the other seven absolute priorities, we invite applications through a notice in the **Federal Register**. Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Priority: Services designed (based on a review of scientifically based research) to improve the educational attainment of out-of-school migratory youth whose education is interrupted.

Executive Order 12866

This notice of final priority has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of final priority are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of final priority, we have determined that the benefits of the final priority justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal

governments in the exercise of their governmental functions.

We fully discussed the costs and benefits in the notice of proposed priority.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*.

(Catalog of Federal Domestic Assistance Number 84.144 Migrant Education Coordination Program)

Program Authority: 20 U.S.C. 6398(d).

Dated: March 7, 2008.

Kerri L. Briggs,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. E8–4960 Filed 3–11–08; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: United States Election Assistance Commission.

ACTION: Notice of public meeting.

DATE & TIME: Thursday, March 20, 2008, 8:30 a.m.–2 p.m. (MST).

PLACE: Hyatt Regency Denver, 650 15th Street, Denver, Colorado 80202, (303) 436–1234.

AGENDA: The Commission will hear updates on the following topics: Election Management Guidelines Update; Election Data Survey Update. The Commission will receive a briefing on audits and state plans from the National Association of State Election Directors (NASED); The Commission will consider accepting the following items: Voter Hotline Study; UOCAVA Voters' Study (Uniformed and Overseas Citizens Absentee Voting Act). The Commission will consider and vote on the following items: consideration and vote on changes to the state specific instructions on the national voter registration form; consideration and vote on proposed policy clarification on the allowable uses of HAVA funds. The Commission will consider other administrative matters.

This meeting will be open to the public.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

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Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 08–1024 Filed 3–10–08; 3:41 pm]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

State Energy Advisory Board

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

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: April 8, 2008 (Open Meeting—morning only) 8:30–Noon. April 9, 2008 (Open Meeting) 8:30 a.m.–5 p.m. April 10, 2008 (Open Meeting) 8:30 a.m.–Noon.

ADDRESSES: Hotel Albuquerque at Old Town, 800 Rio Grande Boulevard, NW., Albuquerque, NM 87104.

FOR FURTHER INFORMATION CONTACT: Gary Burch, STEAB Designated Federal Officer, Assistant Manager, Office of Intergovernmental Projects & Outreach, Golden Field Office, Energy Efficiency and Renewable Energy (EERE), U.S. Department of Energy, 1617 Cole Boulevard, Golden, CO 80401, Telephone 303/275–4801.

SUPPLEMENTARY INFORMATION: Purpose of the Board: To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Briefings on, and discussions of:

—EERE Energy Efficiency and Policy.

○ Presentations Provided by the Sandia National Laboratory on Their Respective Energy Efficiency and Renewable Energy Programs—Tour of the Sandia National Laboratory.

—Board Discussions/Responses to Laboratory Presentations.

—STEAB Effectiveness/Formal Discussions Regarding Current STEAB Products and the Potential Development of New Recommendations and Resolutions.

—STEAB Effectiveness/Planning for Future STEAB Meetings and Events, and New Membership Status.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gary Burch at the address or telephone number listed above. Requests to make oral presentations must be received five days prior to the meeting; reasonable provision will be made to include the statements in the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days on the STEAB Web site, *http://www.steab.org.*

Issued at Washington, DC, on March 7, 2008.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E8–4886 Filed 3–11–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

State Energy Advisory Board

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

ACTION: Notice of Open Teleconference.

SUMMARY: This notice announces a teleconference of the State Energy Advisory Board (STEAB). The Federal

Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) requires that public notice of these teleconferences be announced in the **Federal Register**.

DATES: March 20, 2008 from 2 p.m. to 3 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: Gary Burch, STEAB Designated Federal Officer, Acting Assistant Manager, Office of Commercialization and & Project Management, Golden Field Office, U.S. Department of Energy, 1617 Cole Boulevard, Golden, CO 80401, Telephone 303/275–4801.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. No. 101–440).

Tentative Agenda: Update members on routine business matters.

Public Participation: The teleconference is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gary Burch at the address or telephone number listed above. Please make requests to provide oral comments as soon as possible; so that reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the call in a fashion that will facilitate the orderly conduct of business. This is notice is being published less than 15 days before the date of the teleconference meeting due to programmatic issues.

Notes: The notes of the teleconference will be available for public review and copying within 60 days on the STEAB Web site, *http://www.steab.org.*

Issued at Washington, DC, on March 7, 2008.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E8–4887 Filed 3–11–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RR08–4–000]

North American Electric Reliability Corporation; Notice of Compliance Filing

March 5, 2008.

Take notice that on March 3, 2008, North American Electric Reliability Corporation tendered for filing in compliance with Commission Order of June 7, 2007, Violation Severity Levels for requirements and subrequirements in the 83 reliability standards.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 24, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4843 Filed 3–11–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–642–011, ER07–312–003, ER01–1335–013, ER01–1011–015]

Cottonwood Energy Company, LP, Dogwood Energy LLC, Magnolia Energy LP, Redbud Energy LP; Notice of Filing

March 5, 2008.

Take notice that on February 12, 2008, Cottonwood Energy Company, LP, Dogwood Energy LLC, Magnolia Energy LP, and Redbud Energy, LP, tendered for filing a revised market-based rate tariffs reflecting the new tariff requirements in Order No. 697.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll-free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 12, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4844 Filed 3–11–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR08–16–000]

Duke Energy Ohio, Inc.; Notice of Filing

March 5, 2008.

Take notice that on February 28, 2008, Duke Energy Ohio, Inc. (DE–Ohio) filed information in support of continuation of its existing rate election pursuant to section 284.123(b)(1)(ii) of the Commission's regulations (18 CFR 284.123(b)(1)(ii)) for service under its blanket certificate.

DE–Ohio proposes to continue utilizing the currently effective Rate IT commodity charge, a cost-based rate for comparable interruptible transportation service that has been approved by the Public Utilities Commission of Ohio.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time, March 20, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4847 Filed 3–11–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–335–003]

Florida Power & Light Company; Notice of Filing

March 5, 2008.

Take notice that on February 29, 2008, Florida Power & Light Company tendered for filing an amendment to its rate schedule FERC No. 312.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 12, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4845 Filed 3–11–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–549–001, Docket No. ER08–550–001]

PJM Interconnection, L.L.C. and Virginia Electric and Power Company Virginia Electric and Power Company; Notice of Filing

March 5, 2008.

Take notice that on February 15, 2008, PJM Interconnection, L.L.C. and Virginia Electric and Power Company tendered for filing a revised unexecuted service agreement with the correct service agreement number.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 11, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4846 Filed 3–11–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–82–000]

Trunkline Gas Company, LLC; Notice of Request Under Blanket Authorization

March 5, 2008.

Take notice that on February 28, 2008, Trunkline Gas Company, LLC (Trunkline), 5444 Westheimer Road, Houston, Texas 77056–5306, filed in Docket No. CP08–82–000, a prior notice request pursuant to sections 157.205 and 157.208 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act for authorization to increase the certificated Maximum Allowable Operating Pressure (MAOP) for the 15A-Lateral Lines, and the corresponding Meters & Regulators (M&R), originating and terminating in Bee County, Texas, and to thereafter operate these 15A Laterals up to and including the higher MAOP, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Specifically, Trunkline proposes to uprate the MAOP of Lateral Line 15A–100 from the current MAOP of 814 psig to the requested MAOP of 1,313 psig; uprate Lateral Line 15A–200 from the current MAOP of 730 psig to the requested MAOP of 1,313 psig; and uprate Lateral Line 15A–300 from the current MAOP of 750 psig to the requested MAOP of 1,313 psig. Trunkline states that in conjunction with the requested MAOP increase on the 15A laterals, Trunkline is also requesting the Commission's authorization to uprate the MAOP of the corresponding M&R sites to 1,032 psig. Trunkline asserts that it is not requesting authorization for construction of new facilities. Trunkline avers that the uprating of the MAOP of the laterals will improve system reliability, reduce operating costs, and reduce the constraint on the deliverability of local natural gas supplies to the Trunkline system.

Any questions regarding the application should be directed to Stephen T. Veatch, Regulatory Affairs, Trunkline Gas Company, LLC, 5444 Westheimer Road, Houston, Texas 77056–5306, call (713) 989–2024, fax (713) 989–1158, or e-mail *stephen.veatch@sug.com.*

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4848 Filed 3–11–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2004–0015; FRL–8541–7]

Agency Information Collection Activities; Proposed Collection; Comment Request; Clean Water Act State Revolving Fund Program; EPA ICR No. 1391.08, OMB Control No. 2040–0118

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on June 30, 2008. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 12, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2004–0015 by one of the following methods:

- *http://www.regulations.gov.*
- *E-mail: OW-Docket@EPA.gov.*
- *Mail:* Clean Water Act State Revolving Fund Program (renewal), Environmental Protection Agency, Mailcode: 4204M, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Clean Water Act State Revolving Fund Program (renewal), Environmental Protection Agency, Office of Wastewater Management, Municipal Support Division, 1201 Constitution Ave., NW., Washington, DC 20004.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2004–0015. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through 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.*

ADDRESSES: Follow the on-line instructions for submitting comments to Docket ID No. EPA–HQ–OW–2004–0015 at *http://www.regulations.gov*, by e-mail to: *OW-Docket@epa.gov.*, and by mail: Environmental Protection Agency, Mailcode: 4204M, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Clifford Yee, Office of Wastewater Management, Mail Code 4204M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–0598; fax number: 202–501–2403; e-mail address: *yee.clifford@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2004–0015 which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

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

(ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does this Apply to?

[Docket ID No. EPA–HQ–OW–2004–0015]

Affected Entities: Entities potentially affected by this action are State and local governments; local communities and tribes.

Title: Clean Water Act State Revolving Fund Program (renewal)

ICR Numbers: EPA ICR No. 1391.08, OMB Control No. 2040–0118.

ICR Status: This ICR is currently scheduled to expire on June 30, 2008. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Clean Water Act, as amended by ''The Water Quality Act of 1987'' (U.S.C. 1381–1387 *et. seq.*), created a Title VI which authorizes grants to States for the establishment of State Water Pollution Control Revolving Funds (SRFs). The information collection activities will occur primarily at the program level through the State ''Intended Use Plan'' and ''Annual Report''. The information is needed annually to implement section 606 of the Clean Water Act (CWA).

The 1987 Act declares that water pollution control revolving funds shall be administered by an instrumentality of the State subject to the requirements of the act. This means that each State has a general responsibility for administering its revolving fund and must take on certain specific responsibilities in carrying out its administrative duties. The information collection activities will occur primarily at the program level through the State Intended Use Plan and Annual Report. The information is needed annually to implement section 606 of the Clean Water Act (CWA). The Act requires the information to ensure national accountability, adequate public comment and review, fiscal integrity and consistent management directed to achieve environmental benefits and results. The individual information collections are:

(1) Capitalization Grant Application and Agreement/State Intended Use Plan, (2) State Annual Report, (3) State Annual Audit, and (4) Application for SRF Financial Assistance.

(1) *Capitalization Grant Application and Agreement/State Intended Use Plan:* The State will prepare a Capitalization Grant application that includes an Intended Use Plan (IUP) outlining in detail how it will use all the funds available to the fund. The grant agreement contains or incorporates by reference the IUP, application materials, payment schedule, and required assurances. The bulk of the information is provided in the IUP, the legal agreement which commits the State and EPA to execute their responsibilities under the Act.

(2) *State Annual Report:* The State must agree to complete and submit a State Annual Report that indicates how the State has met the goals and

objectives of the previous fiscal year as stated in the IUP and grant agreement. The report provides information on loan recipients, loan amounts, loan terms, project categories, and similar data on other forms of assistance. The report describes the extent to which the existing SRF financial operating policies, alone or in combination with other State financial assistance programs, will provide for the long term fiscal health of the Fund and carry out other provisions specified in the grant operating agreement.

(3) *State Annual Audit:* Most States have agreed to conduct or have conducted a separate financial audit of the Capitalization Grant which will provide opinions on the financial statements, and a report on the internal controls and compliance with program requirements. The remaining States will be covered by audits conducted under the requirements of the Single Audit Act and by EPA's Office of Inspector General.

(4) *Application for SRF Financial Assistance:* Local communities and other eligible entities have to prepare and submit applications for SRF assistance to their respective State Agency which manages the SRF program. The State reviews the completed loan applications, and verifies that the proposed projects will comply with applicable Federal and State requirements.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 108.73 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated Total Number of Potential Respondents: 3,825.

Frequency of Response: Annually.

Estimated Total Average Number of Responses for Each Respondent: 1.0.

Estimated Total Annual Burden Hours: 415,905.

Estimated Total Annual Costs: $11,118,000.

Are There Changes in the Estimates from the Last Approval?

There is an increase of 76,500 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's acceptance of additional loan applicants for the State SRF loan program. The increase in burden hours is the time needed to process and report on these loans on an annual basis.

What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: March 5, 2008.

Judy Davis,

Acting Director, Office of Water, Office of Wastewater Management.

[FR Doc. E8–4997 Filed 3–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8541–1]

Office of Research and Development; Ambient Air Monitoring Reference and Equivalent Methods: Designation of One New Equivalent Method

AGENCY: Environmental Protection Agency.

ACTION: Notice of the designation of one new equivalent method for monitoring ambient air quality.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has designated, in accordance with 40 CFR Part 53, one new equivalent method for measuring concentrations of particulate matter as $PM_{2.5}$ in the ambient air.

FOR FURTHER INFORMATION CONTACT: Elizabeth Hunike, Human Exposure and Atmospheric Sciences Division (MD–D205–03), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, North Carolina 27711. Phone: (919) 541–3737, e-mail: *Hunike.Elizabeth@epa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with regulations at 40 CFR Part 53, the EPA evaluates various methods for monitoring the concentrations of those ambient air pollutants for which EPA has established National Ambient Air Quality Standards (NAAQSs) as set forth in 40 CFR Part 50. Monitoring methods that are determined to meet specific requirements for adequacy are designated by the EPA as either reference methods or equivalent methods (as applicable), thereby permitting their use under 40 CFR Part 58 by States and other agencies for determining attainment of the NAAQSs.

The EPA hereby announces the designation of one new equivalent method for measuring concentrations of particulate matter as $PM_{2.5}$ in the ambient air. This designation is made under the provisions of 40 CFR Part 53, as amended on December 18, 2006 (71 FR 61271).

The new equivalent method for $PM_{2.5}$ is an automated method (sampler) that utilizes a measurement principle based on filter sample collection and analysis by beta-ray attenuation. The newly designated equivalent method is identified as follows: EQPM–0308–170, ''Met One Instruments, Inc. BAM–1020 Beta Attenuation Mass Monitor—$PM_{2.5}$ FEM Configuration, configured with a $PM_{2.5}$ particle size separator,'' operated for 24 hour average measurements with firmware revision 3.2.4 or later, with or without an inlet tube extension (BX–823), with or without external enclosures BX–902 or BX–903, in accordance with the BAM 1020 Particulate Monitor operation manual, revision F or later, and equipped with BX–596 ambient temperature and barometric pressure combination sensor, internal BX–961 automatic flow controller operated in Actual (volumetric) flow control mode, the standard BX–802 EPA PM_{10} inlet head and a $PM_{2.5}$ very sharp cut cyclone (BX–808), BX–827 (110V) or BX–830 (230V) Smart Inlet Heater, with the heater RH set to 35% and the temperature control set to ''off'', the 8470–1 revision D or later tape control transport assembly with close geometry beta source configuration, used with standard glass fiber filter tape, COUNT TIME parameter set for 8 minutes, the SAMPLE TIME parameter set for 42

minutes, BX–302 zero filter calibration kit required.

An application for an equivalent method determination for the candidate method was received by the EPA on September 19, 2007. The sampler is commercially available from the applicant, Met One Instruments, Inc., 1600 Washington Boulevard, Grants Pass, Oregon 07526 (*http://www.metone.com*).

A test analyzer representative of this method has been tested in accordance with the applicable test procedures specified in 40 CFR Part 53 (as amended on December 18, 2006). After reviewing the results of those tests and other information submitted by the applicant in the application, EPA has determined, in accordance with Part 53, that this method should be designated as an equivalent method. The information submitted by the applicant in the application will be kept on file, either at EPA's National Exposure Research Laboratory, Research Triangle Park, North Carolina 27711 or in an approved archive storage facility, and will be available for inspection (with advance notice) to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a designated equivalent method, this method is acceptable for use by states and other air monitoring agencies under the requirements of 40 CFR Part 58, Ambient Air Quality Surveillance. For such purposes, the method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any specifications and limitations (*e.g.*, configuration or operational settings) specified in the applicable designation method description (see the identifications of the method above).

Use of the method should also be in general accordance with the guidance and recommendations of applicable sections of the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I,'' EPA/600/R–94/038a and ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Part 1,'' EPA–454/R–98–004 (available at: *http://www.epa.gov/ttn/amtic/qabook.html).* Vendor modifications of a designated equivalent method used for purposes of Part 58 are permitted only with prior approval of the EPA, as provided in Part 53. Provisions concerning modification of such methods by users are specified under section 2.8 (Modifications of Methods by Users) of Appendix C to 40 CFR Part 58.

In general, a method designation applies to any sampler or analyzer which is identical to the sampler or analyzer described in the application for designation. In some cases, similar samplers or analyzers manufactured prior to the designation may be upgraded or converted (*e.g.*, by minor modification or by substitution of the approved operation or instruction manual) so as to be identical to the designated method and thus achieve designated status. The manufacturer should be consulted to determine the feasibility of such upgrading or conversion.

Part 53 requires that sellers of designated reference or equivalent method analyzers or samplers comply with certain conditions. These conditions are specified in 40 CFR 53.9 and are summarized below:

(a) A copy of the approved operation or instruction manual must accompany the sampler or analyzer when it is delivered to the ultimate purchaser.

(b) The sampler or analyzer must not generate any unreasonable hazard to operators or to the environment.

(c) The sampler or analyzer must function within the limits of the applicable performance specifications given in 40 CFR Parts 50 and 53 for at least one year after delivery when maintained and operated in accordance with the operation or instruction manual.

(d) Any sampler or analyzer offered for sale as part of a reference or equivalent method must bear a label or sticker indicating that it has been designated as part of a reference or equivalent method in accordance with Part 53 and showing its designated method identification number.

(e) If such an analyzer has two or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(f) An applicant who offers samplers or analyzers for sale as part of a reference or equivalent method is required to maintain a list of ultimate purchasers of such samplers or analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the method has been canceled or if adjustment of the sampler or analyzer is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(g) An applicant who modifies a sampler or analyzer previously designated as part of a reference or equivalent method is not permitted to sell the sampler or analyzer (as modified) as part of a reference or equivalent method (although it may be sold without such representation), nor to attach a designation label or sticker to the sampler or analyzer (as modified) under the provisions described above, until the applicant has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified, or until the applicant has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the sampler or analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Human Exposure and Atmospheric Sciences Division (MD–E205–01), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this new equivalent method is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR Part 58. Questions concerning the commercial availability or technical aspects of the method should be directed to the applicant.

Jewel F. Morris,

Acting Director, National Exposure Research Laboratory.

[FR Doc. E8–4905 Filed 3–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0046; FRL–8354–6]

Notice of Filing of Pesticide Petitions for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before April 11, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0046 and the pesticide petition number (PP) of interest, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to EPA–OPP–2008–0046 the assigned docket ID number and the pesticide petition number of interest. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: The person listed at the end of the pesticide petition summary of interest.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

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

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Docket ID Numbers

When submitting comments, please use the docket ID number and the pesticide petition number of interest, as shown in the table.

PP Number	Docket ID Number
PP 7E7280	EPA–HQ–OPP–2007–1192
PP 7E7281	EPA–HQ–OPP–2007–1192
PP 7E7282	EPA–HQ–OPP–2007–1191
PP 7E7283	EPA–HQ–OPP–2007–1191
PP 7E7308	EPA–HQ–OPP–2008–0125
PP 8E7318	EPA–HQ–OPP–2008–0126
PP 0F6159	EPA–HQ–OPP–2007–1021
PP 7F7301	EPA–HQ–OPP–2008–0139
PP 7E7281	EPA–HQ–OPP–2007–1192

PP Number	Docket ID Number
PP 7E7283	EPA–HQ–OPP–2007–1191
PP 7E7305	EPA–HQ–OPP–2008–0095
PP 8E7321	EPA–HQ–OPP–2008–0096

III. What Action is the Agency Taking?

EPA is printing notice of the filing of pesticide petitions received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petitions described in this notice contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions included in this notice, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available on-line at *http://www.regulations.gov*.

A. New Tolerance

1. and 2. PPs *7E7280* and *7E7281*. (EPA–HQ–OPP–2007–1192). Interregional Research Project #4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540, proposes to establish a tolerance for residues of the fungicide famoxadone in or on food commodities PP 7E7280: Leaf petioles, subgroup 4B at 25 parts per million (ppm); and PP 7E7281: Leafy greens, subgroup 4A and cilantro at 50 ppm; Bulb vegetables, group 3-07 at 40 ppm; and caneberry, subgroup 13-07A at 10 ppm. An analytical enforcement method is available for determining famoxadone plant residues in or on potatoes, cucurbit vegetables (cucumbers, melons, and squash), fruiting vegetables (tomatoes, peppers), and head lettuce using gas-liquid chromatography (GC) with nitrogen phosphorus detection (NPD). The method is applicable to high and medium moisture, oily and non-oily crops and related matrices. The limit of quantitation (LOQ) is 0.02 ppm. The LOQ is 0.02 ppm for leafy vegetables and green onion. The LOQ is 0.05 ppm for dry bulb onion. The analytical enforcement for use on tomato processed fractions and also the RAC, tomato, utilizes column switching liquid chromatography with ultraviolet (UV) detection. The LOQ is 0.02 ppm. The LOQ in each method allows monitoring of crops with famoxadone residues at or above the levels proposed in these tolerances. Contact: Susan Stanton, (703) 305–5218, *stanton.susan@epa.gov*.

3. and 4. *PPs 7E7282* and *7E7283*. (EPA–HQ–OPP–2007–1191). Interregional Research Project #4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540, proposes to establish a tolerance for residues of the fungicide cymoxanil; 2-cyano-N-[(ethylamino)carbonyl]-2-(methoxyimino)acetamide in or on food commodities PP 7E7282: Leaf petioles, subgroup 4B at 6 ppm; and PP 7E7283: Leafy greens, subgroup 4A and Cilantro at 19 ppm; bulb vegetables, group 3-07 at 1.1 ppm; and Caneberry, subgroup 13-07A at 4 ppm. An analytical enforcement method is available for determining these plant residues by high performance level chromatography (HPLC) with ultraviolet (UV) detection. The limit of quantitation allows monitoring of crops with cymoxanil residues at or above the levels proposed in these tolerances. The LOQ is 0.05 ppm for cymoxanil. Contact: Susan Stanton, (703) 305–5218, *stanton.susan@epa.gov*.

5. *PP 7E7308*. (EPA–HQ–OPP–2008–0125). FMC Corporation, 1735 Market Street, Philadelphia, PA 19103, and Interregional Research No. 4 (IR-4) Rutgers, The State University of New Jersey, 500 College Road East, Suite 201-W, Princeton, NJ 08540, proposes to establish a tolerance for residues of the herbicide sulfentrazone (N-[2,4-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]phenyl]-methanesulfonamide) and its metabolites 3-hydroxymethyl-sulfentrazone (N-[2,4-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-hydroxymethyl-5-oxo-1H-1,2,4-triazol-1-yl]phenyl]methanesulfonamide) and 3-desmethyl sulfentrazone (N-[2,4-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-5-oxo-1H-1,2,4-triazol-1-yl]phenyl]methanesulfonamide) in or on food commodities brassica, head and stem, subgroup 5A at 0.20 ppm; brassica, leafy greens, subgroup 5B at 0.35 ppm; melon, subgroup 9A at 0.10 ppm; vegetable, fruiting, group 8 at 0.05 ppm; okra at 0.05 ppm; pea, succulent at 0.05 ppm; flax at 0.05 ppm; strawberry at 0.05 ppm, and vegetable, tuberous and corm, subgroup 1C at 0.15 ppm There is a practical analytical method for detecting and measuring levels of sulfentrazone and its metabolites in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. The proposed analytical method for determining residues is hydrolysis followed by gas chromatographic separation. Contact: Shaja R. Brothers, (703) 308–3194, *brothers.shaja@epa.gov*.

6. *PP 8E7318*. (EPA–HQ–OPP–2008–0126). Interregional Research Project #4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540, proposes to establish a tolerance for residues of the insecticide bifenazate and its metabolite, diazinecarboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl), 1-methylethyl ester (expressed as bifenazate) in or on food commodities bean dry, seed at 0.2 ppm; grass, forage, fodder and hay, group 17, forage at 140 ppm; and grass, forage, fodder and hay, group 17, hay at 120 ppm. Chemtura Corporation has developed practical analytical methodology for detecting and measuring residues of bifenazate in or on raw agricultural commodities. As D3598, a significant metabolite, was found to interconvert readily to/from bifenazate, the analytical method was designed to convert all residues of D3598 to the parent compound (bifenazate) for analysis. The method utilizes reversed phase HPLC to separate the bifenazate from matrix derived interferences, and oxidative coulometric electrochemical detection for the identification and quantification of this analyte. Using this method the limit of quantitation (LOQ) for bifenazate in stone fruit, pome fruit, grapes, strawberries, and cotton was 0.01 ppm. For hops the LOQ was 0.05 ppm. The limit of detection for this method, which varies with matrix, is 0.005 ppm. The analytical method for bifenazate and its major metabolite D3598 in animal samples was designed using the same principles invoked in the plant method, with minor modifications. However, in animal samples, a separate aliquot of the extract was used to determine residues of A1530 and its sulfate (combined) in milk and meat samples (these metabolites appeared to be significant in goat metabolism studies). The extract was subjected to acid hydrolysis to convert the sulfate conjugate to A1530 before it was quantified by HPLC using fluorescence or OCED detectors. Contact: Susan Stanton, (703) 305–5218, *stanton.susan@epa.gov*.

7. *PP 0F6159*. (EPA–HQ–OPP–2007–1021). Nichino America, Inc., 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808, proposes to establish a tolerance for the indirect or inadvertent residues of the fungicide, flutolanil [N-(3-(1-

methylethoxy)phenyl)-2-(trifluoromethyl)benzamide] and its metabolite, M-4, desisopropyl flutolanil [N-(3-hydroxyphenyl)-2-(trifluromethyl)benzamide], expressed as 2-trifluoromethyl benzoic acid and calculated as flutolanil in or on food commodities soybean, forage at 9.0 ppm; soybean, hay at 2.0 ppm; soybean, seed at 0.20 ppm; wheat, bran at 0.30 ppm; wheat, forage at 2.0 ppm; wheat, grain at 0.10 ppm; wheat, hay at 1.0 ppm; and wheat, straw at 0.30 ppm. A previously submitted analytical method designated AU-95R-04 (MRID 45104001), a gas chromatography, mass spectrometry detection method has been independently validated and is adequate for enforcement purposes for flutolanil residue detection in soybean and wheat raw agricultural commodities. A multi-residue method for flutolanil has been previously submitted. This notice supersedes the previously published notice issued in the **Federal Register** of January 23, 2008 (73 FR 3967) (FRL–8345–7) for this pesticide petition (PP 0F6159). Contact: Lisa Jones, (703) 308–9424, *jones.lisa@epa.gov*.

8. *PP 7F7301*. (EPA–HQ–OPP–2008–0139). Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419-8300, proposes to establish a tolerance for residues of the insecticide thiamethoxam {3-[(2-chloro-5-thiazolyl)methyl] tetrahydro-5-methyl-N-nitro-4H-1,3,5-oxadiazin-4-imine}(CAS Reg. No. 153719–23–4) and its metabolite [N-(2-chloro-thiazol-5-ylmethyl)-N'-methyl-N'-nitro-guanidine] in or on food commodities soybean, hulls at 2.0 ppm and grain, aspirated fractions at 0.08 ppm. Syngenta Crop Protection, Inc. has submitted practical analytical methodology for detecting and measuring levels of thiamethoxam in or on raw agricultural commodities. This method is based on crop specific cleanup procedures and determination by liquid chromatography with either ultraviolet (UV) or mass spectrometry (MS) detections. The limit of detection (LOD) for each analyte of this method is 1.25 ng injected for samples analyzed by UV and 0.25 ng injected for samples analyzed by MS, and the limit of quantification (LOQ) is 0.005 ppm for milk and juices, and 0.01 ppm for all other substrates. Contact: Julie Chao, (703) 308–8735, *chao.julie@epa.gov*.

B. Amendment to Existing Tolerance

1. *PP 7E7281*. (EPA–HQ–OPP–2007–1192). Interregional Research Project #4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540, also proposes to remove the existing tolerances in 40 CFR 180.587 for residues of the fungicide famoxadone in or on the food commodities lettuce, head; and caneberry, subgroup 13A at 10 parts per million (ppm) which would be replaced by the proposed subgroup tolerances on leafy, greens, subgroup 4A; and caneberry, subgroup 13-07A. Contact: Susan Stanton, (703) 305–5218, *stanton.susan@epa.gov*.

2. *PP 7E7283*. (EPA–HQ–OPP–2007–1191). Interregional Research Project #4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540, also proposes to remove the existing tolerances in 40 CFR 180.503 for residues of the fungicide cymoxanil; 2-cyano-N-[(ethylamino)carbonyl]-2-(methoxyimino)acetamide in or on the food commodities lettuce, head; and caneberry at 4.0 ppm which would be replaced by the proposed subgroup tolerances on leafy, greens, subgroup 4A; and caneberry, subgroup 13-07A. Contact: Susan Stanton, (703) 305–5218, *stanton.susan@epa.gov*.

C. New Exemption from Tolerance

1. *PP 7E7305*. (EPA–HQ–OPP–2008–0095). Syngenta Crop Protection, P.O. Box 18300, Greensboro, NC 27409, proposes to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance under 40 CFR 180.910 for residues of Poly(oxy-1,2 ethanediyl),α-[2,4,6-tris(1-phenylethyl) phenyl]-ω-hydroxy- (CAS Reg. No. 70559–25–0) and Poly(oxy-1,2 ethanediyl),α-[tris(1-phenylethyl) phenyl]-ω-hydroxy-, ammonium salt (CAS Reg. No. 99734–09–5), herein referred to in this document as tristyrylphenol ethoxylates, as an inert ingredient in post-harvest applications at a maximum of 10.0% for each inert in an end-use product formulation. This request is specific for the post-harvest uses of tristyrylphenol ethoxylates and not impacting the existing pre-harvest tolerance exemption in 40 CFR 180.920 granted by the Agency for these ethoxylates with a limit of not more than 15% of the formulation. Because this petition is a request for an exemption from the requirement of a tolerance, no analytical method is required. Contact: Karen Samek, (703) 347–8825, *samek.karen@epa.gov*.

2. *PP 8E7321*. (EPA–HQ–OPP–2008–0096). Solvay Chemicals, Inc., 3333 Richmond Ave., Houston, TX 77098, proposes to amend 40 CFR 180 by establishing an exemption from the requirement of a tolerance under 40 CFR 180.960 for residues of 2-oxepanone, homopolymer (CAS Reg. No. 24980–41–4) in or on food commodities when used as a pesticide inert ingredient in a pesticide product. Because this petition is a request for an exemption from the requirement of a tolerance, no analytical method is required. Contact: Karen Samek, (703) 347–8825, *samek.karen@epa.gov*.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 4, 2008.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E8–4967 Filed 3–11–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0143; FRL–8353–9]

The Association of American Pesticide Control Officials/State FIFRA Issues Research and Evaluation Group Working Committee on Pesticide Operations and Management; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/ State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Pesticide Operations and Management (WC/POM) will hold a 2–day meeting, beginning on April 7, 2008 and ending April 8, 2008. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, April 7, 2008 from 8:30 a.m. to 5 p.m. and 8:30 a.m. to 12 noon on Tuesday, April 8, 2008.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at EPA, One Potomac Yard (South Bldg.) 2777 Crystal Dr., Arlington, VA, 4th Floor South Conference Room.

FOR FURTHER INFORMATION CONTACT: Georgia McDuffie, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 605–

0195; fax number: (703) 308–1850; e-mail address: *mcDuffie.georgia@epa.gov* or Grier Stayton, SFIREG Executive Secretary, P.O. Box 466, Milford, DE 19963; telephone number: (302) 422–8152; fax (302) 422–2435; e-mail address: *grier stayton <aapco-sfireg@comcast.net>*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are interested in SFIREG information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process are invited and encouraged to attend the meetings and participate as appropriate. Potentially affected entities may include, but are not limited to:

Those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

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

1. *Docket.* EPA has established a docket for this action under docket ID number EPA–HQ–OPP–2008–0143. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

1. Follow up report from EPA following pesticide label discussions at fall POM meeting

2. Proposal to Change Acreage Threshold for Experiment Use Permits (EUPs)

3. Update on NAFTA Labeling and Web-based Pesticide Labeling

4. Department of Homeland Security and their Chemicals of Interest List

5. Food Safety Issues Following Pesticide Misuse

6. Discussions on PART and EPA's 5700 Form

7. EPA Update/Briefing

a. Office of Pesticide Programs Update

b. Office of Enforcement Compliance Assurance Update

8. POM Working Committee Workgroups Issue Papers/Updates

III. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting to the person listed under **FOR FURTHER INFORMATION CONTACT**. Do not submit any information in your request that is considered CBI. Requests to participate in the meeting, identified by docket ID number EPA–HQ–OPP–2008–0143, must be received on or before April 11, 2008.

List of Subjects

Environmental protection.

Dated: March 3, 2008.

William R. Diamond,

Director, Field External Affairs Division, Office of Pesticide Programs.

[FR Doc. E8–4968 Filed 3–11–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8541–2]

Public Water System Supervision Program Variance and Exemption Review for the State of North Dakota

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 will conduct a statutory review of variances and exemptions issued by the State of North Dakota under the Safe Drinking Water Act (SDWA) Public Water System Supervision (PWSS) program. The SDWA, 42 U.S.C. 300 et seq., requires that EPA periodically review variances and exemptions issued by States with primary enforcement authority to determine compliance with requirements of the Statute 42 U.S.C. 300g–4(e)(8); 42 U.S.C. 300g–5(d). In accordance with these provisions in the SDWA, and its regulations at 40 CFR 142.22, EPA is giving public notice that EPA Region 8 will conduct a review of variances and exemptions issued by the State of North Dakota to Public Water Systems under its jurisdiction. The review will be conducted on March 31, 2008.

The public is invited to submit comments by April 28, 2008 on any or all variances and/or exemptions issued by the State of North Dakota, and on the need for continuing them. Results of this review will be published in the **Federal Register**.

ADDRESSES: Comments on variances and exemptions issued by the State of North Dakota should be addressed to: Robert E. Roberts, Regional Administrator, c/o Breann Bockstahler, U.S. EPA, Region 8, 1595 Wynkoop Street, Denver, CO 80202–2466. All data and other information with respect to the variances and exemptions issued by the State of North Dakota are located at the North Dakota Department of Health, Division of Municipal Facilities, 918 East Divide, Bismarck, North Dakota 58501–1947.

FOR FURTHER INFORMATION CONTACT: Breann Bockstahler at 303–312–6034 or *bockstahler.breann@epa.gov*.

SUPPLEMENTARY INFORMATION: North Dakota has an EPA approved program for primary enforcement authority for the PWSS program, pursuant to section 1413 of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300g–2 and 40 CFR Part 142.

A. Why Do States Issue Variances and Exemptions?

States with primary enforcement authority are authorized to grant variances and exemptions from National Primary Drinking Water Regulations to specific public water systems, provided these variances and exemptions meet the requirements of the SWDA Section 1415 and 1416 and are protective of public health.

B. Why Is a Review of the Variances and Exemption Necessary?

North Dakota is authorized to grant variances and exemptions to drinking water systems in accordance with the SDWA. The SDWA requires that EPA periodically review State issued variances and exemptions to determine compliance with the Statute. 42 U.S.C. 300g–4(e)(8); 42 U.S.C. 300g–5(d).

Dated: February 26, 2008.

Robert E. Roberts,

Regional Administrator, Region 8.

[FR Doc. E8–4907 Filed 3–11–08; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

DATE AND TIME: Monday, March 17, 2008, 10 a.m. Eastern Time.

PLACE: Clarence M. Mitchell, Jr. Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, NW., Washington, DC 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED: Open Session

1. Announcement of Notation Votes.
2. Proposed Renewal of UGESP Authorization under the Paperwork Reduction Act.

Note: In accordance with the Sunshine Act, the meeting will be open to public observation of the Commission's deliberations and voting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.)

Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTY) at any time for information on these meetings. The EEOC provides sign language interpretation at Commission meetings for the hearing impaired. Requests for other reasonable accommodations may be made by using the voice and TTY numbers listed above.

CONTACT PERSON FOR MORE INFORMATION: Stephen Llewellyn, Executive Officer on (202) 663–4070.

Dated: This Notice Issued March 10, 2008.

Stephen Llewellyn,

Executive Officer, Executive Secretariat.

[FR Doc. 08–1023 Filed 3–10–08; 2:45 pm]

BILLING CODE 6570–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

February 22, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995 (PRA), Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Subject to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before May 12, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. post mail. To submit your comments by e-mail, send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Cathy Williams at (202) 418–2918 or send an e-mail to *PRA@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0787.

Title: Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket No. 94–129, FCC 07–223.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or household; Business or other for profit entities; State, local or tribal government.

Number of Respondents: 25,041.

Estimated Time per Response: 1–10 hours.

Frequency of Response: Recordkeeping requirement; On occasion and biennial reporting requirements; Third party disclosure requirement.

Total Annual Burden: 105,901 hours.

Total Annual Cost: $51,285,000.

Obligation To Respond: Required to obtain or retain benefits.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals' and households' information is contained in the OSCAR database, which is covered under the Commission's system of records notice (SORN), FCC/CGB–1, ''Informal Complaints and Inquiries.''

Privacy Impact Assessment: Yes. The Privacy Impact Assessment was completed on June 28, 2007. It may be reviewed at: *http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html*.

Needs and Uses: Section 258 of the Telecommunications Act of 1996 directed the Commission to prescribe rules to prevent the unauthorized change by telecommunications carriers of consumers' selections of telecommunications service providers (slamming). On March 17, 2003, the FCC released the *Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking*, CC Docket No. 94–129, FCC 03–42 (*Third Order on Reconsideration*), in which the Commission revised and clarified certain rules to implement section 258 of the 1996 Act. On May 23, 2003, the Commission released an *Order* (CC Docket No. 94–129, FCC 03–116) clarifying certain aspects of the *Third Order on Reconsideration*. On January 9, 2008, the Commission released the *Fourth Report and Order*, CC Docket No. 94–129, FCC 07–223, revising its requirements concerning verification of a consumer's intent to switch carriers. The *Fourth Report and Order* modifies the information collection requirements contained in 64.1120(c)(3)(iii) to provide for verifications to elicit ''confirmation that the person on the call understands that a carrier change, not an upgrade to existing service, bill consolidation, or any other misleading description of the transaction, is being authorized.''

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–4953 Filed 3–11–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

March 3, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as

required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 11, 2008. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget, (202) 395–5887, or via fax at 202–395–5167 or via internet at: *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B. Herman@fcc.gov*, Federal Communications Commission, or an e-mail to *PRA@fcc.gov*. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review'', (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0850.

Title: Quick Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Services.

Form No.: FCC Form 605.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; and business or other for-profit; not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 175,000 respondents; 175,000 responses.

Estimated Time per Response: .44 hours (average).

Frequency of Response: On occasion and every five or ten year reporting requirement, third party disclosure requirement and recordkeeping requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 4(i), 303(r), and 332(a)(2) of the Communications Act of 1934, as amended.

Total Annual Burden: 77,000 hours.

Total Annual Cost: $2,538,000.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: To protect the privacy of its applicants, the FCC will redact the telephone number(s) of applicants and the bid date for the Commercial Operator applicants. Information on the FCC Form 605 is maintained in the Commission's system of records, FCC/WTB–1, ''Wireless Services Licensing Records.'' These licensee records are publicly available and routinely used in accordance with subsection b of the Privacy Act, 5 U.S.C. 552a(b), as amended. Taxpayer Identification Numbers (TINs) and material that is afforded confidential treatment pursuant to a request made under 47 CFR 0.459 of the Commission's rules will not be available for public inspection.

Needs and Uses: The Commission will submit this information collection (IC) to the OMB as a revision during this comment period to obtain the full three-year clearance from them. There have been no changes in the estimated number of respondents, burden hours and annual costs. The Commission, on its own motion, is now revising FCC Form 605 Schedule D by removing within the past two years on the first eligibility of Item 2 per 47 CFR 97.21(b). The FCC Form 605 is a multi-part, consolidated, general application form that is part of the Universal Licensing System (ULS). FCC Form 605 includes a main form containing administrative information and a series of Schedules used to file technical information applicable to a specific radio service. The form is used to file for authorization to operate radio stations, amend pending applications, modify existing licenses, renew or renew/modify existing licenses, request cancellation of a license, withdraw a pending application, request a duplicate license, or request an administrative update of an existing license (i.e., name change without change to corporate structure or control), change mailing address, change name of vessel, etc. in the Ship (Part 80), Aircraft (Part 87), Amateur (including Amateur Vanity) (Part 97), Restricted and Commercial (Part 13), and General Mobile Radio Services (GMRS) (Part 95). This form is also used to apply for a Developmental License or a Special Temporary Authority (STA) in these services and to self-certify for temporary authorization to operate where applicable. Respondents are encouraged to submit FCC Form 605 electronically via ULS. The FCC uses the information collected on the FCC Form 605 to determine whether the applicant is legally, technically, and financially qualified to obtain a license. Without such information, the Commission cannot determine whether to issue the licenses to the applicants that provide telecommunication services to the public, and therefore, to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. Information provided on this form will also be used to update the Commission's database and to provide for proper use of the frequency spectrum as well as enforcement purposes.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–4958 Filed 3–11–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Requirements Being Submitted to OMB for Emergency Review and Approval, Comments Requested

March 7, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to (PRA) of 1995 (PRA), Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a

currently valid control number. Subject to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before April 11, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167 and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC or via Internet at *PRA@fcc.gov*.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

You may submit all PRA comments by email or U.S. post mail. To submit your comments by email, send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Cathy Williams at (202) 418–2918 or send an e-mail to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Commission is requesting emergency OMB processing of the information collection requirements contained in this notice and has requested OMB approval by March 27, 2008.

OMB Control Number: 3060–XXXX.

Title: DTV Consumer Education Initiative; Sections 15.124, 27.20, 54.418, 73.674, and 76.1630.

Form Number: FCC Form 388.

Type of Review: New collection.

Respondents: Business or other for-profit entities; not-for-profit institutions, State, local or tribal governments.

Number of Respondent: 11,022 respondents.

Estimated time per Response: 1 minute–3 hours.

Frequency of Response: On occasion reporting requirement; Quarterly reporting requirement; Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain benefits—Statutory authority for this collection of information is contained in Sections 4(i), 303(r), 335, and 336 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), 335, and 336.

Total Annual Burden: 156,069 hours.

Total Annual Cost: None.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission adopted on February 19, 2008, a Report and Order, *In the Matter DTV Consumer Education Initiative,* MB Docket 07–148, FCC 08–56. As the Nation transitions from analog broadcast television service to digital broadcast television service, the Commission has been committed to working with representatives from industry, public interest groups, and Congress to make the significant benefits of digital broadcasting available to the public. The digital transition will make valuable spectrum available for both public safety uses and expanded wireless competition and innovation. By compressing television broadcasting into a smaller amount of the available spectrum, the digital transition has allowed the Commission to make valuable 700 MHz spectrum available for sale and use by wireless companies and public safety organizations. The transition will also provide consumers with better quality television picture and sound, and make new services available through multicasting. These innovations, however, are dependent upon widespread consumer understanding of the benefits and mechanics of the transition. The Congressional decision to establish a hard deadline of February 17, 2009, for the end of full-power analog broadcasting has made consumer awareness even more critical. In this Order, the Commission imposes the following information and disclosure requirements:

(a) Broadcaster Education and Reporting (47 CFR 73.674).

(i) On-air Education. Broadcasters must provide on-air DTV Transition consumer education information (e.g., via Public Service Announcements (PSAs) or information crawls) to their viewers. Broadcasters must comply with one of three alternative sets of rules as provided in the Report and Order.

(ii) DTV Consumer Education Quarterly Activity Report, FCC Form 388. Broadcasters must electronically file a report about its DTV Transition consumer education efforts to the Commission on a quarterly basis. Broadcasters must begin filing these quarterly reports no later than April 10, 2008. In addition, if the broadcaster has a public website, they must post these reports on that Web site.

(b) Multichannel Video Programming Distributor (MVPD) Customer Bill Notices (47 CFR 76.1630). MVPDs, which include, for example (and are not limited to), cable operators, direct broadcast satellite (DBS) carriers, open video system operators, and private cable operators, must provide monthly notices about the DTV transition in their customer billing statements.

(c) Consumer Electronics Manufacturer Notices (47 CFR 15.124). Parties that manufacture, import, or ship interstate television receivers and devices designed to work with television receivers must provide notice to consumers of the transition's impact on that equipment. This information must be included with all devices shipped, beginning on the effective date of these rules, until March 31, 2009.

(d) DTV.gov Partner Consumer Education Reporting. DTV.gov Transition Partners must report their consumer education efforts, as a condition of continuing Partner status. They must begin filing these quarterly reports no later than April 10, 2008.

(e) Eligible telecommunications carriers (ETCs) Federal Universal Service Low-Income Program Participant Notices (47 CFR 54.418). ETCs that receive federal universal service funds must provide monthly notice of the transition to their low

income customers and potential customers. This information must be provided beginning on the effective date of these rules, until March 31, 2009.

(f) 700 MHz Auction Winner Consumer Education Reporting (47 CFR 27.20). Winners of the 700 MHz spectrum auction must report their consumer education efforts to the Commission on a quarterly basis. These parties must file the first by the tenth day of the first calendar quarter following the initial grant of the license authorization that the entity holds.

OMB Control Number: 3060–0214.

Title: Sections 73.3526 and 73.3527, Local Public Inspection Files; Sections 76.1701 and 73.1943, Political Files.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not for-profit institutions.

Number of Respondent: 52,285 respondents.

Estimated time per Response: 2.5—109 hours.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain benefits—Statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,831,706 hours.

Total Annual Cost: None.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission adopted on February 19, 2008, a Report and Order, *In the Matter DTV Consumer Education Initiative,* MB Docket 07–148, FCC 08–56. The Report and Order adds a new recordkeeping requirement for full-power commercial and noncommercial educational TV broadcast stations (both analog and digital) for the contents of their public inspection files. Specifically, the rule requires these stations to retain in their public inspection file a copy of their DTV Consumer Education Quarterly Activity Report, FCC Form 388, on a quarterly basis. The Report for each quarter is to be placed in the public inspection file by the tenth day of the succeeding calendar quarter. These Reports shall be retained in the public inspection file for one year. Broadcasters shall publicize in an appropriate manner the existence and location of these Reports.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E8–4963 Filed 3–11–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested

March 6, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 11, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167 and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC or via Internet at *Cathy.Williams@fcc.gov* or *PRA@fcc.gov*.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.''

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0960.

Title: 47 CFR 76.122, Satellite Network Non-duplication Protection Rules; 47 CFR 76.123, Satellite Syndicated Program Exclusivity Rules; 47 CFR 76.124, Requirements for Invocation of Non-duplication and Syndicated Exclusivity Protection; 47 CFR 76.127, Satellite Sports Blackout Rules.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,428.

Estimated Time Per Response: 0.5–1 hour.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Total Annual Burden: 12,402 hours.

Total Annual Costs: None.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 76.122, 76.123, 76.124 and 76.127 are used to protect exclusive contract rights negotiated between broadcasters, distributors, and rights holders for the transmission of network, syndicated, and sports programming in the broadcasters' recognized market areas. Rule sections 76.122 and 76.123 implement statutory requirements to provide rights for in-market stations to assert non-duplication and exclusivity rights.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–4964 Filed 3–11–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Friday, March 14, 2008, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Assessment Rates for 2008.

Memorandum and resolution re: Notice of Proposed Rulemaking on Assessment Dividends.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

This Board meeting will be Webcast live via the Internet at: *http://www.vodium.com/goto/fdic/boardmeetings.asp.* This service is free and available to anyone with the following systems requirements: *http://www.vodium.com/home/sysreq.html.* (*http://www.vodium.com*). Adobe Flash Player is required to view these presentations. The latest version of Adobe Flash Player can be downloaded at *http://www.macromedia.com/go/getflashplayer.* Installation questions or troubleshooting help can be found at the same link. For optimal viewing, a high speed Internet connection is recommended. The Board meetings videos are made available on-demand approximately one week after the event.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Ms. Valerie J. Best, Assistant Executive Secretary of the Corporation, at (202) 898–7122.

Dated: March 7, 2008.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E8–4970 Filed 3–11–08; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Friday, March 14, 2008, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to section 552b(c)(2), (c)(4), (c)(6), (c)(8), and (9)(A)(ii) of Title 5, United States Code, to consider matters relating to the Corporation's supervisory and corporate activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Ms. Valerie J. Best, Assistant Executive Secretary of the Corporation, at (202) 898–7122.

Dated: March 7, 2008.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E8–4971 Filed 3–11–08; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011679–010.

Title: ASF/SERC Agreement.

Parties: American President Lines, Ltd./APL Co. Pte Ltd.; ANL Singapore Pte Ltd.; China Shipping (Group) Company/China Shipping Container Lines, Co. Ltd.; COSCO Container Lines Company, Ltd.; Evergreen Line Joint Service; Hanjin Shipping Co., Ltd.; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; Orient Overseas Container Line Ltd.; Wan Hai Lines Ltd.; and Yang Ming Marine Transport Corp.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment removes Sinotrans Container Lines Co., Ltd. as a party to the agreement.

Agreement No.: 012031.

Title: MSC/Maersk Line Trans-Pacific Slot Swap Agreement.

Parties: A.P. Moller-Maersk A/S and Mediterranean Shipping Company SA.

Filing Party: Wayne R. Rohde, Esq.; Sher and Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The agreement authorizes the parties to exchange space on their respective vessels between ports in California and ports in the Republic of China, Taiwan, and Japan.

Agreement No.: 012032.

Title: CMA CGM/MSC/Maersk Line North and Central China-US Pacific Coast Two-Loop Space Charter, Sailing and Cooperative Working Agreement.

Parties: A.P. Moller-Maersk A/S, CMA CGM S.A., and Mediterranean Shipping Company S.A.

Filing Party: Wayne R. Rohde, Esq.; Sher and Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The agreement authorizes the parties to share vessel space between the U.S. Pacific Coast and China and Taiwan.

Agreement No.: 012033.

Title: CSAV/NYK USEC–WCSA Space Charter Agreement.

Parties: Compania Sud Americana De Vapores S.A. and Nippon Yusen Kaisha.

Filing Party: Michael B. Holt, Esq.; Vice President and General Counsel; NYK Line (North America) Inc.; 300 Lighting Way, 5th Floor; Secaucus, NJ 07094.

Synopsis: The agreement authorizes the parties to charter space from Baltimore, MD and Miami, FL to ports in Chile and Peru.

Dated: March 7, 2008.

By order of the Federal Maritime Commission.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E8–4911 Filed 3–11–08; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR Part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

Radius International Inc., 580 Chelsea Street, #203A, East Boston, MA 02128. *Officers:* John R. Deschamps, President, (Qualifying Individual), Kirk E. Koylion, Secretary.

SK Transportation Inc., 300 Piedmont Court, Ste. B, Doraville, GA 30340. *Officer:* Jong S. Choi, President, (Qualifying Individual).

Sunny Group USA, Inc., 16445 Main Street, La Puente, CA 91744. *Officers:* Charles Kuo, Secretary, (Qualifying Individual), Kai Lin, CEO.

Caribbean Cargo, D.C., LLC, 5108 Buchanan Street, Unit C, Hyattsville, MD 20781. *Officers:* Ansel L. Hall, Director, (Qualifying Individual), Royston DeSouza, President.

Caribbean International Shipping Services, Inc., 3034 Miller Road, Lithonia, GA 30038. *Officers:* Sharon Mitchell-Barnwell, CEO, (Qualifying Individual), Wilford Hoppie, President.

ARC Logistics, Inc., 9505 Aerospace Drive, St. Louis, MO 63134. *Officers:* Anthony Rimland, President, (Qualifying Individual), Robin Gallagher, Secretary.

ARC Logistics, Inc., 510 Plaza Drive, #2770, Atlanta, GA 30349. *Officers:* Anthony Rimland, President, (Qualifying Individual), Robin Gallagher, Secretary.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Cargo Care, LLC, 10842 Kensington Park Avenue, Riverview, FL 33569. *Officers:* Shelly L. Macaluso, Member, Manager, (Qualifying Individual), Matthew Toomey, Member, Manager.

C&C International Logistics Inc., 99 W. Hawthorne Avenue, #620, Valley Stream, NY 11580. *Officer:* Chaney Chang, Vice President, (Qualifying Individual).

JBL Services Inc., 625 Gatewood, Garland, TX 75043. *Officers:* Jerson G. Monterrose, President, (Qualifying Individual), Maria H. Monterrose, Vice President.

Procargo USA LLC, 2135 NW 79 Avenue, Miami, FL 33122. *Officers:* Jorgelina G. Crespo, Manager, (Qualifying Individual), Pablo A. Lopez, Manager.

Smartex Corp., 5055 NW 74 Avenue, #5, Miami, FL 33166. *Officers:* Juan C. Betancourt, President, (Qualifying Individual), Maria A. Betancourt, Vice President.

Civaro North America, Inc., dba Athena Express Line, 172 East Manville Street, Unit A, Compton, CA 90220. *Officers:* Don N. Karunanayake, Secretary, (Qualifying Individual), Devinda Molligoda, Director.

EU, Inc. dba EU Forwarding, 3742 Sepulveda Blvd., Torrance, CA 90505. *Officers:* June L. Ko, Secretary, (Qualifying Individual), Duck S. Choi, President.

Oceanblue Logistics, Inc., 11427 Hanover Ct., Cerritos, CA 90703. *Officer:* Ki J. Seong, President, (Qualifying Individual).

CorTrans Logistics, LLC, 5335 Triangle Parkway, #450, Norcross, GA 30092–2594. *Officers:* Shaemus McNally, Import/Export Spec./ Sales, (Qualifying Individual), William R. Cortez, President.

Three Oceans Transport, Inc., 501 East Kennedy Blvd., #1700, Tampa, FL 33602. *Officers:* James W. Thomas, Vice President, (Qualifying Individual), Graham Bott, President.

ASG Corporation dba RJL Logistics, As Lito Rd., Koblerville Village, CK, Saipan, MP 96950. *Officers:* Floresto S. Segismundo, President, (Qualifying Individual), Lorna Segismundo, Secretary.

Relocation Benefits, LLC, 3390 Hawk Ridge Trail, Green Bay, WI 54313. *Officers:* Andrew L. Drescher, President, (Qualifying Individual), Patti L. Drescher, CEO.

CEVA Freight, LLC dba CEVA Ocean Line, EGL Ocean Line, 15350 Vickery Drive, Houston, TX 77032. *Officers:* Mark Malambri, Asst. Secretary, (Qualifying Individual), Edward J. Bento, President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

All Points Global Logistics, Inc., 13591 Tarrasa Court East, Jacksonville, FL 32225. *Officer:* Laura L. Weast, President, (Qualifying Individual).

Allround Logistics Inc., 1809 Fashion Court, Suite 101, Joppa, MD 21085. *Officers:* Roland Meier, President, (Qualifying Individual), Ellen Meier, Vice President.

AtsaCargo, Inc., 14241 SW 18th Street, Miami, FL 33175. *Officers:* Arcenio Taveras Numez, Secretary, (Qualifying Individual), Maria Taveras Nunez, President.

Dated: March 7, 2008.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E8–4916 Filed 3–11–08; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515.

License No.	Name/address	Date reissued
002723NF	Air-Oceanic Services, Inc., 2139 NW 79th Avenue Miami, FL 33126	October 7, 2007.
003672F	Astral Freight Services, Inc., 1418 NW 82nd Avenue Doral, FL 33126–1508	November 22, 2007.
017871N	D & D Worldwide, Inc., 96 Linwood Plaza,#391 Fort Lee, NJ 07024	January 12, 2008.
004569F	D. Kratt International, Inc., dba Transcontinental Exports, Ltd. 2500 West Higgins Road Suite 140 Hoffman Estates, IL 60195.	January 5, 2008.
003134F	Enterprise Forwarders, Inc., 2350 NW 93rd Avenue Miami, FL 33172	January 2, 2008.
016514F	Rosemark International LLC, 3491 Long Drive Minden, NV 89432	November 28, 2007.

License No.	Name/address	Date reissued
018609N	Great World Int'l Services, Inc., 236 West Portal Ave., #772 San Francisco, CA 94127	February 11, 2008.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E8–4919 Filed 3–11–08; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515, effective on the corresponding date shown below:

License Number: 015247N.
Name: Amerindias, Inc.
Address: 5220 NW 72nd Ave., Ste. 3, Miami, FL 33166.
Date Revoked: February 21, 2008.
Reason: Failed to maintain a valid bond.

License Number: 018675N.
Name: Barrow Freight System, Inc.
Address: 1633 Bayshore Hwy., Ste. 123, Burlingame, CA 94010.
Date Revoked: February 19, 2008.
Reason: Failed to maintain a valid bond.

License Number: 020768N.
Name: Continental Services & Carrier Inc.
Address: 5579 NW 72nd Ave., Miami, FL 33166.
Date Revoked: February 3, 2008.
Reason: Failed to maintain a valid bond.

License Number: 014344N.
Name: Cross Trade Freight Forwarding, LLC.
Address: 255 West 36th Street, Ste. 1001, New York, NY 10018.
Date Revoked: January 3, 2008.
Reason: Surrendered license voluntarily.

License Number: 004569N.
Name: D. Kratt International, Inc. dba Dennehy-Kratt Line.
Address: 2500 West Higgins Rd., Ste. 140, Hoffman Estates, IL 60195.
Date Revoked: January 5, 2008.
Reason: Failed to maintain a valid bond.

License Number: 004230NF.
Name: Dart Express (CHI) Inc.
Address: 1001 Nicholas Blvd., Ste. L, Elk Grove Village, IL 60007.
Date Revoked: November 13, 2007.
Reason: Surrendered license voluntarily.

License Number: 003097F.
Name: Donald International Inc.
Address: 5250 W. Century Blvd., Ste. 405, Los Angeles, CA 90045.
Date Revoked: February 14, 2008.
Reason: Failed to maintain a valid bond.

License Number: 018889N.
Name: Fargo Transportation Service
Address: 9660 Flair Drive, Ste. 226, El Monte, CA 91731.
Date Revoked: February 5, 2008.
Reason: Surrendered license voluntarily.

License Number: 018609N.
Name: Great World Int'l Services, Inc.
Address: 236 West Portal Ave., #772, San Francisco, CA 94127.
Date Revoked: February 11, 2008.
Reason: Failed to maintain a valid bond.

License Number: 002305F.
Name: Hub Forwarding Company, Inc.
Address: 165 Beal Street, Hingham, MA 02043.
Date Revoked: February 5, 2008.
Reason: Surrendered license voluntarily.

License Number: 002970F.
Name: John A. Steer, Inc.
Address: 28 South 2nd Street, Philadelphia, PA 19106.
Date Revoked: February 28, 2008.
Reason: Surrendered license voluntarily.

License Number: 020000NF.
Name: KPAC Aerocean, Inc. dba Aerocean Transport Services.
Address: 550 E. Carson Plaza Dr., Ste. 109, Carson, CA 90746.
Date Revoked: February 22, 2008.
Reason: Failed to maintain valid bonds.

License Number: 019353N.
Name: LOF Express, Inc.
Address: 955 Hurricane Shoals Rd., NE., Ste. 107, Lawrenceville, GA 30043.
Date Revoked: February 9, 2008.
Reason: Failed to maintain a valid bond.

License Number: 001573F.
Name: Marquis Surface Corporation.
Address: 147–39 175th Street, Jamaica, NY 11434.
Date Revoked: February 3, 2008.
Reason: Failed to maintain a valid bond.

License Number: 009807N.
Name: Newport Ocean Consolidator Inc. dba Newport Container Line.
Address: 5250 W. Century Blvd., Ste. 602, Los Angeles, CA 90045.
Date Revoked: February 8, 2008.
Reason: Surrendered license voluntarily.

License Number: 016514N.
Name: Rosemark International LLC dba Rosemark Shipping.
Address: 3491 Long Drive, Minden, NV 89432.
Date Revoked: November 28, 2007.
Reason: Failed to maintain a valid bond.

License Number: 014366N.
Name: S & T Freight Management, Inc.
Address: 2002 East Driftstone Drive, Glendora, CA 91740.
Date Revoked: February 11, 2008.
Reason: Failed to meintain a valid bond.

License Number: 003060F.
Name: Servco Pacific Inc.
Address: P.O. Box 2788, Honolulu, HI 96803.
Date Revoked: February 7, 2008.
Reason: Surrendered license voluntarily.

License Number: 019953N.
Name: Speedy Freight Services
Address: 33442 Western Ave., Union City, CA 94587.
Date Revoked: February 9, 2008.
Reason: Failed to maintain a valid bond.

License Number: 017984N.
Name: TW International Inc. dba Dyna Express.
Address: 147–34 176th Street, Jamaica, NY 11434.
Date Revoked: January 28, 2008.
Reason: Surrendered license voluntarily.

License Number: 020069N.
Name: Transpoint LLC.
Address: 5770 Dividend Rd., Indianapolis, IN 46241.
Date Revoked: February 8, 2008.
Reason: Surrendered license voluntarily.

License Number: 017279F.
Name: Unicom Trans, Inc.
Address: 15500 S. Western Ave., Gardena, CA 90249.
Date Revoked: February 23, 2008.

Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E8–4912 Filed 3–11–08; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 7, 2008.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Wisconsin Bancorp, Inc., Milwaukee, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Mid America Bank, Janesville, Wisconsin.

Board of Governors of the Federal Reserve System, March 7, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–4874 Filed 3–11–08; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice of a decision to designate a class of employees at Combustion Engineering, Windsor, Connecticut, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On March 3, 2008, the Secretary of HHS designated the following class of employees as an addition to the SEC:

Atomic Weapons Employer (AWE) employees who worked at the Combustion Engineering site in Windsor, Connecticut, from January 1, 1965, through December 31, 1972, for a number of work days aggregating at least 250 work days or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation will become effective on April 2, 2008, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

Dated: March 5, 2008.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E8–4865 Filed 3–11–08; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice of a decision to designate a class of employees at the Mound Plant, near Dayton, Ohio, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On March 3, 2008, the Secretary of HHS designated the following class of employees as an addition to the SEC:

Employees of the Department of Energy (DOE), its predecessor agencies, and DOE contractors or subcontractors who worked in any area at the Mound Plant site from October 1, 1949, through February 28, 1959, for a number of work days aggregating at least 250 work days or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation will become effective on April 2, 2008, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

Dated: March 5, 2008.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E8–4866 Filed 3–11–08; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice of a decision to designate a class of employees at the Lawrence Livermore National Laboratory, Livermore, California, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On March 3, 2008, the Secretary of HHS designated the following class of employees as an addition to the SEC:

Employees of the Department of Energy (DOE), its predecessor agencies, and DOE contractors or subcontractors who were monitored for radiation exposure while working at the Lawrence Livermore National Laboratory from January 1, 1950, through December 31, 1973, for a number of work days aggregating at least 250 work days or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation will become effective on April 2, 2008, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

Dated: March 5, 2008.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E8–4867 Filed 3–11–08; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Biodefense Science Board; Notification of a Public Teleconference

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the National Biodefense Science Board (NBSB) will be holding a public teleconference. The meeting is open to the public.

DATES: The NBSB will hold a public teleconference on March 26, 2008. The teleconference will be held from 2 p.m. to 3 p.m. EST.

ADDRESSES: The conference will be conducted by phone.

FOR FURTHER INFORMATION, CONTACT: Any member of the public wishing to obtain general information concerning this public teleconference should contact CAPT Leigh A. Sawyer, D.V.M., M.P.H.,
Executive Director, National Biodefense Science Board, Office of the Assistant Secretary for Preparedness and Response, U.S. Department of Health and Human Services, 200 Independence Ave, SW., Room 450G, Washington, DC 20201; via telephone/voice mail: 202–205–3815; fax: 202–690–7412; or e-mail at: *leigh.sawyer@hhs.gov*.

SUPPLEMENTARY INFORMATION: The NBSB was established by section 319M of the Public Health Service Act (42 U.S.C. 247d–7f) as added by section 402 of the Pandemic and All-Hazards Preparedness Act (Pub. L. 109–417) to provide advice to the Secretary of Health and Human Services. The NBSB provides expert advice and guidance to the Secretary on scientific, technical and other matters of special interest to the Department of Health and Human Services regarding current and future chemical, biological, nuclear, and radiological (CBRN) agents, whether naturally occurring, accidental, or deliberate.

Background: The Office of Preparedness and Emergency Operations within the Office of the Assistant Secretary for Preparedness and Response in the U.S. Department of Health and Human Services has asked the NBSB to provide objective, scientifically based advice and recommendations on the proposed Federal Education and Training Interagency Group (FETIG). The function of the proposed FETIG is to serve as the coordinating mechanism for public health and medical disaster preparedness and response core curricula, training, and education across executive departments and agencies. The Disaster Medicine Working Group, formed by the National Biodefense Science Board on December 18, 2007, is in the process of reviewing the proposed FETIG draft Charter.

The purpose of the March 26th teleconference is for the NBSB to consider the assessment of the Disaster Medicine Working Group's review of the proposed FETIG draft charter and to provide recommendations to the Secretary of the U.S. Department of Health and Human Services regarding the proposed FETIG draft charter and the coordination of core curricula, training, and education for public health and medical disaster preparedness. The public teleconference will include a report from the NBSB Disaster Medicine Working Group.

Availability of Materials: The draft agenda and other materials will be posted on the NBSB Web site at *http://www.hhs.gov/aspr/omsph/nbsb/index.html* prior to the meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the NBSB to consider. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public NBSB teleconference will be limited to three minutes per speaker, with no more than a total of one hour for all speakers. To be placed on the public speaker list, interested parties should contact CAPT Leigh A. Sawyer, Executive Director, in writing (preferably via e-mail), by March 19, 2008. *Written Statements:* In general, individuals or groups may file written comments with the committee. All written comments must be received prior to March 19, 2008 and should be sent by e-mail with ''NBSB Public Comment'' as the subject line or by regular mail to the Contact person listed above. Individuals who wish to participate on the public teleconference and need special assistance should notify the designated contact person by March 19, 2008.

Dated: February 27, 2008.

RADM William C. Vanderwagen,

Assistant Secretary for Preparedness and Response, U.S. Department of Health and Human Services.

[FR Doc. E8–4947 Filed 3–11–08; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ).

ACTION: Notice of public meeting.

SUMMARY: In accordance with section l0(a) of the Federal Advisory Committee Act, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: The meeting will be held on Friday, April 4, 2008, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Eisenberg Conference Center, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850.

FOR FURTHER INFORMATION CONTACT: Deborah Queenan, Coordinator of the Advisory Council, at the Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland, 20850, (301) 427–1330. For press-related information, please contact Karen Migdail at (301) 427–1855.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Mr. Donald L. Inniss, Director, Office of Equal Employment Opportunity Program, Program Support Center, on (301) 443–1144, no later than March 21, 2008. The agenda, roster, and minutes are available from Ms. Bonnie Campbell, Committee Management Officer, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850. Ms. Campbell's phone number is (301) 427–1554.

SUPPLEMENTARY INFORMATION:

I. Purpose

The National Advisory Council for Healthcare Research and Quality was established in accordance with section 921 (now section 931) of the Public Health Service Act (42 U.S.C. 299c). In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to actions of the Agency to enhance the quality, improve the outcomes, reduce the costs of health care services, improve access to such services through scientific research, and to promote improvements in clinical practice and in the organization, financing, and delivery of health care services. The Council is composed of members of the public, appointed by the Secretary, and Federal ex-officio members.

II. Agenda

On Friday, April 4, the Council meeting will convene at 9 a.m., with the call to order by the Council Chair and approval of previous Council minutes. The AHRQ director will present her update on current research, programs, and initiatives. The agenda will include an introduction of new Council members, discussion of a strategy for expanding measure development, and a discussion of program priorities for the 2010 budget. The final agenda will be available on the AHRQ Web site at *http;//www.ahrq.gov* no later than March 31, 2008.

Dated: February 29, 2008.

Carolyn M. Clancy,

Director.

[FR Doc. E8–4680 Filed 3–11–08; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Human Immunodeficiency Virus (HIV) Prevention Projects for the Commonwealth of Puerto Rico and the United States Virgin Islands, Program Announcement (PA) Number PS 08–803

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 aforementioned meeting.

Time and Date:

5 p.m.–7:30 p.m., March 24, 2008 (Closed)

9 a.m.–5 p.m., March 25, 2008 (Closed)

9 a.m.–5 p.m., March 26, 2008 (Closed)

Place: W Atlanta Hotel at Perimeter Center, 111 Perimeter Center, Atlanta, GA 30346.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of ''Human Immunodeficiency Virus (HIV) Prevention Projects for the Commonwealth of Puerto Rico and the United States Virgin Islands, PA# PS 08–803.

National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP) determines that agency business requires its consideration of this matter on less than 15 days notice to the public and that no earlier notice of this meeting was possible.

Contact Person for More Information: Beth Wolfe, Prevention Support Office, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, CDC, 8 Corporate Square Boulevard,M/S E07, Atlanta, GA 30329, Telephone (404) 639–8531.

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: March 7, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 08–1013 Filed 3–10–08; 9:14 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Injury Prevention and Control/Initial Review Group, (NCIPC/IRG)

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 of the aforementioned review group:

Time and Date:

8 a.m.–8:30 a.m., March 31, 2008 (Open).

8:30 a.m.–5p.m., March 31, 2008 (Closed).

Place: Embassy Suites Atlanta—Buckhead, 3285 Peachtree Road, NE., Atlanta, GA 30305, Telephone (404) 261–7733.

Status: Portions of the meetings will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5, U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to section 10(d) of Public Law 92–463.

Purpose: This group is charged with providing advice and guidance to the Secretary, Department of Health and Human Services, and the Director, CDC, concerning the scientific and technical merit of grant and cooperative agreement applications received from academic institutions and other public and private profit and nonprofit organizations, including State and local government agencies, to conduct

specific injury research that focuses on prevention and control.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of individual research grant and cooperative agreement applications submitted in response to the Fiscal Year 2008 Funding Opportunity Announcement (FOA) CE08–001: Youth Violence Prevention Through Community-Level Change.

Agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: J. Felix Rogers, Ph.D., M.P.H., Telephone (770) 488–4334, NCIPC/ERPO, CDC, 4770 Buford Highway, NE., M/S F62, Atlanta, GA 30341.

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: March 6, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–4945 Filed 3–11–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): National Institute for Occupational Safety and Health (NIOSH) Education and Research Center, Program Announcement for Research (PAR) PAR06–485

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 aforementioned meeting.

Time and Date: 1 p.m.–2 p.m., March 17, 2008 (Closed).

Place: NIOSH, 2400 Century Parkway, NE., Atlanta, GA 30345, Telephone (866) 649–6988.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of ''NIOSH Education and Research Center, PAR 06–485.''

NIOSH determines that agency business requires its consideration of this matter on less than 15 days notice to the public and that no earlier notice of this meeting was possible.

FOR FURTHER INFORMATION CONTACT: M. Chris Langub, PhD., Scientific Review Officer, NIOSH, CDC, 2400 Century Parkway, NE., Atlanta, GA 30345, Telephone (404) 498–2543.

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: March 6, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–4906 Filed 3–11–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0154]

Agency Information Collection Activities; Proposed Collection; Comment Request; Good Laboratory Practice Regulations for Nonclinical Studies

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the good laboratory practice (GLP) for nonclinical laboratory studies regulations.

DATES: Submit written or electronic comments on the collection of information by May 12, 2008.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Good Laboratory Practice (GLP) Regulations for Nonclinical Studies—21 CFR Part 58 (OMB Control Number 0910–0119)—Extension

Sections 409, 505, 512, and 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348, 355, 360b, and 360e) and related statues require manufacturers of food additives, human drugs and biological products, animal drugs, and medical devices to demonstrate the safety and utility of their product by submitting applications to FDA for research or marketing permits. Such applications contain, among other important items, full reports of all studies done to demonstrate product safety in humans and/or other animals. In order to ensure adequate quality control for these studies and to provide an adequate degree of consumer protection, the agency issued the GLP regulations. The regulations specify minimum standards for the proper conduct of safety testing and contain sections on facilities, personnel, equipment, standard operating procedures (SOPs), test and control articles, quality assurance, protocol and conduct of a safety study, records and reports, and laboratory disqualification.

The GLP regulations contain requirements for the reporting of the results of quality assurance unit inspections, test and control article characterization, testing of mixtures of test and control articles with carriers, and an overall interpretation of nonclinical laboratory studies. The GLP regulations also contain recordkeeping requirements relating to the conduct of safety studies. Such records include the following information: (1) Personnel job descriptions and summaries of training and experience; (2) master schedules, protocols and amendments thereto, inspection reports, and SOPs; (3) equipment inspection, maintenance, calibration, and testing records; (4) documentation of feed and water analyses and animal treatments; (5) test article accountability records; and (6) study documentation and raw data.

The information collected under GLP regulations is generally gathered by testing facilities routinely engaged in conducting toxicological studies and is used as part of an application for a research or marketing permit that is voluntarily submitted to FDA by persons desiring to market new products. The facilities that collect this information are typically operated by large entities, e.g., contract laboratories, sponsors of FDA-regulated products, universities, or Government agencies. Failure to include the information in a filing to FDA would mean that agency scientific experts could not make a valid determination of product safety. FDA receives, reviews, and approves hundreds of new product applications each year based on information received. The recordkeeping requirements are necessary to document the proper conduct of a safety study, to assure the quality and integrity of the resulting final report, and to provide adequate proof of the safety of regulated products. FDA conducts onsite audits of records and reports, during its inspections of testing laboratories, to verify reliability of results submitted in applications.

The likely respondents collecting this information are contract laboratories, sponsors of FDA-regulated products, universities, or Government agencies.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
58.35(b)(7)	300	60.25	18,075	1	18,075
58.185	300	60.25	18,075	27.65	499,774
Total					517,849

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record	Total Hours
58.29(b)	300	20	6,000	.21	1,260
58.35(b)(1) to (b)(6) and (c)	300	270.76	81,228	3.36	272,926
58.63(b) and (c)	300	60	18,000	.09	1,620
58.81(a) to (c)	300	301.8	90,540	.14	12,676
58.90(c) and (g)	300	62.7	18,810	.13	2,445
58.105(a) and (b)	300	5	1,500	11.8	17,700
58.107(d)	300	1	300	4.25	1,275
58.113(a)	300	15.33	4,599	6.8	31,273
58.120	300	15.38	4,614	32.7	150,878
58.195	300	251.5	75,450	3.9	294,255
Total					786,308

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Please note that on January 15, 2008, the FDA Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA through FDMS only.

Dated: March 6, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–4903 Filed 3–11–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection: Comment Request; Revision of OMB No. 0925–0002, exp. 10/31/08, ''Ruth L. Kirschstein NRSA Individual Fellowship Application and Related Forms''

Summary: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Office of Extramural Research, the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Ruth L. Kirschstein NRSA Individual Fellowship Application and Related Forms. *Type of Information Collection Request:* Revision of a currently approved collection, OMB 0925–0002, Expiration Date 10/31/08. Form Numbers: PHS 416–1, 416–9, 416–5, 416–7, 6031, 6031–1. *Need and Use of Information Collection:* The PHS 416–1 and 416–9 are used by individuals to apply for direct research training support. Awards are made to individual applicants for specified training proposals in biomedical and behavioral research, selected as a result of a national competition. The other related forms (PHS 416–5, 416–7, 6031, 6031–1) are used by these individuals to activate, terminate, and provide for payback of a National Research Service Award. *Frequency of response:* Applicants may submit applications for published receipt dates. If awarded, annual progress is reported and trainees may be appointed or reappointed. *Affected Public:* Individuals or households; businesses or other for-profit; not-for-profit institutions; Federal Government; and State, Local or Tribal Governments. *Type of Respondents:* Adult scientific trainees and professionals. The annual reporting burden is as follows: *Estimated Number of Respondents:* 34,454; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* 4.1; and *Estimated Total Annual Burden Hours Requested:* 142,301. The annualized cost to respondents is estimated at: $4,980,535. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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) 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

For Further Information Contact: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Ms. Mikia Currie, Division of Grants Policy, Office of Policy for Extramural Research Administration, NIH, Rockledge 1 Building, Room 3505, 6705 Rockledge Drive, Bethesda, MD 20892–7974, or call non-toll-free number 301–435–0941, or e-mail your request, including your address to: *curriem@od.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: March 3, 2008.

George Gardner,

Assistant Grants Policy Officer, OPERA, OER, National Institutes of Health.

[FR Doc. E8–4871 Filed 3–11–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, AIDS SBIR Biological Sciences.

Date: March 19–21, 2008.

Time: 6 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: Kenneth A. Roebuck, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@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, Molecular Mechanisms of Neuronal Development and Regeneration.

Date: March 21, 2008.

Time: 4 p.m. to 7 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: Lawrence Baizer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7850, Bethesda, MD 20892, (301) 435–1257, *baizerl@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Member Conflicts: Cell Biology.

Date: April 8–9, 2008.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Noni Byrnes, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5130, MSC 7840, Bethesda, MD 20892, (301) 435–1023, *byrnesn@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: March 4, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–4649 Filed 3–11–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; 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 NIH Advisory Board for Clinical Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended to discuss personnel matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIH Advisory Board for Clinical Research.

Date: March 31, 2008.

Open: 10 a.m. to 12:45 p.m.

Agenda: To review budget and policy issues at the NIH Clinical Center.

Place: National Institutes of Health, Building 10, 10 Center Drive, Room 4–2551, Bethesda, MD 20892.

Closed: 12:45 p.m. to 2 p.m.

Agenda: To review and evaluate personnel matters.

Place: National Institutes of Health, Building 10, 10 Center Drive, Room 4–2551, Bethesda, MD 20892.

Contact Person: Maureen E. Gormley, Executive Secretary, Mark O. Hatfield Clinical Research Center, National Institutes of Health, Building 10, Room 6–2551, Bethesda, MD 20892, 301/496–2897.

Dated: March 4, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–4654 Filed 3–11–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 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 Allergy and Infectious Diseases Special Emphasis Panel R13 Conference Applications.

Date: April 2, 2008.

Time: 8 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B, Rockledge Drive, 3147, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Michelle M. Timmerman, PhD, Scientific Review Officer, Scientific Review Program, National Institutes of Health/NIAID, Room 3258, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–451–4573, *timmermanm@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: March 4, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–4652 Filed 3–11–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2008 Funding Opportunity

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of intent to award a Single Source Grant to the National Association of State Alcohol and Drug Abuse Directors (NASADAD).

SUMMARY: This notice is to inform the public that the Substance Abuse and Mental Health Services Administration (SAMHSA) intends to award approximately $600,000 (total costs) per year for up to three years to the National Association of State Alcohol and Drug Abuse Directors (NASADAD). This is not a formal request for applications. Assistance will be provided only to the National Association of State Alcohol and Drug Abuse Directors (NASADAD) based on the receipt of a satisfactory application that is approved by an independent review group.

Funding Opportunity Title: TI–08–002.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.243.

Authority: Section 1935 of the Public Health Service Act, as amended.

Justification: Only the National Association of State Alcohol and Drug Abuse Directors (NASADAD) is eligible to apply. The Substance Abuse and Mental Health Services Administration (SAMHSA) is seeking to award a single source grant to the National Association of State Alcohol and Drug Abuse Directors (NASADAD) to facilitate collaborative activities between SAMHSA and the States to assist SAMHSA in its development and implementation of the National Outcome Measures (NOMs).

NASADAD's membership is composed of the State substance abuse authorities (SSAs). SSAs are the recipients of SAMHSA's Substance Abuse Prevention and Treatment (SAPT) Block Grant funds. Grant activities will focus on areas of mutual interest and will help support the States' ability to respond to changes brought about by the transition of management of the SAPT Block Grant to a performance and outcomes focus based upon the NOMs and other information. These collaborative activities will assist SAMHSA in its development, implementation and management of the SAPT Block Grant Program, and will assist States in the

development and implementation of their transition plans and to respond to the changes brought about by the transition.

NASADAD is in the unique position to facilitate these activities because:

- NASADAD is the sole and unique organization with a direct official relationship with the SSAs. SSAs, which form the membership of NASADAD, are the only entities that may directly apply for and administer SAMHSA's SAPT Block Grant funds.
- The activities required under this grant program will require NASADAD and its members (SSAs) to provide the necessary State perspective regarding needs and potential changes to the State substance abuse treatment system practices and to their information system's infrastructure.
- NASADAD is the sole organization that has been utilizing, in support of CSAT, a Web-based process to facilitate SSA dialogue on NOMs.
- NASADAD's constituency and staff are a repository of knowledge on State issues related to substance abuse treatment indicators and are accountable for performance in the SAPT Block Grant. This knowledge is critical to the grant project.
- NASADAD has a Data Subcommittee that is essential to the required grant activities. In addition, NASADAD is uniquely qualified to conduct the required activities because of its relationship with the SSAs and its history of collaboration with the Federal government and other organizations that represent issues of importance to State government.

Contact: Shelly Hara, Substance Abuse and Mental Health Services Administration, 1 Choke Cherry Road, Room 8–1081, Rockville, MD 20857; telephone: (240) 276–2321; E-mail: *shelly.hara@samhsa.hhs.gov*.

Toian Vaughn, M.S.W.,

SAMHSA Committee Management Officer.

[FR Doc. E8–4892 Filed 3–11–08; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0004]

National Fire Academy Board of Visitors

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Open Federal Advisory Committee Meeting.

SUMMARY: The National Fire Academy Board of Visitors will meet on April 2–3, 2008.

DATES: The meeting will take place Wednesday, April 2, 2008, from 8:30 a.m. to 5 p.m., e.s.t. and Thursday, April 3, 2008, from 8:30 a.m. to 1 p.m., e.s.t. Comments must be submitted by Thursday, April 10, 2008.

ADDRESSES: Members of the public who wish to obtain information for the public meeting may contact Teressa Kaas as listed in the **FOR FURTHER INFORMATION CONTACT** section by April 1, 2008. Members of the public may participate by coming to the National Emergency Training Center, Building H, Room 300, Emmitsburg, Maryland. Members of the general public who plan to participate in the meeting should contact Teressa Kaas as listed in the **FOR FURTHER INFORMATION CONTACT** section, on or before April 1, 2008. Requests to have written material distributed to each member of the committee prior to the meeting should reach the contact person at the address below by April 1, 2008. Send written material to Teressa Kaas, 16825 South Seton Avenue, Emmitsburg, Maryland 21727. Comments must be identified by Docket ID FEMA–2008–0004 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: FEMA-RULES@dhs.gov*. Include Docket ID in the subject line of the message.
- *Fax:* (866) 466–5370.
- *Mail:* Teressa Kaas, 16825 South Seton Avenue, Emmitsburg, Maryland 21727.

Instructions: All submissions received must include the Docket ID for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the National Fire Academy Board of Visitors, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Teressa Kaas, 16825 South Seton Avenue, Emmitsburg, Maryland 21727, telephone (301) 447–1117, fax (301) 447–1173, and e-mail *teressa.kaas@dhs.gov*.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The National Fire Academy Board of Visitors will be holding a meeting for purposes of reviewing National Fire Academy Program activities, including an update on the Learning Management System, the Academy update, and Board discussions and new items. This meeting is open to the public.

The Chairperson of the National Fire Academy Board of Visitors shall conduct the meeting in a way that will, in his judgment, facilitate the orderly conduct of business. During its meeting, the committee welcomes public comment; however, comments will be permitted only during the public comment period. The Chairperson will make every effort to hear the views of all interested parties. Please note that the meeting may end early if all business is completed.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Teressa Kaas as soon as possible.

Dated: March 5, 2008.

Charlie Dickinson,

Deputy Assistant Administrator, U.S. Fire Administration, Federal Emergency Management Agency.

[FR Doc. E8–4894 Filed 3–11–08; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket Nos. TSA–2006–24191; Coast Guard–2006–24196]

Transportation Worker Identification Credential (TWIC); Enrollment Date for the Port of Bangor, ME

AGENCY: Transportation Security Administration; United States Coast Guard; DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security (DHS) through the Transportation Security Administration (TSA) issues this notice of the date for the beginning of the initial enrollment for the Transportation Worker Identification Credential (TWIC) for the Port of Bangor, ME.

DATES: TWIC enrollment begins in Bangor on March 26, 2008.

ADDRESSES: You may view published documents and comments concerning the TWIC Final Rule, identified by the

docket numbers of this notice, using any one of the following methods.

(1) Searching the Federal Docket Management System (FDMS) Web page at *www.regulations.gov;*

(2) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html;* or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

FOR FURTHER INFORMATION CONTACT: James Orgill, TSA–19, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220. Transportation Threat Assessment and Credentialing (TTAC), TWIC Program, (571) 227–4545; e-mail: *credentialing@dhs.gov.*

Background

The Department of Homeland Security (DHS), through the United States Coast Guard and the Transportation Security Administration (TSA), issued a joint final rule (72 FR 3492; January 25, 2007) pursuant to the Maritime Transportation Security Act (MTSA), Public Law 107–295, 116 Stat. 2064 (November 25, 2002), and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109–347 (October 13, 2006). This rule requires all credentialed merchant mariners and individuals with unescorted access to secure areas of a regulated facility or vessel to obtain a TWIC. In this final rule, on page 3510, TSA and Coast Guard stated that a phased enrollment approach based upon risk assessment and cost/benefit would be used to implement the program nationwide, and that TSA would publish a notice in the **Federal Register** indicating when enrollment at a specific location will begin and when it is expected to terminate.

This notice provides the start date for TWIC initial enrollment at the Port of Bangor, ME on March 26, 2008. The Coast Guard will publish a separate notice in the **Federal Register** indicating when facilities within the Captain of the Port Zone Northern New England, including those in the Port of Bangor must comply with the portions of the final rule requiring TWIC to be used as an access control measure. That notice will be published at least 90 days before compliance is required.

To obtain information on the pre-enrollment and enrollment process, and enrollment locations, visit TSA's TWIC Web site at *http://www.tsa.gov/twic.*

Issued in Arlington, Virginia, on March 6, 2008.

Rex Lovelady,

Program Manager, TWIC, Office of Transportation Threat Assessment and Credentialing, Transportation Security Administration.

[FR Doc. E8–4897 Filed 3–11–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2436–07; DHS Docket No. USCIS–2007–0062]

RIN 1615–ZA64

Extension of the Designation of Somalia for Temporary Protected Status; Automatic Extension of Employment Authorization Documentation for Somali Temporary Protected Status Beneficiaries

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security (DHS).

ACTION: Notice.

SUMMARY: This Notice announces that the designation of Somalia for temporary protected status (TPS) has been extended for 18 months through September 17, 2009, from its current expiration date of March 17, 2008. This Notice also sets forth procedures necessary for nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) with TPS to re-register and to apply for an extension of their employment authorization documents (EADs) for the additional 18-month period. Re-registration is limited to persons who have previously registered for TPS under the designation of Somalia and whose applications have been granted or remain pending. Certain nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) who have not previously applied for TPS may be eligible to apply under the late initial registration provisions.

Given the timeframes involved with processing TPS re-registration applications, the Department of Homeland Security (DHS) recognizes the possibility that re-registrants may not receive a new EAD until after their current EAD expires on March 17, 2008. Accordingly, this Notice automatically extends the validity of EADs issued under the TPS designation of Somalia for 6 months, through September 17, 2008 and explains how TPS beneficiaries and their employers may determine which EADs are automatically extended. DHS will issue new EADs with the September 17, 2009 expiration date to eligible TPS beneficiaries who timely re-register and apply for an EAD.

DATES: The extension of the TPS designation of Somalia is effective March 18, 2008 and will remain in effect through September 17, 2009. The 60-day re-registration period begins March 12, 2008 and will remain in effect until May 12, 2008. To facilitate processing of applications, applicants are strongly encouraged to file as soon as possible after the start of the 60-day re-registration period beginning on March 12, 2008.

FOR FURTHER INFORMATION CONTACT: Shelly Sweeney, Status and Family Branch, Office of Service Center Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20529, telephone (202) 272–1533. This is not a toll-free call. Further information will also be available at local USCIS offices upon publication of this Notice and on the USCIS Web site at *http://www.uscis.gov.* Note: The phone number provided here is solely for questions regarding this Notice and the information contained herein. It is not for individual case status inquiries. Applicants seeking information about the status of their individual case can check Case Status Online available at the USCIS Web site listed above, or applicants may call the USCIS National Customer Service Center at 1–800–375–5283 (TTY 1–800–767–1833).

SUPPLEMENTARY INFORMATION:

Abbreviations and Terms Used in This Document

Act—Immigration and Nationality Act
ASC—USCIS Application Support Center
DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
Secretary—Secretary of Homeland Security
TPS—Temporary Protected Status
USCIS—U.S. Citizenship and Immigration Services

What Authority Does the Secretary of Homeland Security Have To Extend the Designation of Somalia for TPS?

Section 244(b)(1) of the Immigration and Nationality Act (Act), 8 U.S.C. 1254a(b)(1), authorizes the Secretary of Homeland Security (Secretary), after consultation with appropriate agencies

of the Government, to designate a foreign State (or part thereof) for TPS. The Secretary may then grant TPS to eligible nationals of that foreign State (or aliens having no nationality who last habitually resided in that State). 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of the TPS designation, or any extension thereof, the Secretary, after consultations with appropriate agencies of the Government, must review the conditions in a foreign State designated for TPS to determine whether the conditions for the TPS designation continue to be met and, if so, the length of an extension of the TPS designation. 8 U.S.C. 1254a(b)(3)(A), (C). If the Secretary determines that the foreign State no longer meets the conditions for the TPS designation, he must terminate the designation. 8 U.S.C. 1254a(b)(3)(B).

Why Did the Secretary Decide To Extend the TPS Designation of Somalia?

On September 16, 1991, the Attorney General published a notice in the **Federal Register**, at 56 FR 46804, designating Somalia for TPS due to on-going armed conflict and extraordinary and temporary conditions within the country. Subsequent to that date, the Attorney General extended TPS for Somalia nine times, determining in each instance that the conditions warranting the designation continued to be met. 57 FR 32232 (July 21, 1992); 58 FR 48898 (Sept. 20, 1993); 59 FR 43359 (Aug. 23, 1994); 60 FR 39005 (July 31, 1995); 61 FR 39472 (July 29, 1996); 62 FR 41421 (Aug. 1, 1997); 63 FR 51602 (Sept. 28, 1998); 64 FR 49511 (Sept. 13, 1999); 65 FR 69789 (Nov. 20, 2000).

On September 4, 2001, the Attorney General re-designated TPS for Somalia by publishing a notice in the **Federal Register** at 66 FR 46288. Since that date, the Attorney General and the Secretary of Homeland Security have extended the TPS designation of Somalia five times based on determinations that the conditions warranting the designation continued to be met. 67 FR 48950 (July 26, 2002); 68 FR 43147 (July 21, 2003); 69 FR 47937 (Aug. 6, 2004); 70 FR 43895 (July 29, 2005); 71 FR 42653 (July 27, 2006). The most recent extension became effective on September 17, 2006, and is due to expire on March 17, 2008. *See* 71 FR 42658.

Over the past year, DHS and the Department of State (DOS) have continued to review conditions in Somalia. Based on this review, DHS has determined that an 18-month extension is warranted, because the armed conflict is ongoing, and the extraordinary and temporary conditions that prompted the September 2001 re-designation persist.

The situation in Somalia has continued to deteriorate since the last extension of TPS. It has been estimated that there are 3,000 combatants fighting against the Transitional Federal Government (TFG) in Mogadishu and 50,000 to 70,000 clan militia operating in Somalia. Between February and April 2007, approximately 1,000 individuals were killed, and 400,000 individuals were displaced by fighting. Over 60% of those killed were elderly, women, and children.

In April 2007, clashes erupted between Puntland and Somaliland, which had been previously considered relatively stable regions in Somalia. Furthermore, two events in May 2007 put humanitarian workers' safety into question: First, a non-governmental organization (NGO) convoy was attacked in Buloburti, and second, two CARE International staff members returning from Puntland were kidnapped. These two incidents provide additional evidence of the instability of conditions in Somalia at this time.

Between June and August 2007, an additional 50,000 individuals were displaced from Mogadishu. There has been an increase in the use of roadside bombs, vehicle-borne explosives, and suicide bombing by insurgent forces. Although a six-week national reconciliation conference was held in July and August 2007, the Union of Islamic Courts and leaders of the Hawiye clan (which is the dominant clan in Mogadishu) did not participate. As such, the conflict in Somalia is unlikely to end in the near future.

Based upon this review, the Secretary has determined, after consultation with the appropriate Government agencies, that the conditions that prompted the designation of Somalia for TPS continue to be met. *See* 8 U.S.C. 1254a(b)(3)(A). There is an ongoing armed conflict and extraordinary and temporary conditions in Somalia that prevent aliens who are nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) from returning in safety. The Secretary also finds that it is not contrary to the national interest of the United States to permit aliens who meet the eligibility requirements of TPS to remain in the United States temporarily. *See* 8 U.S.C. 1254a(b)(1)(C). On the basis of these findings and determinations, the Secretary concludes that the designation of Somalia for TPS should be extended for an additional 18-month period. *See* 8 U.S.C. 1254a(b)(3)(C). There are approximately 300 nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) who are eligible for TPS under this designation.

Notice of Extension of the TPS Designation of Somalia

By the authority vested in me as Secretary of Homeland Security under section 244 of the Act, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies, that the conditions that prompted re-designation of Somalia for temporary protected status (TPS) on September 4, 2001, continue to be met. *See* 8 U.S.C. 1254a(b)(3)(A). Accordingly, I am extending the TPS designation of Somalia for 18 months from March 18, 2008 through September 17, 2009.

To maintain TPS, a national of Somalia (or an alien having no nationality who last habitually resided in Somalia) who was granted TPS and who has not had TPS withdrawn must re-register for TPS during the 60-day re-registration period from March 12, 2008 until May 12, 2008. To re-register, aliens must follow the filing procedures set forth in this Notice. For instructions on this extension, please refer to the following attachments, which include filing and eligibility requirements for TPS and EADs. Information concerning the extension of the designation of Somalia for TPS also will be available at local USCIS offices upon publication of this Notice and on the USCIS Web site at *http://www.uscis.gov.*

Dated: February 25, 2008.

Michael Chertoff,

Secretary.

Temporary Protected Status Filing Requirements

Do I Need To Re-Register for TPS If I Currently Have Benefits Through the Designation of Somalia for TPS, and Would Like To Maintain Them?

Yes. If you already have received TPS benefits through the TPS designation of Somalia, your benefits will expire on March 17, 2008. All TPS beneficiaries must comply with the re-registration requirements described in this Notice in order to maintain TPS benefits through September 17, 2009. TPS benefits include temporary protection against removal from the United States and employment authorization during the TPS designation period. 8 U.S.C. 1254a(a)(1). Failure to re-register without good cause will result in the withdrawal of your temporary protected status and possibly your removal from the United States. 8 U.S.C. 1254a(c)(3)(C).

If I Am Currently Registered for TPS or Have a Pending Application for TPS, How Do I Re-Register To Renew My Benefits for the Duration of the Extension Period?

Please submit the proper forms and fees according to Table 1 below. All applicants are strongly encouraged to pay close and careful attention when filling out the required forms to help ensure that their dates of birth, alien registration numbers, spelling of their names, and other required information is correctly entered on the forms. Aliens who have previously registered for TPS, but whose applications remain pending, should follow these instructions if they wish to renew their TPS benefits. All TPS re-registration applications submitted without the required fees will be returned to the applicant. All fee waiver requests should be filed in accordance with 8 CFR 244.20. If you received an EAD during the most recent registration period, please submit a photocopy of the front and back of your EAD.

TABLE 1.—APPLICATION FORMS AND APPLICATION FEES

If	And	Then
You are re-registering for TPS	You are applying for an extension of your EAD valid through September 17, 2009.	You must complete and file the Form I–765, Application for Employment Authorization, with the fee of $340 or a fee waiver request. You must also submit Form I–821, Application for Temporary Protected Status, with no fee.
You are re-registering for TPS	You are NOT applying for renewal of your EAD.	You must complete and file the Form I–765 with no fee and Form I–821 with no fee. Note: DO NOT check any box for the question ''I am applying for'' listed on Form I–765, as you are NOT requesting an EAD benefit.
You are applying for TPS as a late initial registrant and you are between the ages of 14 and 65 (inclusive).	You are applying for a TPS-related EAD	You must complete and file Form I–821 with the $50 fee or fee waiver request and Form I–765 with the fee of $340 or a fee waiver request.
You are applying for TPS as a late initial registrant and are under age 14 or over age 65.	You are applying for a TPS-related EAD	You must complete and file Form I–821 with the $50 fee or fee waiver request. You must also submit Form I–765 with no fee.
You are applying for TPS as a late initial registrant, regardless of age.	You are NOT applying for an EAD	You must complete and file Form I–821 with the $50 fee or fee waiver request and Form I–765 with no fee.
Your previous TPS application is still pending	You are applying to renew your temporary treatment benefits (i.e., an EAD with category ''C–19'' on its face).	You must complete and file the Form I–765 with the fee of $340 or a fee waiver request. You must also submit Form I–821, Application for Temporary Protected Status, with no fee.

Certain applicants must also submit a Biometric Service Fee (See Table 2).

TABLE 2.—BIOMETRIC SERVICE FEE

If	And	Then
You are 14 years of age or older	1. You are re-registering for TPS, or	You must submit a Biometric Service fee of $80 or a fee waiver request.
	2. You are applying for TPS under the late initial registration provisions, or 3. Your TPS application is still pending and you are applying to renew temporary treatment benefits (i.e., EAD with category ''C–19'' on its face)	
You are younger than 14 years of age	You are applying for an EAD	You must submit a Biometric Service fee of $80 or a fee waiver request.
You are younger than 14 years of age	You are NOT applying for an EAD	You do NOT need to submit a Biometric Service fee.

What Edition of the Form I–821 Should I Submit?

Only the edition of Form I–821 dated November 5, 2004 or later will be accepted. The revision date can be found in the bottom right corner of the form. The proper form can be found on the Internet at *http://www.uscis.gov* or by calling the USCIS forms hotline at 1–800–870–3676.

Where Should I Submit my Application for TPS?

Mail your application for TPS to the following address:

U.S. Citizenship and Immigration Services,

Attn: TPS Somalia,

P.O. Box 8677,

Chicago, IL 60680–8677.

Or, for non-U.S. Postal Service deliveries, mail your application to:

U.S. Citizenship and Immigration Services,

Attn: TPS Somalia,

427 S. LaSalle–3rd Floor,

Chicago, IL 60605–1029.

How Will I Know If I Need to Submit Supporting Documentation With My Application Package?

See Table 4 below to determine if you need to submit supporting documentation.

TABLE 4.—WHO SHOULD SUBMIT SUPPORTING DOCUMENTATION?

If	Then
One or more of the questions listed in Part 4, Question 2 of Form I–821 applies to you.	You must submit an explanation, on a separate sheet(s) of paper, and/or additional documentation must be provided.
You were granted TPS by an Immigration Judge or the Board of Immigration Appeals.	You must include evidence of the grant of TPS (such as an order from the Immigration Judge) with your application package.

Can I File My Application Electronically?

If you are filing for re-registration and *do not* need to submit supporting documentation with your application, you may file your application electronically. To file your application electronically, follow directions on the USCIS Web site at: *http://www.uscis.gov.*

What Is Late Initial Registration?

Some persons may be eligible for late initial registration under 8 CFR 244.2. In order to be eligible for late initial registration, an applicant must:

(1) Be a national of Somalia (or an alien who has no nationality and who last habitually resided in Somalia);

(2) Have continuously resided in the United States since September 4, 2001;

(3) Have been continuously physically present in the United States since September 4, 2001; and

(4) Be both admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Immigration and Nationality Act (Act), and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that, during the initial registration period (from September 4, 2001 to December 3, 2001), he or she:

(1) Was a nonimmigrant or had been granted voluntary departure status or any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;

(3) Was a parolee or had a pending request for reparole; or

(4) Is the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must file an application for late registration no later than 60 days after the expiration or termination of the conditions described above. 8 CFR 244.2(g). All late initial registration applications for TPS, pursuant to the designation of Somalia, should be submitted to the appropriate address in Chicago, Illinois as defined in Table 3.

Are Certain Aliens Ineligible for TPS?

Yes. There are certain criminal and terrorism-related inadmissibility grounds that render an alien ineligible for TPS. *See* 8 U.S.C. 1254a(c)(2)(A)(iii). Further, aliens who have been convicted of any felony or two or more misdemeanors committed in the United States are ineligible for TPS under section 244(c)(2)(B)(i) of the Act, 8 U.S.C. 1254a(c)(2)(B)(i), as are aliens described in the bars to asylum in section 208(b)(2)(A) of the Act, 8 U.S.C. 1158(b)(2)(A). *See* 8 U.S.C. 1254a(c)(2)(B)(ii).

If I Currently Have TPS, Can I Lose my TPS Benefits?

An individual granted TPS will have his or her TPS withdrawn if the alien is not in fact eligible for TPS, if the alien fails to timely re-register for TPS without good cause, or if the alien fails to maintain continuous physical presence in the United States. *See* 8 U.S.C. 1254a(c)(3)(A)–(C).

Does TPS Lead to Lawful Permanent Residence?

No. TPS is a temporary benefit that does not lead to lawful permanent residence or confer any other immigration status. 8 U.S.C. 1254a, (f)(1), and (h). When a country's TPS designation is terminated, TPS beneficiaries will maintain the same immigration status that they held prior to TPS (unless that status has since expired or been terminated), or any other status they may have acquired while registered for TPS. Accordingly, if an alien held no lawful immigration status prior to being granted TPS and did not obtain any other status during the TPS period, he or she will revert to unlawful status upon the termination of the TPS designation. Once the Secretary determines that a TPS designation should be terminated, aliens who had TPS under that designation, and who do not hold any other lawful immigration status, are expected to plan for their departure from the United States.

May I Apply for Another Immigration Benefit While Registered for TPS?

Yes. Registration for TPS does not prevent you from applying for non-immigrant status, filing for adjustment of status based on an immigrant petition, or applying for any other immigration benefit or protection. 8 U.S.C. 1254a(a)(5). For the purposes of change of status and adjustment of status, an alien is considered to be in, and maintaining, lawful status as a nonimmigrant during the period in which the alien is granted TPS. *See* 8 U.S.C. 1254a(f)(4).

How Does an Application for TPS Affect my Application for Asylum or Other Immigration Benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit. Denial of an application for asylum or any other immigration benefit does not affect an applicant's TPS eligibility, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS. *See* 8 U.S.C. 1158(b)(2)(A)(ii) and 8 U.S.C. 1254a(c)(2)(B)(ii).

Does This Extension Allow Nationals of Somalia (Or Aliens Having no Nationality Who Last Habitually Resided in Somalia) Who Entered the United States After September 4, 2001, To File for TPS?

No. An extension of a TPS designation does not change the required dates of continuous residence and continuous physical presence in the United States. This extension does not

expand TPS eligibility to those that are not eligible currently. To be eligible for benefits under this extension, nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) must have continuously resided and have been continuously physically present in the United States since September 4, 2001.

Employment Authorization Document Automatic Extension Guidelines

Who is Eligible To Receive an Automatic Extension of His or Her EAD From March 17, 2008 to September 17, 2008?

To receive an automatic extension of an EAD, an individual must be a national of Somalia (or an alien having no nationality who last habitually resided in Somalia) who has applied for and received an EAD under the designation of Somalia for TPS and who has not had TPS withdrawn or denied. This automatic extension is limited to EADs issued on Form I–766, Employment Authorization Document, bearing an expiration date of March 17, 2008. These EADs must also bear the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.''

If I Am Currently Registered Under the Designation of Somalia for TPS and Am Re-Registering for TPS, How Do I Receive an Extension of my EAD After the Automatic Six-Month Extension?

TPS re-registrants will receive a notice in the mail with instructions as to whether or not they will be required to appear at a USCIS Application Support Center (ASC) for biometrics collection. To increase efficiency and improve customer service, whenever possible USCIS will reuse previously-captured biometrics and conduct the security checks using those biometrics, such that you may not be required to appear at an ASC.

Regardless of whether you are required to appear at an ASC, you are required to pay the biometrics fee or submit a fee waiver request during this re-registration. The fee will cover the USCIS costs associated with the use of the collected biometrics for FBI and other background checks. In addition, the fee helps pay for the costs of electronic storage of an applicants' biometrics, maintenance of the systems and technology for storing and utilizing the fingerprints, and for paying costs associated with requesting the FBI's reports to USCIS, among other biometrics-related procedures. USCIS fees fund the cost of processing applications and petitions for immigration benefits and services, and USCIS' associated operating costs. See section 286(m) of the Act, 8 U.S.C. 1356(m) (allowing for full recovery of costs of providing adjudication and naturalization services); 8 CFR 103.7.

If you are required to report to an ASC, you must bring the following documents: (1) Your receipt notice for your re-registration application; (2) your ASC appointment notice; and (3) your current EAD. If no further action is required for your case, you will receive a new EAD by mail valid through September 17, 2009. If your case requires further resolution, USCIS will contact you in writing to explain what additional information, if any, is necessary to resolve your case. Once your case is resolved and if your application is approved, you will receive a new EAD in the mail with an expiration date of September 17, 2009.

May I Request an Interim EAD at my Local District Office?

No. USCIS will not issue interim EADs to TPS applicants and re-registrants at District Offices.

How may Employers Determine Whether an EAD Has Been Automatically Extended for Six Months Through September 17, 2008 and Is Therefore Acceptable for Completion of the Form I–9, Employment Eligibility Verification?

An EAD that has been automatically extended for six months by this Notice through September 17, 2008 will be a Form I–766 bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category,'' and have an expiration date of March 17, 2008, on the face of the card. New EADs or extension stickers showing the September 17, 2008, expiration date of the six-month automatic extension will not be issued. Employers should not request proof of Somali citizenship.

Employers should accept an EAD as a valid ''List A'' document and not ask for additional Form I–9 documentation if presented with an EAD that has been extended pursuant to this **Federal Register** Notice, and the EAD reasonably appears on its face to be genuine and to relate to the employee. This extension does not affect the right of an applicant for employment or an employee to present any legally acceptable document as proof of identity and eligibility for employment.

Note to Employers

Employers are reminded that the laws requiring employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those setting forth re-verification requirements. For questions, employers may call the USCIS Customer Assistance Office at 1–800–357–2099. Also, employers may call the U.S. Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer Hotline at 1–800–255–8155. Employees or applicants may call the OSC Employee Hotline at 1–800–255–7688 for information regarding the automatic extension. Additional information is available on the OSC Web site at *http://www.usdoj.gov/crt/osc/index.html.*

How May Employers Determine an Employee's Eligibility for Employment Once the Automatic Six-Month Extension Expires on September 17, 2008?

Eligible TPS aliens will possess an EAD with an expiration date of September 17, 2009. The EAD will be a Form I–766 bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category,'' and should be accepted for the purposes of verifying identity and employment authorization.

What Documents May a Qualified Individual Show to His or Her Employer as Proof of Employment Authorization and Identity When Completing Form I–9?

During the first six months of this extension, qualified individuals who have received a six-month automatic extension of their EADs by virtue of this **Federal Register** Notice may present their TPS-based EAD to their employer, as described above, as proof of identity and employment authorization through September 17, 2008. To minimize confusion over this extension at the time of hire or re-verification, qualified individuals may also present a copy of this **Federal Register** Notice regarding the automatic extension of employment authorization documentation through September 17, 2008. After September 17, 2008, a qualified individual may present a new EAD valid through September 17, 2009.

In the alternative, any legally acceptable document or combination of documents as listed on the Form I–9 may be presented as proof of identity and employment eligibility.

[FR Doc. E8–4898 Filed 3–11–08; 8:45 am]

BILLING CODE 4410–10–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 332–498 and Chile FTA–103–020]

Certain Vegetables and Grape Juice: Probable Economic Effect of Accelerated Tariff Elimination for Certain Goods of Chile

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and request for written submissions.

SUMMARY: Following receipt of a request on February 11, 2008, from the United States Trade Representative (USTR), as amended by a letter received on February 22, 2008, for an investigation and advice pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. (332(g)) and in accordance with section 103 of the U.S.–Chile Free Trade Agreement Implementation Act (19 U.S.C. 3805 note), the Commission instituted Investigation No. 332–498 and Chile FTA–103–020, *Certain Vegetables and Grape Juice: Probable Economic Effect of Accelerated Tariff Elimination for Certain Goods of Chile*.

DATES: February 11, 2008: Date of receipt of request, amended by letter received February 22, 2008.

March 7, 2008: Date of institution of investigation.

April 4, 2008: Deadline for written statements.

May 22, 2008: Transmittal of report to the USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions and statements should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Information may be obtained from Timothy McCarty, (202–205–3324 or *timothy.mccarty@usitc.gov*); for information on the legal aspects, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810). 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–ONLINE) at *http://www.usitc.gov/secretary/edis.htm*. 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.

SUPPLEMENTARY INFORMATION: According to the USTR's letter and annex thereto, the President may accelerate the elimination of duties under the United States–Chile Free Trade Agreement (U.S.–Chile FTA) on certain vegetables and grape juice that are qualifying goods of Chile and classified in the tariff items listed below. Duties on these goods would be eliminated on or about January 1, 2009. Section 201(b) of the U.S.–Chile Free Trade Agreement Implementation Act (Act) authorizes the President, subject to the consultation and layover requirements in section 103 of the Act, to proclaim such modifications as the United States may agree to with Chile regarding the staging of any duty treatment set forth in Annex 3.3 of the U.S.–Chile FTA. Section 103 of the Act requires the President to obtain advice regarding the proposed action from the Commission.

The USTR requested that the Commission provide advice as to the probable economic effect of eliminating the U.S. tariff under the U.S.–Chile FTA on domestic industries producing like or directly competitive articles, workers in these industries, and on consumers of the affected goods, on the articles provided for in the following Harmonized Tariff Schedule subheadings: (1) 0710.22.40 (beans, reduced in size); (2) 0710.30.00 (spinach, New Zealand spinach, and orache spinach); (3) 0710.40.00 (sweet corn); (4) 0710.80.97 (vegetables, nesi, uncooked or cooked by steaming or boiling in water, frozen, reduced in size); (5) 0710.90.91 (mixtures of vegetables, nesi, uncooked or cooked by steaming or boiling in water, frozen); (6) 2005.99.80 (artichokes); and (7) 2009.69.00 (grape juice including grape must, other).

As requested, the Commission will provide its advice to the USTR by May 22, 2008. USTR requested that the Commission mark as ''confidential'' those portions of its report and working papers that contain the Commission's probable economic effect advice. The USTR requested that the Commission, as soon as possible after May 22, issue a public version of its report with portions classified as ''confidential'' and any confidential business information deleted.

Written Submissions: In lieu of a public hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in this investigation. Submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. To be assured of consideration by the Commission, written statements should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on April 4, 2008. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 of the rules requires that a signed original (or copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, from which the confidential business information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000 or *edis@usitc.gov*).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''nonconfidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of this investigation in the report it sends to the USTR and the President. However, the Commission will not

publish such confidential business information in the public version of its report in a manner that would reveal the operations of the firm supplying the information.

Issued: March 7, 2008.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–4877 Filed 3–11–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1145 (Preliminary)]

Certain Steel Threaded Rod From China

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping duty investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping duty investigation No. 731–TA–1145 (Preliminary) under section 733(a) (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that 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 imports from China of certain steel threaded rod provided for in statistical reporting number 7318.15.5060 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping duty investigations in 45 days, or in this case by April 21, 2008. The Commission's views are due at Commerce within five business days thereafter, or by April 28, 2008.

For further information concerning the conduct of this investigation 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 B (19 CFR part 207).

EFFECTIVE DATE: March 5, 2008.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), 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 investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on March 5, 2008, by Vulcan Threaded Products, Inc., Pelham, AL.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register** . Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

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 this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on March 26, 2008, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Jim McClure (202–205–3191) not later than March 21, 2008, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 31, 2008, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must 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).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (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: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: March 6, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–4832 Filed 3–11–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on March 4, 2008, a proposed Consent Decree in *United States* v. *Riverside Cement Company,* Civil Action No. CV 08–01284 ABC (JCRx), was lodged with the United States District Court for the Central District of California.

The proposed Consent Decree resolves the United States' claims against Riverside Cement Company (''RCC'') under Section 113(b) of the Clean Air Act (''CAA''), 42 U.S.C. 7413(b), for alleged violations of the Clean Air Act and the federally approved California State Implementation Plan (''SIP''), including Mohave Desert Air Quality Management District Rule 1161 (''Rule 1161''), at a portland cement manufacturing facility owned and operated by RCC in Oro Grande, California (''Facility''). The Consent Decree requires RCC to pay a civil penalty of $394,000, plus interest accruing thereon from the date of lodging, and requires RCC to shut down its older cement kilns (kilns 1–7) by no later than August 31, 2008 or 120 days after its new cement kiln reaches 90 percent of its operating capacity, whichever is earlier; to comply with enhanced baghouse inspection requirements until the older kilns are shut down; and to comply with the Portland Cement NESHAP, Rule 1161, and its Title V operating permit.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Riverside Cement Company.,* D.J. Ref. 90–5–2–1–09021.

The proposed Consent Decree may be examined at the Office of the United States Attorney, 300 North Los Angeles Street, Los Angeles, CA 90012, and at U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. During the public comment period, the proposed Consent Decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. When requesting a copy from the Consent Decree Library, please enclose a check in the amount of $7.50 for the Consent Decree (25 cents per page reproduction cost), payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Henry S. Friedman,

Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–4884 Filed 3–11–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

March 6, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) 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). A copy of each ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *king.darrin@dol.gov*.

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employee Benefits Security Administration (EBSA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–6974 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; 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.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Class Exemption 77–4 for Certain Transactions Between Investment Companies and Employee Benefit Plans.

OMB Number: 1210–0049.

Affected Public: Private Sector: Business or other for-profits.

Total Estimated Number of Respondents: 900.

Total Estimated Annual Burden Hours: 10,301.

Total Estimated Annual Costs Burden: $167,000.

Description: Prohibited Transaction Class Exemption 77–4 permits an employee benefit plan to purchase and sell shares of an open-end investment company (mutual fund) when a fiduciary with respect to the plan is also the investment advisor for the mutual fund. Without the exemption, certain aspects of these transactions might be prohibited by sections 406 and 407(a) of the Employee Retirement Income Security Act of 1974. The third-party disclosure requirements contained in the Exemption are designed to help protect the interests of plan participants and beneficiaries from potential abuse when a fiduciary exercises the Exemption. For additional information, see related notice published at 72 FR 72762 on December 21, 2007.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Class Exemption 81–8 for Investment of Plan Assets in Certain Types of Short-Term Investments.

OMB Number: 1210–0061.

Affected Public: Private Sector: Business or other for-profits.

Total Estimated Number of Respondents: 50,000.

Total Estimated Annual Burden Hours: 41,700.

Total Estimated Annual Costs Burden: $102,500.

Description: Prohibited Transaction Class Exemption 81–8 permits the investment of plan assets that involve the purchase or other acquisition, holding, sale, exchange or redemption by or on behalf of an employee benefit plan of certain types of short-term investments. Without the exemption, certain aspects of these transactions might be prohibited by section 406 of the Employee Retirement Income Security Act of 1974. The third-party disclosure and recordkeeping requirements contained in the Exemption are designed to help protect the interests of plan participants and beneficiaries from potential abuse when a fiduciary exercises the Exemption. For additional information, see related notice published at 72 FR 72763 on December 21, 2007.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Delinquent Filer Voluntary Compliance Program.

OMB Number: 1210–0089.

Affected Public: Private Sector: Business or other for-profits.

Total Estimated Number of Respondents: 15,000.

Total Estimated Annual Burden Hours: 750.

Total Estimated Annual Costs Burden: $608,250.

Description: The Delinquent Filer Voluntary Compliance Program is intended to encourage, through the assessment of reduced civil penalties, delinquent plan administrators to voluntarily comply with their annual reporting obligations under Title I of Employee Retirement Income Security Act of 1974. For additional information, see related notice published at 72 FR 72761 on December 21, 2007.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Prohibited Transaction Class Exemption 96–62, Process for Expedited Approval of an Exemption for Prohibited Transaction.

OMB Number: 1210–0098.

Affected Public: Private Sector: Business or other for-profits.

Total Estimated Number of Respondents: 50.

Total Estimated Annual Burden Hours: 62.

Total Estimated Annual Costs Burden: $67,675.

Description: Prohibited Transaction Class Exemption 96–62 permits a plan to seek approval on an accelerated basis of otherwise prohibited transactions under sections 406 and 407(a) of the Employee Retirement Income Security Act of 1974 by providing the Department and interested persons with information demonstrating the transaction is substantially similar to at least two individual exemptions previously granted and presents little, if any, opportunity for abuse or risk of loss to a plans' participants and beneficiaries. The third-party disclosure and reporting requirements contained in the Exemption are designed to help protect the interests of plan participants and beneficiaries from potential abuse when a fiduciary exercises the Exemption. For additional information, see related notice published at 72 FR 72764 on December 21, 2007.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: PTE 98–54 Relating to Certain Employee Benefit Plan Foreign Exchange Transactions Executed Pursuant to Standing Instructions.

OMB Number: 1210–0111.

Affected Public: Private Sector: Business or other for-profits.

Total Estimated Number of Respondents: 35.

Total Estimated Annual Burden Hours: 4,200.

Total Estimated Annual Costs Burden: $0.

Description: Prohibited Transaction Class Exemption 98–54 permits certain foreign exchange transactions between employee benefit plans and certain banks and broker-dealers which are parties in interest with respect to such plans, pursuant to standing instructions. Without the exemption, certain aspects of these transactions might be prohibited by section 406 of the Employee Retirement Income Security Act of 1974. The third-party disclosure requirements contained in the Exemption are designed to help protect the interests of plan participants and beneficiaries from potential abuse when a fiduciary exercises the Exemption. For additional information, see related notice published at 72 FR 72765 on December 21, 2007.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8–4885 Filed 3–11–08; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Maritime Advisory Committee for Occupational Safety and Health; Notice of Meeting Postponement

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Meeting postponement for the Maritime Advisory Committee for Occupational Safety and Health (MACOSH) and its workgroups.

SUMMARY: OSHA is postponing the MACOSH meeting and the workgroup meetings originally scheduled for March 18–20, 2008, at the Wyndham Greenspoint Hotel, 12400 Greenspoint Drive, Houston, TX 77060. OSHA is planning to hold another MACOSH meeting in the coming months and will publish a notice of the rescheduled meeting in the **Federal Register** when arrangements for that meeting are completed.

FOR FURTHER INFORMATION CONTACT: For general information about the postponement of the MACOSH meeting, contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; Phone: (202) 693–2086; Fax: (202) 693–1663.

Authority: Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by Sections 6(b)(1) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 656), the Federal Advisory Committee Act (5 U.S.C. App. 2), Secretary of Labor's Order 5–2007 (72 FR 31159), and 29 CFR part 1912.

Signed at Washington, DC on March 6, 2008.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E8–4881 Filed 3–11–08; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–315 and 50–316]

Indiana Michigan Power Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a amendments

to Facility Operating License Nos. DPR–58 and DPR–74 issued to Indiana Michigan Power Company (the licensee) for operation of the Donald C. Cook Nuclear Plant, Units 1 and 2, located in Berrien County, Michigan.

The proposed amendment would revise the licensing basis for ice condenser ice fusion time following normal maintenance of a portion of the ice baskets. Specifically, the licensee proposed to revise the Updated Final Safety Analysis Report to allow plant operation during the 5-week period following ice basket maintenance based on conservatisms in the original ice basket seismic testing, practical experience with ice fusion gained through decades of ice condenser operation, and design features of the ice condenser. As an additional conservatism, in the event of an operating basis earthquake, or greater seismic disturbance, within 5 weeks of loading ice baskets, the ice condenser would be inspected within 24 hours to ensure that no ice fallout has occurred that could impede proper functioning of the ice condenser lower inlet doors.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

Response: No.

The previously evaluated accidents of concern regarding the proposed change to licensing basis requirements for the ice condenser are a loss of coolant accident (LOCA) and a main steam line break (MSLB) in containment. The ice condenser will not initiate a previously evaluated accident and provides no function until mitigation of a LOCA or MSLB in containment is required. Therefore, a change to the ice condenser design or licensing basis does not significantly impact the probability of occurrence of an accident previously evaluated.

Following the proposed amendment, the licensing basis would allow plant operation to continue during the five weeks following ice loading with procedural requirements to inspect the ice condenser within 24 hours following an OBE or greater seismic disturbance. With these changes, the ice condenser is still expected to perform its mitigation function under all circumstances following a LOCA or MSLB. Therefore, the proposed amendment does not involve a significant increase in the consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment does not change the design function or operation of any system, structure, or component (SSC). The proposed amendment does not affect the capability of the ice condenser or other SSCs to perform their function. As a result, no new failure mechanisms, malfunctions, or accident initiators are created. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment involves no change in the capability of an SSC. Under the proposed amendment, the ice condenser would remain fully capable of performing its design function under credible circumstances. Therefore, there is no significant reduction in a margin of safety as a result of the proposed amendment.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the person(s) may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person(s) whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request via electronic submission through the NRC E-filing system for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic

Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397–4209 or locally, (301) 415–4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-

class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date. Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at: *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, 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 submissions.

For further details with respect to this license amendment application, see the application for amendment dated February 29, 2008, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 5th day of March 2008.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Plant Licensing Branch III–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8–4913 Filed 3–11–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. PAPO–001; ASLBP No. 08–861–01–PAPO–BD01]

Atomic Safety and Licensing Board; In the Matter of: U.S. Department of Energy: (High-Level Waste Repository: Pre-Application Matters, Advisory PAPO Board); Notice and Memorandum (Requesting Information From Potential Parties)

March 6, 2008.

Before Administrative Judges: Thomas S. Moore, Chairman; G. Paul Bollwerk, III; E. Roy Hawkens.

I. Introduction

On December 13, 2007, the Commission authorized the establishment of an Advisory Pre-License Application Presiding Officer Board (Advisory PAPO Board) to obtain input from potential parties [1] on the broad range of procedural matters expected to arise from, and associated case management requirements that could be imposed in, any adjudication regarding an application by the Department of Energy (DOE) for authorization to construct a high-level waste (HLW) repository at Yucca Mountain, Nevada.[2] Pursuant to this authority, this Board was established on February 13, 2008.[3] This memorandum is the first request from this Board for information from potential parties to the HLW repository proceeding on the construction permit application of DOE.[4]

II. Requests for Information

A. Request for Information From Any Potential Parties

The Nuclear Waste Policy Act of 1982, as amended, sets a three-year time period, with the possibility of a one-year extension, for the NRC to review and make a licensing determination on the application for the construction of the HLW repository.[5] Appendix D of 10 CFR Part 2 establishes a schedule, based upon the time period prescribed by the Nuclear Waste Policy Act, for the adjudication arising from challenges to the DOE license application, and 10 CFR 2.1026 mandates that licensing boards in the HLW proceeding meet this schedule.[6]

The schedule in the Commission's regulations is rigorous, considering the potential complexity of the HLW proceeding,[7] with initial deadlines for the filing of contentions, answers to those contentions, and replies to answers due in relatively short order following the issuance of the initial hearing opportunity notice. Pursuant to 10 CFR 2.309(b)(2), potential parties (*i.e.*, petitioners) must file petitions to intervene containing contentions within 30 days of the date of publication of the Notice of Opportunity for Hearing in the **Federal Register**.[8] Thereafter, Appendix D requires applicant DOE, the NRC staff, and any other potential party challenging the admission of contentions to file answers to any intervention petitions within 25 days.[9] After DOE, the NRC staff, and any other potential party challenging contention admissibility file their answers, potential parties (*i.e.*, petitioners) have 7 days within which to file replies.[10]

If potential parties request extensions of time for filing answers or replies, the authority of any licensing board is expressly limited to extensions of an additional 15 days.[11] All requests for extensions of time in excess of 15 days must be referred to the Commission.[12] As a consequence, if licensing boards are to manage realistically these proceedings within the schedule set out in Appendix D, it is imperative that procedural standards be developed at the outset to organize potential party submissions.

Before we request input on such procedural standards from potential parties, however, we need a realistic estimation of the scope of the challenge we (and the potential parties) face. Accordingly, we request the following:

1. Each potential party considering filing a petition to intervene should

[1] ''Potential party,'' as it is used here, means DOE, the NRC Staff, the State of Nevada, and any person or entity that meets the definitions of ''party,'' ''potential party,'' or ''interested governmental participant'' under 10 CFR 2.1001.

[2] Staff Requirements Memorandum COMSECY–07–0030—Requesting Authority to Issue Case Management Orders in High-Level Waste Proceeding Prior to the Issuance of a Notice of Opportunity for Hearing (Dec. 13, 2007).

[3] See 73 FR 9358 (Feb. 20, 2008).

[4] To ensure a wide dissemination of this Memorandum, it is being published in the **Federal Register**. It is also being served on the service list for the PAPO proceeding, docket number PAPO–00, which the Secretary of the Commission has incorporated as the initial service list for this proceeding.

[5] Nuclear Waste Policy Act of 1982, as amended, section 114(d), 42 U.S.C. 10134(d).

[6] See 10 CFR Part 2, App. D; 10 CFR 2.1026(a).

[7] The Commission has acknowledged the potential complexity of the HLW repository proceeding. See 69 FR 2182, 2204 (Jan. 14, 2004).

[8] 10 CFR 2.309(b)(2)

[9] CFR Part 2, App. D (Day 55).

[10] *Id.* (Day 62).

[11] CFR 2.1026(b)(1).

[12] 10 CFR 2.1026(b)(2).

provide us with its current, best, good-faith estimate of the number of initial contentions it intends to file, using the number ranges provided below.

We recognize that until DOE files, *inter alia*, a license application, no potential party will know definitively how many contentions it will file or the subject matter of its contentions, so an exact figure is not possible. Thus, we are seeking only best, good-faith estimates, nothing more. Further, because we are seeking this information for the purpose of developing standards for the effective and efficient management of the proceeding, potential party estimates will be used solely and exclusively for that purpose, and no other, and is without prejudice to the potential party's ability subsequently to file a larger (or smaller) number of contentions.

Estimated Number of Contentions

(1) 1–10
(2) 11–25
(3) 26–50
(4) 50–100
(5) 101–250
(6) 251–500
(7) 501–1000
(8) 1001–2000
(9) 2001–3000
(10) 3001+

2. DOE, the NRC Staff, and any potential party challenging the admissibility of contentions should provide a best, good-faith estimate of the number of days it realistically will need to file reasoned answers to each range of contentions listed above to aid the licensing boards in resolving the admissibility of contentions. In estimating the time it will take to file such reasoned answers, DOE and any potential party challenging the admissibility of contentions should keep in mind that 10 CFR Part 2, Subpart J eliminates the apparent need in other proceedings for applicants and other challengers of contention admissibility to challenge the admissibility of all proffered contentions to preserve the right to an interlocutory appeal of a licensing board's ruling admitting any contention.[13] Instead, Subpart J provides for an interlocutory appeal to the Commission on a licensing board's contention admissibility decisions regardless of whether the party took the initial position that the petition should have been ''wholly denied.'' [14]

3. Each potential party expecting to file a petition to intervene should provide a best, good-faith estimate of the number of days it realistically will need to file replies to the answers, keeping in mind that the filing of a reply is the first (and only written) opportunity a petitioner has to defend its contentions.

Again, we recognize that at this stage before the application has been filed plans for filing contentions have not been finalized. We emphasize, however, that we are only looking for best, good-faith estimates to establish a format for the filing of contentions that will best enable the Appendix D schedule to be met. Whether they support or oppose the potential DOE application, any potential parties that are reluctant to cooperate should realize that the work of the Advisory PAPO Board is intended to assist them in meeting deadlines once an application is filed.[15]

B. Request for Information From DOE

Our goal in issuing this Memorandum is, among other things, to obtain information to better enable us to propose to potential parties for comment one or more potential organizational structures that will ensure (1) each contention is clear on its face in addressing each of the admissibility requirements of section 2.309(f)(1)(i)–(vi); (2) those opposing the admissibility of a contention are able readily to identify and challenge only those portions of a contention that fail to meet the admissibility requirements of section 2.309(f)(1)(i)–(vi); (3) potential parties are able effectively to defend the admissibility of their contentions in any reply pleadings; and (4) licensing boards are able to see how each contention addresses the factors in section 2.309(f)(1) and what challenges and defenses have been interposed relative to that contention, in order to make a timely, reasoned decision regarding whether each contention is admissible.

One approach we believe could provide an organizational structure that would accomplish these purposes would be to label contentions in a way that models the Table of Contents (TOC) of the DOE License Application to show the specific portion of the application being challenged, which petitioners are required to demonstrate under 10 CFR 2.309(f)(1)(vi) when contentions are filed. In addition, knowing the level of granularity of DOE's TOC may assist the Board to develop a proposal regarding the specificity necessary for petitioners to state their issues of law or fact to be controverted under section 2.309(f)(1)(i). Contentions that are modeled on the TOC might in turn assist those who will be filing answers, including DOE, to ascertain quickly the focus of the contention and to challenge directly, as necessary, the admissibility of contentions in a timely manner.

To enable us to develop this proposal, it would be helpful if DOE would file the current draft version of the TOC of its License Application. If DOE has a legitimate reason which it believes precludes it from filing the draft TOC for the entire License Application, we request that it file the draft TOC for the general information section of the License Application.[16] If DOE believes it has a legitimate reason that precludes it from filing the draft TOC for the general information section, we request that it provide a full description of the level of detail (*i.e.*, complete hierarchical structure) that it plans to use in the TOC. If DOE chooses not to file any part of the draft TOC, we also request that it explain fully its reasons for withholding the TOC so we, in turn, can explain to the Commission the reason DOE has been unable to aid our efforts to make the HLW proceeding more efficient for all involved.[17]

III. Filing and Service

The first filing by any potential party wishing to respond that has *not* filed a notice of appearance in the initial PAPO proceeding, docket number PAPO–00, should be accompanied by a notice of appearance from that potential party's authorized representative or counsel containing all required information under 10 CFR 2.314(b). The notice of appearance will provide the information necessary to establish and maintain a service list, so that participants can be accurately identified and duly notified

[13] *See* 10 CFR 2.311(c) (allowing interlocutory appeal of licensing board decision granting petition to intervene only if issue is ''whether the request/petition should have been wholly denied'').

[14] 10 CFR 2.1015(b); *see also* 10 CFR Part 2, App. D (Day 110).

[15] In this regard, although we recognize that the State of Nevada consistently has maintained that its ability to provide an estimate of the number of contentions is severely constrained by its lack of access to the application and its major supporting documentation, such as the total system performance assessment model/analysis for the license application, see, *e.g.*, Motion to Strike DOE's October 19, 2007 LSN Recertification and to Suspend Certification of Others Until DOE Validly Recertifies (Oct. 29, 2007) at 34, we are hopeful its ability to make a best, good-faith estimate may be enhanced considerably by DOE's apparent recent submission of that document into the Licensing Support Network. *See* Total System Performance Assessment Model/Analysis for the License Application Volume I, Volume II, and Volume III (C), LSN Accession No. DEN001574936.

[16] *See* 10 CFR 63.21(a), (b); *see also* Office of Nuclear Materials Safety & Safeguards, U.S. Nuclear Regulatory Comm'n, Yucca Mountain Review Plan, NUREG–1804, at 1–1 to 1–31 (rev. 2 July 2003).

[17] Additionally, if DOE declines to provide the application TOC, it should suggest an alternative organizational structure for contentions that can be utilized by potential intervenors without having to await the filing of its HLW application.

during this advisory phase of the proceeding.[18]

Responses to this memorandum and any other responses to information or requests for input from the Advisory PAPO Board must be submitted and served electronically through the NRC's Electronic Information Exchange (EIE) system, docket number PAPO–001. Potential parties that already have been participating in the PAPO proceeding, docket number PAPO–00, and using the EIE system do not need to do anything additional to be able to file in this Advisory PAPO proceeding. Those that have not been participating in the PAPO proceeding but wish to make submissions before this Board should consult the NRC's Web site, which provides detailed instructions on the steps necessary to access and make EIE submissions, including (1) obtaining a digital certificate from the NRC Office of the Secretary and installing that certificate into the participant's Web browser (*http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*); (2) loading the viewer software currently needed to submit and view documents in the EIE system (*http://www.nrc.gov/site-help/e-submittals/install-viewer.html*); (3) creating a document in the portable document format (PDF) suitable for EIE submission (*http://www.nrc.gov/site-help/electronic-sub-ref-mat.html*); and (4) accessing the EIE Web site and submitting the document (*http://www.nrc.gov/site-help/e-submittals/submit-documents.html*). A potential party that is not currently participating in the PAPO proceeding and using EIE should begin this process no less than five days before it wishes to make an initial submission. In submitting their responses, potential parties should make sure they are filing them on this docket, PAPO–001, which is denominated as the ''Advisory PAPO Board'' on the dropdown list of proceedings that is part of the EIE filing form.

We request that all potential parties (including DOE and the NRC Staff) provide us with a filing that includes the information described above in Part II.A and that in its filing DOE also provide us with the information described above in Part II.B. All filings should be submitted through the agency's EIE system and served on the service list for the Advisory PAPO Board proceeding, docket number PAPO–001, by Monday, March 24, 2008.

[18] We caution that for potential parties that have not already been participating in the PAPO proceeding, docket number PAPO–00, filing a notice of appearance with this Advisory PAPO Board, docket number PAPO–001, will not suffice for participation in the PAPO proceeding.

March 6, 2008, Rockville, Maryland.

The Advisory Pre-License Application, Presiding Officer Board.

Thomas S. Moore,

Chairman, Administrative Judge.

G. Paul Bollwerk, III,

Administrative Judge.

E. Roy Hawkens,

Administrative Judge.

[FR Doc. E8–4918 Filed 3–11–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Proposed License Renewal Interim Staff Guidance LR–ISG–2008–01: Staff Guidance Regarding the Station Blackout Rule (10 CFR 50.63); Associated With License Renewal Applications; Solicitation of Public Comment

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on its Proposed License Renewal Interim Staff Guidance LR–ISG–2008–01 (LR–ISG) for clarification to its previously issued LR–ISG–02, ''Staff Guidance on Scoping of Equipment Relied on to Meet the Requirements of the Station Blackout (SBO) Rule (10 CFR 50.63) for License Renewal,'' dated April 1, 2002, which has been incorporated in the License Renewal Standard Review Plan. This LR–ISG provides additional clarification to the staff position on the license renewal scoping requirements regarding the offsite power system for SBO recovery. The NRC staff issues LR–ISGs to facilitate timely implementation of the license renewal rule and to review activities associated with a license renewal application. Upon receiving public comments, the NRC staff will evaluate the comments and make a determination to incorporate the comments, as appropriate. Once the NRC staff completes the LR–ISG, it will issue the LR–ISG for NRC and industry use. The NRC staff will also incorporate the approved LR–ISG into the next revision of the license renewal guidance documents.

DATES: Comments may be submitted by May 12, 2008. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be submitted to: Chief, Rulemaking, Directives and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments should be delivered to: 11545 Rockville Pike, Rockville, Maryland, Room T–6D59, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Persons may also provide comments via e-mail at *NRCREP@NRC.GOV.* The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by e-mail at *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Stacie Sakai, Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–1884 or by e-mail at *sxs11@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Attachment 1 to this **Federal Register** notice, entitled *Staff Position and Rationale for the Proposed License Renewal Interim Staff Guidance LR–ISG–2008–01: Staff Guidance Regarding the Station Blackout Rule (10 CFR 50.63) Associated with License Renewal Applications,*'' contains the NRC staff's rationale for publishing the proposed LR–ISG–2008–01. Attachment 2 to this **Federal Register** notice, entitled *Proposed License Renewal Interim Staff Guidance LR–ISG–2008–01: Staff Guidance Regarding the Station Blackout Rule (10 CFR 50.63) Associated with License Renewal Applications,*'' contains the additional clarification to the current staff position on the license renewal SBO scoping requirements.

The NRC staff is issuing this notice to solicit public comments on the proposed LR–ISG–2008–01. After the NRC staff considers any public comments, it will make a determination regarding issuance of the proposed LR–ISG.

Dated at Rockville, Maryland this 5th day of March, 2008.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

Attachment 1—Staff Position and Rationale for the Proposed License Renewal Interim Staff Guidance LR–ISG–2008–01: Staff Guidance Regarding the Station Blackout Rule (10 CFR 50.63) Associated With License Renewal Applications

Staff Position

Consistent with the requirements specified in Title 10, § 54.4(a)(3), of the *Code of Federal Regulations* (10 CFR 54.4(a)(3)) and 10 CFR 50.63(a)(1), the scope of license renewal should include the offsite recovery path from the transmission system to the Class 1E distribution system. Accordingly, the offsite recovery paths that must be included within the scope of license renewal, in accordance with 10 CFR 54.4(a)(3), consist of circuits from two independent sources. Both paths start from the switchyard breaker to the plant Class 1E safety buses. This path includes (1) switchyard circuit breakers that connect to the offsite power system (i.e., grid), (2) power transformers, (3) intervening overhead or underground circuits (i.e., cables, buses and connections, transmission conductors and connections, insulators, disconnect switches, and associated components), (4) circuits between the circuit breakers and power transformers, (5) circuits between the power transformers and onsite electrical distribution system, and (6) the associated control circuits and structures.

Rationale

The license renewal rule, 10 CFR 54.4(a)(3), requires that the scope of license renewal include ''All systems, structures, and components relied on in safety analyses or plant evaluations to perform a function that demonstrates compliance with the Commission's regulations for * * * station blackout (10 CFR 50.63).'' The station blackout (SBO) rule, 10 CFR 50.63(a)(1), states that each light-water-cooled nuclear power plant licensed to operate must be able to withstand and recover from an SBO of a specified duration that is based on factors that include ''(iii) The expected frequency of loss of offsite power; and (iv) The probable time needed to restore offsite power.'' In this regard, the SBO rule is consistent with the staff findings identified in the statement of considerations for the SBO rule and NUREG–1032, ''Evaluation of Station Blackout Accidents at Nuclear Power Plants,'' issued June 1988.

During its evaluation of licensee compliance with the requirements in 10 CFR 50.63, ''Loss of All Alternating Current Power,'' the staff has assessed the offsite power recovery paths that are credited in the licensee evaluation of SBO coping duration. The SBO coping duration evaluation is based on the criteria specified in 10 CFR 50.63(a)(1). The staff's regulatory assessment and acceptance of licensees' compliance with the SBO rule for offsite power is based on the site-related characteristics and power design characteristics as defined in Regulatory Guide (RG) 1.155, ''Station Blackout,'' issued August 1988, and also the availability and reliability of the offsite power including the protective coordination of switchyard breakers. The staff developed this guidance to ensure that scoping of SBO equipment in accordance with the requirements of 10 CFR 54.4(a)(3) is conducted in a manner consistent with the original staff evaluations of licensee compliance with the requirements of the SBO rule (10 CFR 50.63) to include equipment necessary for recovery.

Attachment 2—Proposed License Renewal Interim Staff Guidance LR–ISG–2008–01: Staff Guidance Regarding the Station Blackout Rule (10 CFR 50.63) Associated with License Renewal Applications

Staff Position

Consistent with the requirements specified in Title 10, § 54.4(a)(3), of the *Code of Federal Regulations* (10 CFR 54.4(a)(3)) and 10 CFR 50.63(a)(1), the scope of license renewal should include the offsite recovery path from the transmission system to the Class 1E distribution system. The offsite and onsite power circuits must permit functioning of structures, systems, and components necessary to respond to the event. The rationale for this position follows.

Rationale

In the license renewal rule, 10 CFR 54.4(a)(3) requires that the scope of license renewal include ''All systems, structures, and components relied on in safety analyses or plant evaluations to perform a function that demonstrates compliance with the Commission's regulations for * * * station blackout (10 CFR 50.63).'' In the station blackout (SBO) rule, 10 CFR 50.63(a)(1), states that each light-water-cooled nuclear power plant licensed to operate must be able to withstand and recover from an SBO of a specified duration that is based on factors that include ''(iii) The expected frequency of loss of offsite power; and (iv) The probable time needed to restore offsite power.'' In this regard, the SBO rule is consistent with the staff findings identified in the statement of considerations and NUREG–1032, ''Evaluation of Station Blackout Accidents at Nuclear Power Plants,'' issued June 1988. In particular, with regard to factor (iv), the staff found that restoration of offsite power (0.6 hours median time to restore) is more likely to terminate an SBO event than restoration of the emergency diesel generators (8 hours median time to repair).

In Appendix A, ''General Design Criteria for Nuclear Power Plants,'' to 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities,'' General Design Criterion (GDC) 17, ''Electric Power Systems,'' requires that two physically independent circuits shall supply electric power from the transmission network to the onsite electric distribution system. These circuits must be designed and located so as to minimize to the extent practical the likelihood of their simultaneous failure under operating and postulated accident and environmental conditions. A switchyard common to both circuits is acceptable. Each of these circuits shall be designed to be available soon enough after a loss of all onsite alternating current (ac) power supplies and the loss of the other offsite electric power circuit to ensure that specified acceptable fuel design limits and design conditions of the reactor coolant pressure boundary are not exceeded. One of these circuits (the immediate access circuit) shall be designed to be available within a few seconds following a loss-of-coolant accident to ensure the maintenance of core cooling, containment integrity, and other vital safety functions.

Plants not licensed in accordance with GDC 17 were licensed to satisfy plant-specific principal design criteria presented in the plant updated final safety analysis report (FSAR). These criteria are similar to GDC 17. The electric grid is the source of power to the offsite power system. Therefore, all operating plants have offsite power requirements similar to GDC 17. The plant technical specifications embody the operational restrictions for the design requirements for the loss of offsite power sources.

SBO is the loss of offsite and onsite ac electric power to the essential and nonessential switchgear buses in a nuclear power plant. It does not include the loss of ac power fed from inverters powered by station batteries or loss of ac power from an alternate ac power source. The U.S. Nuclear Regulatory Commission added the SBO rule to the

regulations in 10 CFR part 50 because, as operating experience accumulated, concern arose that the reliability of both the offsite and onsite ac power systems might be less than originally anticipated, even for designs that met the requirements of GDC 17 and GDC 18, ''Inspection and Testing of Electric Power Systems.'' The results of risk studies indicate that estimated core melt frequencies from SBOs vary considerably between plants and could be a significant risk contributor for some plants.

As a result, the SBO rule required that nuclear power plants have the capability to withstand and recover from the loss of offsite and onsite ac power of a specified duration (the coping duration). In their plant evaluations, licensees followed the guidance specified in Regulatory Guide (RG) 1.155, ''Station Blackout,'' issued August 1988, and NUMARC 87–00, ''Guidelines and Technical Bases for NUMARC Initiatives Addressing Station Blackout at Light Water Reactors,'' to determine their required plant-specific coping duration. The agency based the criteria specified in RG 1.155 to calculate a plant-specific coping duration on the expected frequency of loss of offsite power and the probable time needed to restore offsite power, as well as the other two factors (onsite emergency ac power source redundancy and reliability) specified in 10 CFR 50.63(a)(1). In requiring that a plant's coping duration be based in part on the probable time needed to restore offsite power, 10 CFR 50.63(a)(1) specifies that the offsite power system be an assumed method of recovering from an SBO. Disregarding the offsite power system as a means of recovering from an SBO would not meet the requirements of the 10 CFR 50.63 rule and would result in a longer required coping duration.

The use of the offsite power system within 10 CFR 50.63(a)(1) as a means of recovering from an SBO should not be construed to be the only acceptable means of recovering from an SBO. A licensee could, for example, recover offsite power or emergency (onsite) power. It is not possible to determine before an actual SBO event which source of power can be returned first. As a result, 10 CFR 50.63(c)(1)(ii) and its associated guidance in RG 1.155, Sections 1.3 and 2, require procedures to recover from an SBO that include restoration of offsite and onsite power.

Based on the above, licensees rely on both the offsite and onsite power systems to meet the requirements of the SBO rule. Elements of both offsite and onsite power are necessary to determine the required coping duration under 10 CFR 50.63(a)(1), and the procedures required by 10 CFR 50.63(c)(1)(ii) must address both offsite power and onsite power restoration. It follows, therefore, that both systems are used to demonstrate compliance with the SBO rule and must be included within the scope of license renewal consistent with the requirements of 10 CFR 54.4(a)(3). The onsite power system is included within the scope of license renewal on the basis of the requirements under 10 CFR 54.4(a)(1) (safety-related systems). The equipment that is relied upon to cope with an SBO (e.g., alternate ac power sources) is included within the scope of license renewal on the basis of the requirements under 10 CFR 54.4(a)(3). The offsite power system is therefore necessary to complete the required scope of the electrical power systems under license renewal.

The staff has recently noted during the review of license renewal applications that some applicants have not included all of the components and structures within the scope of license renewal needed for recovering the offsite source from an SBO event as required by 10 CFR 54.4(a)(3). Failure to include all of the structures and components within the scope of license renewal will result in those structures and components not being subject to aging management review, and the effects of aging will not be adequately managed so that the intended function(s) will be maintained consistent with the current licensing basis for the period of extended operation in accordance with 10 CFR 54.21(a)(1) and (a)(3).

During its evaluation of licensee compliance with the requirements in 10 CFR 50.63, ''Loss of All Alternating Current Power,'' the staff has assessed the offsite power recovery paths that are credited in the licensee evaluation of SBO coping duration. The SBO coping duration evaluation is based on the criteria specified in 10 CFR 50.63(a)(1). The staff's regulatory assessment and acceptance of licensees' compliance with the SBO rule for offsite power is based on the site-related characteristics and power design characteristics as defined in RG 1.155, and also the availability and reliability of the offsite power including the protective coordination of switchyard breakers.

The offsite power systems of U.S. nuclear power plants consist of a transmission system component and a switchyard that provides a source of power and a plant system component that connects that power source to a plant's onsite electrical distribution system which powers safety equipment. The staff considers each plant design individually, reviewing the plant's FSAR and associated electrical drawings. The key to performing the scoping for the SBO recovery path is defining the boundary of the offsite power source at the switchyard. A switchyard can have multiple offsite lines supplying the switchyard buses. Although switchyard designs vary, most plants have either a ring bus or breaker-and-a-half scheme.

The scoping boundary, as outlined in the Standard Review Plan-License Renewal (SRP–LR), Section 2.5.2.1.1, should be from the breaker or breakers from the switchyard (connections to the line side). If there is a circuit breaker between the power transformer (startup, reserve, auxiliary, or main transformer) and the switchyard bus, and the circuit breaker is directly bolted to the switchyard bus, then that circuit breaker is acceptable as the scoping boundary. If there is a disconnect switch, but no circuit breaker exists between the transformer and the switchyard bus, then the circuit breaker(s) connected to the switchyard bus that feeds the power transformer (startup, reserve, auxiliary, or main transformer) should be acceptable as the scoping boundary.

The circuit breaker, as the scoping boundary, provides connection to offsite power via the switchyard bus, which can be powered by any of the incoming transmission lines. This breaker should be at the transmission system voltage to ensure adequate protection of safety bus and the recovery of offsite power. The staff believes that the circuit breaker needs to be within the scope of license renewal because of its ability to provide plant power, protect downstream circuits and provide plant operator-controlled isolation and energization ability. In addition, a circuit breaker coordinates with other protective devices to minimize the probability of loss of offsite power and prevent transients from affecting the onsite distribution system as offsite power is being restored. For these reasons, a circuit breaker remains as the scoping boundary. Using a disconnect switch or other component downstream of the breaker is not consistent with the staff position of compliance with the SBO rule and is not acceptable for meeting the SBO scoping requirements for license renewal.

As discussed above, for purposes of the license renewal, the staff has determined that the offsite recovery paths that must be included within the scope of license renewal, in accordance with 10 CFR 54.4(a)(3), consist of circuits from two independent sources. Both paths start from the switchyard breaker to the plant Class 1E safety

buses. This path includes (1) switchyard circuit breakers that connect to the offsite power system (i.e., grid), (2) power transformers, (3) intervening overhead or underground circuits (i.e., cables, buses and connections, transmission conductors and connections, insulators, disconnect switches, and associated components), (4) circuits between the circuit breakers and power transformers, (5) circuits between the power transformers and onsite electrical distribution system, and (6) control circuit cables and connections and structures associated with components in the recovery path. The SBO recovery path scoping boundary ends at the line side of the switchyard breaker(s) at transmission system voltage. For the switchyard breakers, bolted connections to the switchyard bus and structural components supporting the breakers are within the scope of license renewal. The control circuit cables and its connections for the switchyard breakers are not within the scope of license renewal. Figures of different configurations of the SBO offsite power recovery path that are acceptable to the staff and meet the license renewal scoping requirements in accordance with 10 CFR 54.4(a)(3) are available via ADAMS at Accession No. ML080520620.

The ownership of switchyard components is not a factor in ensuring that the effects of aging will be adequately managed for components and structures needed for recovering the offsite circuits from an SBO event consistent with the requirements in 10 CFR 54.4, ''Scope,'' and 10 CFR 54.21, ''Contents of Application—Technical Information.'' The staff recognizes that there are interface and control agreements between the licensee and transmission system operator. These agreements do not preclude the applicant from complying with requirements specified in 10 CFR 54.4 and 10 CFR 54.21.

Designating the appropriate offsite power system long-lived passive structures and components that are part of this circuit path as subject to an aging management review will ensure the maintenance of the bases underlying the SBO requirements over the period of the extended license. This is consistent with the Commission's expectations in including the SBO event under 10 CFR 54.4(a)(3) of the license renewal rule.

[FR Doc. E8–4902 Filed 3–11–08; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

Summary: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Statement of Authority to Act for Employee; OMB 3220–0034.

Under Section 5(a) of the Railroad Unemployment Insurance Act (RUIA), claims for benefits are to be made in accordance with such regulations as the Railroad Retirement Board (RRB) shall prescribe. The provisions for claiming sickness benefits as provided by Section 2 of the RUIA are prescribed in 20 CFR 335.2. Included in these provisions is the RRB's acceptance of forms executed by someone else on behalf of an employee if the RRB is satisfied that the employee is sick or injured to the extent of being unable to sign forms.

The RRB utilizes Form SI–10, Statement of Authority to Act for Employee, to provide the means for an individual to apply for authority to act on behalf of an incapacitated employee and also to obtain the information necessary to determine that the delegation should be made. Part I of the form is completed by the applicant for the authority and Part II is completed by the employee's doctor. One response is requested of each respondent. Completion is required to obtain benefits. The RRB proposes no changes to Form SI–10.

The estimated annual respondent burden is as follows:

Form: SI–10.

Estimate of Annual Responses: 400.

Estimated Completion Time: 6 minutes.

Total Burden Hours: 40.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV*. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Ronald.Hodapp@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E8–4910 Filed 3–11–08; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) to request a revision to a currently approved collection of information: 3220–0195, Statement Regarding Contributions and Support of Children. Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if RRB and OIRA receive them within 30 days of publication date.

Section 2(d)(4) of the Railroad Retirement Act (RRA), provides, in part, that a child is deemed dependent if the conditions set forth in Section 202(d)(3), (4) and (9) of the Social Security Act are met. Section 202(d)(4) of the Social Security Act, as amended by Public Law 104–121, requires as a condition of dependency, that a child receives one-half of his or her support from the stepparent. This dependency impacts

upon the entitlement of a spouse or survivor of an employee whose entitlement is based upon having a stepchild of the employee in care, or on an individual seeking a child's annuity as a stepchild of an employee. Therefore, depending on the employee for at least one-half support is a condition affecting eligibility for increasing an employee or spouse annuity under the social security overall minimum provisions on the basis of the presence of a dependent child, the employee's natural child in limited situations, adopted children, stepchildren, grandchildren and step-grandchildren and equitably adopted children. The regulations outlining child support and dependency requirements are prescribed in 20 CFR 222.50–57.

In order to correctly determine if an applicant is entitled to a child's annuity based on actual dependency, the RRB uses Form G–139, Statement Regarding Contributions and Support of Children, to obtain financial information needed to make a comparison between the amount of support received from the railroad employee and the amount received from other sources. Completion is required to obtain a benefit. One response is required of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (73 FR 215 on January 2, 2008) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Statement Regarding Contributions and Support of Children.

OMB Control Number: OMB 3220–0195.

Form(s) submitted: G–139.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: Dependency on the employee for at least one-half support is a condition for increasing an employee or spouse annuity under the social security overall minimum provisions on the basis of the presence of a dependent child, the employee's natural child in limited situations, adopted children, stepchildren, grandchildren, and step-grandchildren. The information collected solicits financial information needed to determine entitlement to a child's annuity based on actual dependency.

Changes Proposed: The RRB proposes no changed to Form G–139.

The burden estimate for the ICR is as follows:

Estimated Completion Time for Form(s): Completion time for Form G–139 is estimated at 60 minutes.

Estimated annual number of respondents: 500.

Total annual responses: 500.

Total annual reporting hours: 500.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov.*

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E8–4914 Filed 3–11–08; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213

Extension:

Rule 19b–7 and Form 19b–7; OMB Control No. 3235–0553; SEC File No. 270–495.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for approval of extension of the existing collection of information provided for in the following rule: Rule 19b–7 (17 CFR 240.19b–7).

The Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'') provides a framework for self-regulation under which various entities involved in the securities business, including national securities exchanges and national securities associations (collectively, self-regulatory organizations or ''SROs''), have primary responsibility for regulating their members or participants. The role of the Commission in this framework is primarily one of oversight: the Exchange Act charges the Commission with supervising the SROs and assuring that each complies with and advances the policies of the Exchange Act.

The Exchange Act was amended by the Commodity Futures Modernization Act of 2000 (''CFMA''). Prior to the CFMA, federal law did not allow the trading of futures on individual stocks or on narrow-based stock indexes (collectively, ''security futures products''). The CFMA removed this restriction and provides that trading in security futures products would be regulated jointly by the Commission and the Commodity Futures Trading Commission (''CFTC'').

The Exchange Act requires all SROs to submit to the SEC any proposals to amend, add, or delete any of their rules. Certain entities (Security Futures Product Exchanges) would be national securities exchanges only because they trade security futures products. Similarly, certain entities (Limited Purpose National Securities Associations) would be national securities associations only because their members trade security futures products. The Exchange Act, as amended by the CFMA, established a procedure for Security Futures Product Exchanges and Limited Purpose National Securities Associations to provide notice of proposed rule changes relating to certain matters.[1] Rule 19b–7 and Form 19b–7 (17 CFR 249.822) implemented this procedure.

The collection of information is designed to provide the Commission with the information necessary to determine, as required by the Act, whether the proposed rule change is consistent with the Act and the rules thereunder. The information is used to determine if the proposed rule change should remain in affect or be abrogated.

The respondents to the collection of information are SROs. Five respondents file an average total of 12 responses per year. Each response takes approximately 17.25 hours to complete, which corresponds to an estimated annual response burden of 207 (12 responses × 17.25 hours) hours. The average cost per response is approximately $4,607.25 (17.25 hours multiplied by an average hourly rate of $267.09). The resultant total related cost of compliance for these respondents is approximately $55,287 per year (12 responses × $4,607.25 per response).

[1]These matters are higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products; sales practices for security futures products for persons who effect transactions in security futures products; or rules effectuating the obligation of Security Futures Product Exchanges and Limited Purpose National Securities Associations to enforce the securities laws. *See* 15 U.S.C. 78s(b)(7)(A).

Compliance with Rule 19b–7 is mandatory. Information received in response to Rule 19b–7 shall not be kept confidential; the information collected is public information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *Alexander_T._Hunt@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an *e-mail* to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: March 4, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4823 Filed 3–11–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213

Extension:

Rule 10f–3; SEC File No. 270–237; OMB Control No. 3235–0226.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension and approval of the collection of information discussed below.

Section 10(f) of the Investment Company Act of 1940 (15 U.S.C. 80a) (the ''Act'') prohibits a registered investment company (''fund'') from purchasing any security during an underwriting or selling syndicate if the fund has certain relationships with a principal underwriter for the security. Congress enacted this provision in 1940 to protect funds and their shareholders by preventing underwriters from ''dumping'' unmarketable securities on affiliated funds.

Rule 10f–3 (17 CFR 270.10f–3) permits a fund to engage in a securities transaction that otherwise would violate section 10(f) if, among other things: (i) Each transaction effected under the rule is reported on Form N–SAR; (ii) the fund's directors have approved procedures for purchases made in reliance on the rule, regularly review fund purchases to determine whether they comply with these procedures, and approve necessary changes to the procedures; and (iii) a written record of each transaction effected under the rule is maintained for six years, the first two of which in an easily accessible place. The written record must state: (i) From whom the securities were acquired; (ii) the identity of the underwriting syndicate's members; (iii) the terms of the transactions; and (iv) the information or materials on which the fund's board of directors has determined that the purchases were made in compliance with procedures established by the board.

The rule also conditionally allows managed portions of fund portfolios to purchase securities offered in otherwise off-limits primary offerings. To qualify for this exemption, rule 10f–3 requires that the subadviser that is advising the purchaser be contractually prohibited from providing investment advice to any other portion of the fund's portfolio and consulting with any other of the fund's advisers that is a principal underwriter or affiliated person of a principal underwriter concerning the fund's securities transactions.

These requirements provide a mechanism for fund boards to oversee compliance with the rule. The required recordkeeping facilitates the Commission staff's review of rule 10f–3 transactions during routine fund inspections and, when necessary, in connection with enforcement actions.

The staff estimates that approximately 350 funds engage in a total of approximately 4,400 rule 10f–3 transactions each year.[1] Rule 10f–3 requires that the purchasing fund create a written record of each transaction that includes, among other things, from whom the securities were purchased and the terms of the transaction. The staff estimates[2] that it takes an average fund approximately 30 minutes per transaction and approximately 2,200 hours[3] in the aggregate to comply with this portion of the rule.

The funds also must maintain and preserve these transactional records in accordance with the rule's recordkeeping requirement, and the staff estimates that it takes a fund approximately 20 minutes per transaction and that annually, in the aggregate, funds spend approximately 1,467 hours[4] to comply with this portion of the rule.

In addition, fund boards must, no less than quarterly, examine each of these transactions to ensure that they comply with the fund's policies and procedures. The information or materials upon which the board relied to come to this determination also must be maintained and the staff estimates that it takes a fund 1 hour per quarter and, in the aggregate, approximately 1,400 hours[5] annually to comply with this rule requirement.

The staff estimates that reviewing and revising as needed written procedures for rule 10f–3 transactions takes, on average for each fund, two hours of a compliance attorney's time per year.[6] Thus, annually, in the aggregate, the staff estimates that funds spend a total of approximately 700 hours[7] on monitoring and revising rule 10f–3 procedures.

Based on an analysis of fund filings, the staff estimates that approximately 600 fund portfolios enter into subadvisory agreements each year.[8] Based on discussions with industry representatives, the staff estimates that it will require approximately 3 attorney hours to draft and execute additional clauses in new subadvisory contracts in order for funds and subadvisers to be able to rely on the exemptions in rule 10f–3. Because these additional clauses are identical to the clauses that a fund would need to insert in their subadvisory contracts to rely on rules 12d3–1, 17a–10, and 17e–1, and because we believe that funds that use one such

[1] These estimates are based on staff extrapolations from filings with the Commission.

[2] Unless stated otherwise, the information collection burden estimates contained in this Supporting Statement are based on conversations between the staff and representatives of funds.

[3] This estimate is based on the following calculation: (30 minutes × 4,400 = 2,200 hours).

[4] This estimate is based on the following calculations: (20 minutes × 4,400 transactions = 88,000 minutes; 88,000 minutes / 60 = 1,467 hours).

[5] This estimate is based on the following calculation: (1 hour per quarter × 4 quarters × 350 funds = 1,400 hours).

[6] These averages take into account the fact that in most years, fund attorneys and boards spend little or no time modifying procedures and in other years, they spend significant time doing so.

[7] This estimate is based on the following calculation: (350 funds × 2 hours = 700 hours).

[8] The use of subadvisers has grown rapidly over the last several years, with approximately 600 portfolios that use subadvisers registering between December 2005 and December 2006. Based on information in Commission filings, we estimate that 31 percent of funds are advised by subadvisers.

rule generally use all of these rules, we apportion this 3 hour time burden equally to all four rules. Therefore, we estimate that the burden allocated to rule 10f–3 for this contract change would be 0.75 hours.[9] Assuming that all 600 funds that enter into new subadvisory contracts each year make the modification to their contract required by the rule, we estimate that the rule's contract modification requirement will result in 450 burden hours annually.[10]

The staff estimates, therefore, that rule 10f–3 imposes an information collection burden of 6217 hours.[11] This estimate does not include the time spent filing transaction reports on Form N–SAR, which is encompassed in the information collection burden estimate for that form.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or *e-mail to: Alexander_T._Hunt@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA, 22312; or send an *e-mail* to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: March 6, 2008.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4836 Filed 3–11–08; 8:45 am]

BILLING CODE 8011–01–P

[9] This estimate is based on the following calculation (3 hours ÷ 4 rules = .75 hours).

[10] These estimates are based on the following calculations: (0.75 hours × 600 portfolios = 450 burden hours).

[11] This estimate is based on the following calculation: (2,200 hours + 1,467 hours + 1,400 hours + 700 hours + 450 hours = 6,217 total burden hours).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57445; File No. SR–NASDAQ–2007–090]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, To Accept Financial Statements Prepared in Accordance With International Financial Reporting Standards, as Issued by the International Accounting Standards Board, for Certain Foreign Private Issuers, Consistent With Commission Rules

March 6, 2008.

On November 16, 2007, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to allow Nasdaq to accept financial statements prepared in accordance with International Financial Reporting Standards (''IFRS''), as issued by the International Accounting Standards Board (''IASB''), for certain foreign private issuers. Nasdaq filed Amendment No. 1 to the proposed rule change on February 6, 2008. The proposed rule change was published for comment in the **Federal Register** on February 12, 2008.[3] The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

The Commission recently amended Form 20–F under the Act and other rules under the Securities Act of 1933 that eliminate the requirement for U.S. GAAP reconciliation for foreign private issuers that file financial statements prepared in accordance with IFRS, as issued by the IASB, if certain conditions are met.[4] These changes apply only to foreign private issuers that file on Form 20–F, regardless of whether the issuer complies with IFRS as issued by the IASB voluntarily or in accordance with the requirements of the issuer's home country regulator or the exchange on which its securities are listed.[5] A foreign private issuer will continue to be required to provide a reconciliation to U.S. GAAP if its financial statements include deviations from IFRS as issued by the IASB, if it does not state unreservedly and explicitly that its financial statements are in compliance with IFRS as issued by the IASB, if the auditor does not opine on compliance with IFRS as issued by the IASB, or if the auditor's report contains any qualification relating to compliance with IFRS as issued by the IASB.[6] The Commission's rules are applicable to annual financial statements for financial years ending after November 15, 2007, and to interim periods within those years, that are contained in filings made after March 4, 2008.[7]

To allow foreign private issuers to take full advantage of this development, Nasdaq has proposed to allow such issuers to evidence compliance with Nasdaq's listing requirements on the same basis as permitted by the Commission. In its filing, Nasdaq states that to require foreign private issuers to provide U.S. GAAP reconciliations to list on Nasdaq, when they no longer are required to under Commission rules, may cause such issuers not to list in the U.S., thereby denying U.S. investors the ability to easily invest in such issuers.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act, which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 57290 (February 7, 2008), 73 FR 8084.

[4] *See* Securities Exchange Act Release No. 57026 (December 21, 2007), 73 FR 986 (January 4, 2008) (the ''IFRS/IASB Adopting Release''). *See also* Securities Exchange Act Release No. 55998 (July 2, 2007), 72 FR 37962 (July 11, 2007) (the ''IFRS/IASB Proposing Release''). The Commission is also considering whether to allow U.S. issuers to satisfy their reporting requirements through the provision of financial statements prepared in accordance with IFRS instead of U.S. GAAP. *See* Securities Exchange Act Release No. 56217 (August 7, 2007), 72 FR 45600 (August 14, 2007). This proposed Nasdaq rule change would be applicable only to foreign private issuers and would not apply to domestic U.S. companies.

[5] IFRS/IASB Adopting Release at 992.

[6] *Id.* at 993. A foreign private issuer using a jurisdictional or other variation of IFRS will be able to rely on the amendments if that issuer also is able to state compliance with both IFRS as issued by the IASB and a jurisdictional variation of IFRS (and does so state), and its auditor opines that the financial statements comply with both IFRS as issued by the IASB and the jurisdictional variation, as long as the statement relating to the former is unreserved and explicit. *Id.*

[7] *Id.* at 994.

[8] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

general to protect investors and the public interest. The Commission believes that modifying Nasdaq's listing requirements, that currently require U.S. GAAP reconciliation, to reflect the changes made under Commission rules will ease the burden of compliance on foreign private issuers desiring to list on Nasdaq. In this regard, the Commission notes that the changes being made simply allow foreign private issuers listing on Nasdaq to be able to prepare their financial statements under the same exact terms and conditions as required under Commission rules. The Commission further notes that these changes should provide benefits to both foreign issuers and investors in the U.S. market, consistent with investor protection and the public interest.[9]

Finally, the Commission finds good cause to approve the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing. The Commission notes that approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing will allow Nasdaq to immediately accept financial statements prepared in accordance with IFRS, as issued by the IASB, in accordance with changes recently made by the Commission that became effective March 4, 2008.[10] Further, as noted above, no comments were received on the proposed rule change.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NASDAQ–2007–090), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4851 Filed 3–11–08; 8:45 am]

BILLING CODE 8011–01–P

[9] *See* IFRA/IASB Adopting Release at 1006 (noting that moving towards a single set of globally accepted accounting standards will have positive effects on investors).

[10] *See* IFRS/IASB Adopting Release.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57436; File No. SR–CBOE–2008–18]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Delayed Start Option Series™

March 5, 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 25, 2008, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by CBOE. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules pertaining to Delayed Start Option Series™ (''DSOs'') in order to: (i) Change the exercise price increment parameters from the current maximum of one-eighth (0.125) to one (1.00); and (ii) provide that the applicable market model parameters (*e.g.*, trading platform, eligible categories of Market-Maker participants, allocation algorithms and other trading parameters) for the DSOs of a given index options class may be determined separate from the market model parameters applicable to the non-DSOs of the same index options class, and that the applicable DSO parameters may differ before and after the strike setting date. The text of the rule proposal is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE 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 recently received approval to list and trade a new type of security index option product called DSOs.[5] DSOs are identical to other options series that currently trade except that, instead of specifying a specific index value number for the exercise price, the exercise price is specified in terms of a specific method for fixing such a number. This method provides that the strike price is fixed based on the closing value of the underlying index on a predetermined date prior to their expiration (the ''strike setting date''). The particular strike setting date and method for fixing the exercise price is specified prior to the time the DSO is initially opened for trading. In addition, the particular expiration date is also specified prior to the time the DSO is initially opened for trading.

Before the initiation of trading in DSOs, the Exchange wishes to make certain changes to Rule 24.9(d) that will accommodate the integration of DSOs into the Exchange's various market models and systems. First, the Exchange is proposing to change the exercise price increment parameters from the current maximum of one-eighth (0.125) to one (1.00) (amounts greater than or equal to 0.50 would round up). By way of background, on the strike setting date, the DSO is assigned an at-the-money, in-the-money or out-of-the-money strike price. Under the current rules, a DSO's exercise price is fixed based on the closing value of the underlying index on the strike setting date and rounded to the nearest 0.125 value or such smaller value as the Exchange may designate at the time the DSO is listed, provided that

[5] *See* Securities Exchange Act Release No. 56855 (November 28, 2007), 72 FR 68610 (December 5, 2007) (SR–CBOE–2006–90).

the value cannot be smaller than 0.01.[6] For example, using a one-eighth interval, if the particular index underlying a DSO closes at 1004.12 on the strike setting date, an at-the-money DSO would be assigned a strike price of 1004.125.[7] In order to accommodate current system limitations relating to the rounding of strike prices for DSOs, the Exchange is proposing to revise the exercise price parameter from a maximum increment of 0.125 to 1.00. Under this revision, the DSO in the example above would be assigned a strike price of 1004.00. The Exchange is currently working on system changes that would accommodate a smaller strike price increment, and the Exchange intends to move to smaller increments once those changes are complete. As indicated in the current rule text, should the system functionality permit it in the future, the Exchange may determine to round a DSO to a value smaller that 1.00, provided that in all cases the increment would be designated at the time a DSO is listed and would not change thereafter, and that it would not be any smaller than 0.01.[8]

Second, the Exchange is proposing to adopt a provision regarding the applicable market model (*e.g.*, trading platform, eligible Market-Maker participants, allocation algorithms and other trading parameters) for DSOs. Under the existing rules, the particular market model parameters are generally determined on a class-by-class basis and, once established, CBOE also has the authority to make changes to the applicable market model parameters for a given class.[9] The proposed provision would provide that the Exchange may separately determine the appropriate market model (and changes thereto) for DSOs. This will provide the Exchange with more flexibility to formulate market models particular to the DSOs overlying a given index. Under this provision, the Exchange would be able to determine to use trading platforms (*e.g.*, the CBOE Hybrid Trading System, Hybrid 2.0 Platform and Hybrid 3.0 Platform), eligible categories of Market-Maker participants (*e.g.*, Designated Primary Market-Makers (''DPMs''), Lead Market-Makers (''LMMs''), Market-Makers and Remote Market-Makers (''RMMs'')), allocation algorithms (*e.g.*, UMA, price-time, or pro-rata priority with public customer, participation entitlement and market turner overlays) and other trading parameters for the DSOs of a given index options class that differ from the non-DSOs of the same class, and that differ for the periods before and after the DSO strike setting date. As indicated above, CBOE currently has the authority to change market model parameters now for standardized options.

For example, hypothetically, the non-DSOs of an options class overlying the XYZ index might trade on the Hybrid 3.0 Platform with an LMM market model. For the DSOs overlying the same XYZ index, the Exchange might determine to use the Hybrid Trading Platform with an LMM market model for the period from the initial listing to the strike setting date and then use the Hybrid 3.0 Platform with an LMM market model for the period from the strike setting date to expiration.[10]

To the extent the Exchange would determine to trade the DSOs of a given index option class on a trading platform that differs from the other series of that class, the Exchange is also proposing that a Market-Maker participant with an appointment in the overall index class may (but would not be required to) seek an appointment to those DSOs. Using the example above, a Market-Maker with an appointment in the XYZ index options may (but would not be required to) seek an appointment for the XYZ DSOs for the period from initial listing to the strike setting date.[11] To the extent that a Market-Maker participant does seek an appointment to trade DSOs on a trading platform that differs from the other series of a class, there would be no additional seat ''appointment cost'' applicable to that DSO appointment under Rules 8.3 and 8.4.[12] Lastly, the applicable continuous electronic quoting obligations would apply to only those series that the Market-Maker participant is able to quote electronically.[13] Using the same example, the Market-Maker would be required to provide continuous electronic quotes for 60% of the DSOs allocated to it in accordance with Rule 8.7 while those DSOs trade on the Hybrid Trading Platform.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[15] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

[6] Because of system limitations related to the rounding of strike prices for DSOs, the Exchange had previously planned to round DSO exercise prices to the nearest 0.125. However, should the system functionality permit it in the future, the Exchange built the flexibility into its rules to be able to determine to round DSO exercise prices to a smaller value provided that the particular increment would be designated at the time the DSO is listed and that it would not be any smaller than 0.01. *See* Rule 24.9(d)(2)(ii).

[7] In-the-money and out-of-the-money DSOs trade in the exact same manner as at-the-money DSOs with the exception that the strike price would be set to a predetermined level either in-or out-of-the-money on strike setting date (*e.g.*, 5% in-the-money, 5% out-of-the-money). For example, hypothetically, if the Exchange determines to list a 5% out-of-the-money DSO on the XYZ index and XYZ closes at 1000 on the strike setting date, the strike price would be established at 1050.

[8] *See* note 6, *supra.*

[9] *See, e.g.*, Rules 6.2B, 6.13, 6.13A, 6.14, 6.45B, 6.53C, 6.74, 6.74A and 8.14.

[10] Thus, an LMM might be appointed to the XYZ DSOs from the initial listing to the strike setting date and another LMM appointed to the XYZ DSOs from the strike setting date to expiration. Alternatively, a DPM might be appointed to the XYZ DSOs during either period. These configurations would differ from the existing rules, which generally provide for the appointment of a DPM on a class basis or the appointment of an LMM(s) for a particular zone within a class on a monthly basis. *See, e.g.*, Rules 8.14, 8.15A and 8.83.

[11] In this particular scenario, a market-making appointment in the DSOs would be optional. The Exchange believes it is reasonable to not require a Market-Maker participant's appointment (and related market-making obligations) in an index class to apply to the related DSOs to the extent the DSOs are traded on a different platform.

[12] A seat appointment cost applies to each options class traded on the Exchange. The applicable costs can vary based on, among other things, whether the class is traded on the Hybrid Trading System, Hybrid 2.0 Platform or Hybrid 3.0 Platform. *See* Rules 8.3(c) and 8.4(d).

[13] For options trading on the Hybrid Trading System, Market-Makers and DPMs or LMMs, as applicable, are able to quote electronically. For options trading on the Hybrid 2.0 Platform, Market-Makers, RMMs and DPMs, e-DPMs or LMMs, as applicable, are able to quote electronically. For options trading on the Hybrid 3.0 Platform, only a single DPM or LMM, as applicable, is able to quote electronically. *See, e.g.*, Rules 1.1(aaa) and 8.14.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change 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 [16] and Rule 19b-4(f)(6) thereunder.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2008–18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2008–18. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2008–18 and should be submitted on or before April 2, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4837 Filed 3–11–08; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange has satisfied the five-day pre-filing notice requirement.

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57441; File No. SR–ISE–2007–95]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving a Proposed Rule Change, as Modified by Amendment Nos. 2 and 3, Relating to Reserve Orders

March 6, 2008.

On October 12, 2007, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish a new order type called Reserve Orders. The ISE filed Amendment Nos. 1 and 2 to the proposal on January 17, 2008.[3] The ISE filed Amendment No. 3 to the proposal on January 25, 2008.[4] The proposed rule change, as modified by Amendment Nos. 2 and 3, was published for comment in the **Federal Register** on February 1, 2008.[5] The Commission received no comment letters regarding the proposal, as modified by Amendment Nos. 2 and 3. This order approves the proposed rule change, as modified by Amendment Nos. 2 and 3.

The Exchange proposes to amend ISE Rule 715, ''Types of Orders,'' to add a new order type, Reserve Orders.[6] A Reserve Order is a single-sided limit order that has both a displayed portion and a non-displayed or reserve portion, both of which are available for execution against incoming marketable orders.[7] Non-marketable Reserve Orders rest on the book.[8] The non-displayed portion of a Reserve Order will be available for execution only after all displayed interest at that price has been executed.[9] Both the displayed and the non-displayed portions of a Reserve Order will be ranked initially by the specified limit price and time of entry, and both the displayed and non-displayed portions of a Reserve Order will trade in accordance with the priority and allocation provisions in ISE Rule 713.[10]

When the displayed portion of a Reserve Order has been decremented, in whole or in part, it will be refreshed from the non-displayed portion of the resting Reserve Order. Upon any refresh, the entire displayed portion of the order will be ranked at the specified limit price, assigned a new entry time (*i.e.*, the time that the newly displayed portion of the order was refreshed), and given priority in accordance with ISE Rule 713.[11] Any remaining non-displayed portion of the order will receive the same time stamp as the newly displayed portion of the order.[12]

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 2 replaces the original filing and Amendment No. 1 in their entirety.

[4] Amendment No. 3 clarifies portions of the purpose section of the proposed rule change.

[5] Securities Exchange Act Release No. 57207 (January 25, 2008), 73 FR 6225.

[6] The ISE also proposes to revise paragraphs (c), (d), and (e) of ISE Rule 713, ''Priority of Quotes and Orders,'' to reflect the implementation of Reserve Orders.

[7] *See* ISE Rule 715(g)(1).

[8] *See* ISE Rule 715(g)(1).

[9] *See* ISE Rule 715(g)(5).

[10] *See* ISE Rule 715(g)(2), (3), and (5).

[11] *See* ISE Rule 715(g)(4).

[12] *See* ISE Rule 715(g)(5).

securities exchange.[13] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[14] which requires, in part, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that Reserve Orders will provide market participants with greater flexibility in displaying and managing their orders. This may encourage market participants to bring liquidity to the Exchange that they might not otherwise have submitted. In addition, because the ISE's rules provide that the non-displayed portion of a Reserve Order will be available for execution only after all displayed interest at that price has been executed,[15] there is an incentive for market participants to display their trading interest. The Commission also notes that the rules of another options exchange provide for the use of reserve orders,[16] as do the rules of several exchanges trading equity securities.[17]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–ISE–2007–95), as modified by Amendment Nos. 2 and 3, is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4838 Filed 3–11–08; 8:45 am]

BILLING CODE 8011–01–P

[13] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* ISE Rule 715(g)(5).

[16] *See* NYSE Arca Rules 6.62(c)(3) and 6.76(a). In addition, the NASDAQ Stock Market LLC (''Nasdaq'') has proposed to use Reserve Orders on the Nasdaq Options Market (''NOM''). *See* Securities Exchange Act Release No. 55667 (April 25, 2007), 72 FR 23869 (May 1, 2007) (File No. SR–NASDAQ–2007–004) (notice of filing of a proposal to establish rules governing trading on NOM).

[17] *See e.g.*, Amex Rule 131(s)–AEMI, NYSE Rule 204(d), Nasdaq Rule 4757(f)(2), and NYSE Arca Equities Rule 7.31(h)(e).

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57442; File No. SR–NYSE–2008–13]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delete From Section 802.01E of the Exchange's Listed Company Manual Text That is No Longer Relevant

March 6, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[4] and Rule 19b–4 thereunder,[5] notice is hereby given that on February 14, 2008, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 802.01E of the Exchange's Listed Company Manual (''Manual'') to delete a provision that ceased by its terms to be applied on December 31, 2007. The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.com*) and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 802.01E of the Manual contains a provision that gives the Exchange discretion to allow certain companies to remain listed if their annual reports are delayed beyond 12 months after the required filing date because such a company may have a position in the market (relating to both the nature of its business and its very large publicly-held market capitalization) such that its delisting from the Exchange would be significantly contrary to the national interest and the interests of public investors. This provision expired on December 31, 2007. As the period to which the provision relates has ended, it no longer has any effect and the Exchange wishes to delete it from the Manual.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[8] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

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

[8] 15 U.S.C. 78f(b)(5).

public interest, provided that the Exchange has given the Commission written notice of its intent to file 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,[9] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

Under Rule 19b–4(f)(6) of the Act,[12] the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative date, so that the proposal may take effect upon filing. The Exchange believes that the proposed rule change does not raise any new regulatory issues. The Commission agrees because the proposal is simply deleting outdated material from the Manual. Therefore, consistent with the protection of investors and the public interest, the Commission has determined to waive the 30-day operative date so that the proposal may become operative upon filing.[13]

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–NYSE–2008–13 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–NYSE–2008–13. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2008–13 and should be submitted on or before April 2, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4839 Filed 3–11–08; 8:45 am]

BILLING CODE 8011–01–P

[9] The Exchange has fulfilled this requirement.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] *Id.*

[13] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57434; File No. SR–Phlx–2008–19]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Specialist Option Transaction Charge Credit Pilot Program

March 5, 2008.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2008, Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to expand the Exchange's current $0.21 per contract specialist option transaction charge credit pilot program and to amend the Exchange's fee schedule to include all customer orders that are delivered electronically by Phlx XL[5] and subsequently executed via the Intermarket Option Linkage (''Linkage'')[6] as a Principal Acting as Agent (''P/A'') order.[7]

While changes to the fee schedule pursuant to this proposal are effective upon filing, the Exchange has designated the changes to be in effect for transactions settling on or after March 1, 2008 through July 31, 2008.[8] The text of the proposed rule change is available at Phlx, the Commission's Public Reference Room, and at *http://www.phlx.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,

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] Phlx XL, formerly referred to as AUTOM, is the Exchange's electronic options trading platform. *See* Exchange Rule 1080.

[6] Linkage is governed by the Options Linkage Authority under the conditions set forth under the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (the ''Plan'') approved by the Securities and Exchange Commission. The registered U.S. options markets are linked together on a real-time basis through a network capable of transporting orders and messages to and from each market.

[7] A P/A order is an order for the principal account of a specialist (or equivalent entity on another participant exchange that is authorized to represent public customer orders), reflecting the terms of a related unexecuted public customer order for which the specialist is acting as agent. *See* Plan for the Purpose of Creating and Operating an Intermarket Option Linkage Section 2(16)(a) and Exchange Rule 1083.

[8] This proposal is scheduled to be in effect for the same time period as fees for Linkage Principal (''P'') and P/A orders. See Securities Exchange Act Release No. 56166 (July 30, 2007), 72 FR 43312 (August 3, 2007) (SR–Phlx–2007–52).

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to expand the Exchange's current specialist option transaction charge credit pilot program and to amend the Exchange's fee schedule to include all customer orders that are delivered electronically by Phlx XL and subsequently executed via Linkage as a P/A order. The Exchange options specialist units incur a $0.21 per contract option transaction charge when they execute against the customer order that corresponds with the order that was delivered either through Phlx XL or Exchange's Options Floor Broker Management System [9] (''FBMS'') to the limit order book and subsequently executed at another exchange via Linkage as a P/A order. Currently, the Exchange provides for an option transaction charge credit of $0.21 per contract for Exchange options specialist units that incur Phlx option transaction charges when a customer order is delivered to the limit order book via the FBMS and then is executed via Linkage as a P/A Order.[10]

This proposal seeks to expand the $0.21 credit to include all customer orders that are delivered electronically by Phlx XL, not just FBMS orders, and that are subsequently executed via Linkage as a P/A order.

The purpose of this proposal is to help alleviate the potential economic burden of multiple transaction charges imposed on Exchange specialist units in connection with routing these types of Linkage orders. The Exchange believes it is appropriate to assist specialist units in offsetting some of the costs that they incur in routing orders to other options exchanges in order to obtain the National Best Bid or Offer. By expanding the option transaction charge credit to all electronically delivered orders as described above, the Exchange should remain competitive with other exchanges with respect to the assessment of Linkage-related fees.

3. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(4) of the Act,[12] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members. The expanded $0.21 credit should help alleviate the undue financial burden of multiple transaction charges that are incurred by these specialist units in connection with P/A orders executed via Linkage.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) [13] of the Act and Rule 19b–4(f)(2) [14] thereunder because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–Phlx–2008–19 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–Phlx–2008–19. 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 will also 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 No. SR–Phlx–2008–19 and should be submitted on or before April 2, 2008.

[9] FBMS is designed to enable Floor Brokers and/or their employees to enter, route and report transactions stemming from options orders received on the Exchange. FBMS also is designed to establish an electronic audit trail for options orders represented and executed by Floor Brokers on the Exchange, such that the audit trail provides an accurate, time-sequenced record of electronic and other orders, quotations and transactions on the Exchange, beginning with the receipt of an order by the Exchange, and further documenting the life of the order through the process of execution, partial execution, or cancellation of that order. *See* Exchange Rule 1080, Commentary .06.

[10] *See* Securities Exchange Act Release No. 56101 (July 19, 2007), 72 FR 40920 (July 25, 2007) (SR–Phlx–2007–50).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4822 Filed 3–11–08; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 6130]

Certification Concerning the Bolivian Military Under the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Pub. L. 109–102), as Carried Forward Under the Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110–5)

Pursuant to the authority vested in me as Deputy Secretary of State, including under the heading ''Andean Counterdrug Initiative'' in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Pub. L. 109–102), as carried forward under the Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110–5), and State Department Delegation of Authority 245, I hereby certify that the Bolivian military is respecting human rights, and civilian judicial authorities are investigating and prosecuting, with the military's cooperation, military personnel who have been implicated in gross violations of human rights.

This Determination shall be transmitted to the Congress and published in the **Federal Register**.

Dated: March 4, 2008.

John D. Negroponte,

Deputy Secretary of State, Department of State.

[FR Doc. E8–4965 Filed 3–11–08; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF STATE

[Delegation of Authority No. 309]

Delegation by the Secretary of State to the Assistant Secretary for European Affairs of Authorities Vested in or Delegated to the Under Secretary of State for Political Affairs

By virtue of the authority vested in the Secretary of State, including the authority of section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), I hereby delegate to the Assistant Secretary of State for European Affairs, to the extent authorized by law, all authorities and functions vested in the Under Secretary of State for Political Affairs by any act, order, determination, delegation of authority, regulation, or executive order, now or hereafter issued. This delegation includes all authorities and functions that have been or may be delegated or redelegated by the Under Secretary to other Department officials but does not repeal delegations to such officials.

This delegation to the Assistant Secretary includes State Department Delegation DA–284, which authorizes the Under Secretary for Political Affairs to exercise the authorities and functions of the Secretary or the Deputy Secretary ''when both the Secretary of State and the Deputy Secretary of State are absent or otherwise unavailable or when either the Secretary or the Deputy requests that the Under Secretary exercise such authorities and functions.''

This delegation of authority to the Assistant Secretary shall enter into force on March 1, 2008, and shall expire upon the appointment and entry upon duty of a new Under Secretary for Political Affairs. Notwithstanding this delegation of authority, the Secretary of State and the Deputy Secretary of State may exercise any function or authority covered by this delegation.

This delegation of authority shall be published in the **Federal Register**.

Dated: February 29, 2008.

Condoleezza Rice,

Secretary of State, Department of State.

[FR Doc. E8–4856 Filed 3–11–08; 8:45 am]

BILLING CODE 4710–10–P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as amended by Public Law 104–13; Submission for OMB Review; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–6004. Comments should be sent to OMB Office of Information & Regulatory Affairs, Attention: Desk Officer for Tennessee Valley Authority, no later than April 11, 2008.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular Submission; proposal for a reinstatement of a previously approved collection (OMB control number 3316–0009).

Title of Information Collection: Salary Surveys for Engineering Association (EA) and Law Enforcement Employee Association (LEEA) Bargaining Unit Employees.

Frequency of Use: Every one to three years.

Type of Affected Public: State or local governments, Federal agencies, non-profit institutions, businesses, or other for-profit.

Small Business or Organizations Affected: EA: 30 LEEA: 20.

Federal Budget Functional Category Code: 999.

Estimated Number of Annual Responses: EA: 30 LEEA: 20.

Estimated Total Annual Burden Hours: EA: 120 LEEA: 60.

Estimated Average Burden Hours Per Response: EA: 4 LEEA: 3.

Need For and Use of Information: TVA conducts a survey for employee compensation and benefits every one to three years as a basis for labor negotiations in determining prevailing rates of pay and benefits for represented employees. TVA surveys firms, and Federal, State, and local governments whose employees perform work similar to that of TVA's employees.

Steven A. Anderson,

Senior Manager, IT Planning & Governance, Information Services.

[FR Doc. 08–1006 Filed 3–11–08; 8:45 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending November 16, 2007

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural

[15] 17 CFR 200.30–3(a)(12).

Regulations (see 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2006–24629.

Date Filed: November 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 4, 2007.

Description: Application of Yangtze River Express Airlines Co., Ltd. requesting an amendment to its current exemption authority and its foreign air carrier permit, to the extent necessary to allow it to conduct flights with its own aircraft and crew.

Docket Number: DOT–OST–2003–16831.

Date Filed: November 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 4, 2007.

Description: Amended Application of Pullmantur Air, S.A. to its foreign air carrier permit and exemption to include: (1) Foreign air transportation of persons, property, and mail from any point or points behind any Member State of the European Union via any point or points in any Member State and via intermediate points to any point or points in the United States and beyond; (2) foreign air transportation of persons, property, and mail between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (3) foreign cargo air transportation between any point or points in the United States and any other point or points; (4) Other charters pursuant to the prior approval requirements set forth in Part 212; and (5) transportation authorized by any additional route rights made available to European Community carriers in the future.

Docket Number: DOT–OST–2007–0073.

Date Filed: November 15, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 6, 2007.

Description: Application of Private Air Charters LLC (''PAC'') requesting issuance of commuter air carrier authority to enable PAC to engage in interstate and foreign scheduled air transportation operations utilizing small aircraft.

Docket Number: DOT–OST–2007–0065.

Date Filed: November 13, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 4, 2007.

Description: Application of CJSC Aeroflot-Cargo (''Aeroflot-Cargo'') requesting a foreign air carrier permit authorizing (i) the carriage in scheduled foreign air transportation of property and mail on the following routes: (a) Khabarovsk, Russia—Anchorage, AK—Chicago, IL, (b) Khabarovsk, Russia—Anchorage, AK—New York, NY, (c) Khabarovsk, Russia—Seattle, WA; (ii) the charter air transportation of property and mail between any point or points in the Russian Federation and any point or points in the territory of the United States; and to engage in such other charter services, (iii) to engage in such other charter trips in foreign air transportation. Applicant further requests that it be authorized to operate under the name and style of ''CJSC Aeroflot-Cargo'' and/or ''Aeroflot-Cargo''.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E8–4888 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Rockingham and Hillsborough Counties, New Hampshire

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public of its intent to prepare a supplemental environmental impact statement (SEIS) in cooperation with the New Hampshire Department of Transportation for the proposed improvements to Interstate 93 in Rockingham and Hillsborough Counties, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Mr. Jamison S. Sikora, Environmental and Right of Way Programs Manager, New Hampshire Division, Federal Highway Administration, 19 Chenell Drive, Suite One, Concord, NH 03301, Tel. (603) 228–3057, ext. 107, or Mr. Charles H. Hood, Administrator, Bureau of Environment, New Hampshire Department of Transportation, P.O. Box 483, John O. Morton Building, Concord, New Hampshire 03302–0483, Tele. (603) 271–3226.

SUPPLEMENTARY INFORMATION: The final EIS (FEIS) for the I–93 improvements (FHWA–NH–EIS–02–01–F) was approved on April 28, 2004 and the FHWA Record of Decision (ROD) issued on June 28, 2005. The proposed improvements to this approximately 19.8-mile segment of the Interstate 93 corridor between Salem and Manchester, New Hampshire provide for widening the existing four lane Interstate highway to eight lanes, improvements at each of the five interchange locations along this segment of highway, and addressing existing geometric deficiencies. Improvements to the corridor are considered necessary to improve transportation efficiency and reduce safety deficiencies.

The SEIS will supplement the April 2004 FEIS for the I–93 Salem to Manchester project, which was the subject of litigation and a court decision in *Conservation Law Foundation* v. *Federal Highway Administration, et. al.* (U.S. District Court for the District of New Hampshire, Case no.: 1:06–cv–45). In accordance with the court's decision rendered in August 2007, FHWA will prepare an SEIS that specifically considers how the Delphi Panel's population forecasts affect the analysis of both the effectiveness of the Selected Alternative as a traffic congestion reduction measure and the indirect effects of the additional population predicted by those forecasts on secondary road traffic and air quality issues. The court ruled in favor of FHWA and the NHDOT regarding the plaintiff's remaining alleged FEIS deficiencies. Therefore, the SEIS will be of limited scope with the purpose of determining whether the FHWA's 2005 ROD regarding the Selected Alternative remains reasonable once the narrow issues enumerated in the court's memorandum opinion are thoroughly examined and considered. Additionally, the FEIS will be re-evaluated to determine if any other information should be updated and revised as part of the SEIS process in accordance with FHWA's NEPA regulations at 23 CFR 771.129.

In accordance with 23 CFR 771.130(d) and 40 CFR 1502.9(c)(4), scoping will not be reinitiated for the project. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public meetings will be held during development of the SEIS. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft supplemental EIS will be available for public and agency review

and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Any comments that are received during the public comment period that address the issues for which the SEIS is being prepared will be considered before FHWA renders its decision regarding the existing selected alternative. Any comments that are received which address issues which the court has already determined have been adequately addressed will be reviewed but not considered unless they raise significant new information.

Comments or questions concerning the development of the SEIS should be directed to the FHWA and/or NHDOT at the addresses provided above. Preparation of the SEIS does not require the withdrawal of any previous approvals or documents.

(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: March 3, 2008.

Kathleen O. Laffey,

Division Administrator, Federal Highway Administration, Concord, New Hampshire.

[FR Doc. 08–979 Filed 3–11–08; 8:45am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Wayne County, MI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of availability of the Draft Environmental Impact Statement (DEIS) for the Detroit River International Crossing Study and notice of public hearing.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, the Federal Highway Administration has made available for public review and comments a Draft Environmental Impact Statement (DEIS) for the Detroit River International Crossing Study. The DEIS describes and presents the environmental effects of the No-Build Alternative and nine Build Alternatives. Two public hearings will be held to receive comments from individuals and organizations on the DEIS.

DATES: The DEIS was made available to the public on February 25, 2008. EPA published the Notice of Availability on February 29, 2008. Comment and public hearing dates are: (1) March 18, 2008 and (2) March 19, 2008 (public hearings scheduled); and public comments are due April 29, 2008.

The DEIS is available for a 60-day public review period. Comments must be e-mailed, faxed, or postmarked on or before April 29, 2008. A copy of the complete transcript, including all of the written and recorded oral comments received, will be available for public review in June 2008 at the listed locations. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public disclosures in their entirety.

ADDRESSES: 1. Document Availability: The document was made available to the public on February 25, 2008. Copies of the DEIS are available for public inspection and review on the project Web site: *http://www.partnershipborderstudy.com* and at the following locations:

MDOT Bureau of Transportation Planning, 425 Ottawa St., Lansing
MDOT Metro Region Office, 18101 W. Nine Mile Rd., Southfield
MDOT Detroit Transportation Service Center, 1400 Howard St., Detroit
MDOT Taylor Transportation Service Center, 25185 Goddard, Taylor
Henry Ford Centennial Library, 16301 Michigan Ave., Detroit
Detroit Public Library, 5201 Woodward Ave., Detroit
Bowen Branch of the Detroit Public Library, 3648 W. Vernor, Detroit
Library at Southwestern High School, 6921 W. Fort St., Detroit
Delray Recreation Center, 420 Leigh St., Detroit
Allen Park Library, 8100 Allen Rd., Allen Park
Ecorse Library, 4184 W. Jefferson Ave., Ecorse
Melvindale Library, 18650 Allen Rd., Melvindale
River Rouge Library, 221 Burke St., River Rouge
Kemeny Recreation Center, 2260 S. Fort St., Detroit
Campbell Brand Library, 8733 W. Vernor Hwy., Detroit
Neighborhood City Hall Central District, 2 Woodward Ave., Detroit
Neighborhood City Hall Northwestern District, 19180 Grand River Ave., Detroit
Neighborhood City Hall Northeastern District, 2328 E. Seven Mile Rd., Detroit
Neighborhood City Hall Western District, 18100 Meyers Road, Detroit
Neighborhood City Hall Eastern District, 7737 Kercheval St., Detroit
Neighborhood City Hall Southwestern District, 7744 W. Vernor St., Detroit

Copies of the DEIS may be requested from Bob Parsons (Public Involvement and Hearings Officer) at the Michigan Department of Transportation, 425 W. Ottawa Street, P.O. Box 30050, Lansing, MI 48909 or by calling (517) 373–9534.

2. *Comments:* Send comments on the DEIS to Michigan Department of Transportation, c/o Bob Parsons (Public Involvement and Hearings Officer), 425 W. Ottawa Street, P.O. Box 30050, Lansing, MI 48909; Fax: (517) 373–9255; or e-mail: *parsonsb@michigan.gov*.

3. *Public Hearing:* The March 18, 2008, public hearing will be held at Southwestern High School, 6921 W. Fort St., Detroit, and the March 19, 2008, public hearing will be held at LA SED Gymnasium, 7150 W. Vernor, Detroit. Each hearing will be held from 5 p.m. to 8:30 p.m., with a formal presentation at 6:30 p.m. followed by an opportunity for public comments and questions. Persons needing special assistance to attend and participate in the public hearing should contact Bob Parsons (Public Involvement and Hearings Officer) at (517) 373–9534 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the public hearing. Information regarding this proposed action is available in alternative formats upon request.

FOR FURTHER INFORMATION CONTACT: Ryan Rizzo, Major Project Manager, FHWA Michigan Division, (517) 702–1833; David Williams, Environmental Program Manager, FHWA Michigan Division, (517) 702–1820.

SUPPLEMENTARY INFORMATION: The Detroit River International Crossing (DRIC) Study is a binational effort to complete the environmental study processes related to a new crossing for the United States, Michigan, Canada and Ontario governments. The Border Transportation Partnership (The Partnership) leads this study. It is formed of the following agencies: Federal Highway Administration (FHWA), Michigan Department of Transportation (MDOT), Transport Canada (TC) and Ontario Ministry of Transportation (MTO). The DRIC Study identifies solutions that support the region, state, provincial and national economies while addressing the civil and national defense and homeland security needs of the busiest trade corridor between the United States and

Canada. The Detroit River, which separates the U.S. and Canada, currently has border crossings at the Ambassador Bridge (four lanes), the Detroit-Windsor Tunnel (two lanes), the Detroit-Canada Rail Tunnels, and the Detroit-Windsor Truck Ferry. These multi-modal transportation links provide the connections for freight and passenger movements between the two countries. The DRIC Study includes transportation alternatives that improve border-crossing facilities, operations, and connections to meet existing and future mobility and security needs.

Purpose and Need for the Project: The purpose of the DRIC Study is to provide safe, efficient and secure movement of people and goods across the U.S.-Canadian border in the Detroit River area to support the economies of Michigan, Ontario, Canada and the United States, and to support the mobility needs of national and civil defense to protect the homeland.

To address future border crossing mobility requirements through 2035, there is a need to:

—Provide new border-crossing capacity to meet increased long-term demand;

—Improve system connectivity to enhance the seamless flow of people and goods;

—Improve operations and processing capability in accommodating the flow of people and goods; and

—Provide reasonable and secure crossing options (i.e., redundancy) in the event of incidents, maintenance, congestion, or other disruptions.

Alternatives Evaluated: The DEIS evaluates nine Build Alternatives in addition to a No-Build Alternative. The nine Build Alternatives each include an interchange plaza, a customs inspection plaza, and a bridge from the plaza that spans the Detroit River. The DEIS analyzes the issues/impacts on the United State's side of the proposed new border crossing. A Canadian-produced set of documents analyzes the issues/impacts on the Canadian side.

The No-Build Alternative would not result in a new international border crossing system in the Detroit-Windsor area. Only the existing crossings, plazas and freeway connections, including the Gateway connection currently under construction, would continue operations. A second privately-owned bridge has been proposed by the Detroit International Bridge Company in the Ambassador Bridge Enhancement Environmental Assessment and was included in the No-Build Alternative.

Issued on: March 5, 2008.

James J. Steele,

Division Administrator, Lansing, Michigan.

[FR Doc. E8–4751 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–RY–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2007–0070]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt sixty-six individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective March 12, 2008. The exemptions expire on March 12, 2010.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov*.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477, Apr. 11, 2000). This statement is also available at *http://Docketinfo.dot.gov*.

Background

On February 1, 2008, FMCSA published a notice of receipt of Federal diabetes exemption applications from sixty-six individuals, and requested comments from the public (73 FR 6249). The public comment period closed on March 3, 2008 and one comment was received.

FMCSA has evaluated the eligibility of the sixty-six applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current standard for diabetes in 1970 because several risk studies indicated that diabetic drivers had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The 2003 notice in conjunction with the November 8, 2005 (70 FR 67777) **Federal Register** Notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These sixty-six applicants have had ITDM over a range of 1 to 26 years. These applicants report no hypoglycemic reaction that resulted in loss of consciousness or seizure, that required the assistance of another person, or resulted in impaired cognitive function without warning symptoms in the past 5 years (with one year of stability following any such episode). In each case, an endocrinologist has verified that the driver has demonstrated willingness to properly monitor and manage their diabetes, received education related to diabetes management, and is on a stable

insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision standard at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the February 1, 2008, **Federal Register** Notice (73 FR 6249). Therefore, they will not be repeated in this notice.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologist's medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that exempting these applicants from the diabetes standard in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not they are related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment was from an anonymous individual, who stated that he felt it was discriminatory for truck drivers on insulin to have to go through a lengthy process to keep their jobs.

With regard to the length of time required to obtain a Federal exemption, FMCSA is required to publish in the **Federal Register** the name of each eligible individual who applies for a diabetes exemption, and request public comment on the application.

The Agency must then review all the comments received and determine whether granting the exemption would achieve a level of safety equivalent to, or greater than, the level of safety provided by compliance with the current diabetes standard. Depending on the complexity of the health issues discussed in the application, a final decision may take up to 180 days from the date we receive the completed application (49 U.S.C. 31136(e) and 31315). We recognize this potential 6-month waiting period may seem burdensome. However, we must carefully evaluate each applicant's request to assess his or her potential safety performance. FMCSA notifies all applicants in writing once a final decision is made. It is not the intention of FMCSA to impose hardship on commercial drivers. CMV drivers are held to a strict physical standard because of the extensive skill required to operate large trucks and buses and the potential harm these vehicles can cause to other motorists. Our safety regulations have a single goal—to reduce the number of CMV crashes and fatalities on the Nation's highways.

FMCSA's exemption process supports drivers with ITDM who seek to operate in interstate commerce. In addition, the Federal Motor Carrier Safety Regulations (FMCSRs) are not contrary to the Americans with Disabilities Act (ADA) of 1990. The mandates of the ADA do not require that FMCSA alter the driver qualification requirements contained in 49 CFR Part 391. The Senate report on the ADA, submitted by its Committee on Labor and Human Resources, included the following explanation:

> With respect to covered entities subject to rules promulgated by the Department of Transportation regarding physical qualifications for drivers of certain classifications of motor vehicles, it is the Committee's intent that a person with a disability applying for or currently holding a job subject to these standards must be able to satisfy these physical qualification standards in order to be considered a qualified individual with a disability under Title I of this legislation. S. Rep. 101–116, at 27 (1989).

FMSCA relies on the expert medical opinion of the endocrinologist and the medical examiner, who are required to analyze individual ability to control and manage the diabetic condition, including the individual ability and willingness of the driver to monitor blood glucose level on an ongoing basis. Until the Agency issues a Final Rule, however, insulin-treated diabetic drivers must continue to apply for exemptions from FMCSA, and request renewals of such exemptions. FMCSA will grant exemptions only to those applicants who meet the specific conditions and comply with all the requirements of the exemption.

Conclusion

After considering the comments to the docket, and based upon its evaluation of the forty-eight exemption applications, FMCSA exempts, William E. Amidon, Jack H. Badger, Jr., Richard L. Burwell, Scott A. Campbell, David Clemente, Sr., Mark D. Cleveland, Timothy M. Collier, Danny R. Combs, Robert S. Crawford, Anthony S. Cruise, James D. Daly, James Davis, William M. Dement, Lizzie L. Dixon, Nathan J. Donley, Billy R. Echols, Gregory A. Fisher, Linda G. Flock, Kurt D. Genat, Kerri J. Gibson, Carlos F. Gonzales, Larry D. Goughnour, Ronald G. Gross, James O. Hamilton, Chester C. Holland, Justin J. Hughes, Phillip R. Hutchinson, Bradley J. Ingemann, Robert M. Jasuta, William B. Jenks, Jr., Timothy L. Johnson, Daniel R. Jones, Glenn R. Kerns, Kenneth M. Kostelny, Douglas O. Krosch, John Lewis, Jr., Robert E. Martin, Henry M. McCurdy, Thomas J. Montgomery, Robert L. Morden, Jerry L. Morris, Michael D. Mumma, Harold R. Newton, Clayton W. Noe, Derek J. Page, Garrett A. Phillips, Gary P. Pitts, Bruce P. Quaintance, Randy L. Quattlebaum, Curtis L. Reed, Jr., Everette W. Roberts, Mark C. Smith, Ryan B. Smith, Billy J. Stamper, Ralph J. Sternhagen, Robert E. Tauriainen, David B. Tomlin, Brian T. Tow, Larry N. Trimble, Frederick J. Van Aken, III., Roger K. VanDenbark, Kenneth D. Wallace, Kelly A. Walling, Gary J. Weiss, and Danny L. Wood, from the ITDM standard in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with

the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: March 6, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–4950 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA–04–20484]

Insurer Reporting Requirements; Reports under 49 U.S.C. on Section 33112(c)

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of Availability.

SUMMARY: This notice announces publication by NHTSA of the annual insurer report on motor vehicle theft for the 2002 reporting year. Section 33112(h) of Title 49 of the U.S. Code, requires this information to be compiled periodically and published by the agency in a form that will be helpful to the public, the law enforcement community, and Congress. As required by section 33112(c), this report provides information on theft and recovery of vehicles; rating rules and plans used by motor vehicle insurers to reduce premiums due to a reduction in motor vehicle thefts; and actions taken by insurers to assist in deterring thefts.

ADDRESSES: Interested persons may obtain a copy of this report or read background documents by going to *http://regulations.dot.gov* at any time or to Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Requests should refer to Docket No. 2004–20484.

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Ave., SE., Washington, DC 20590. Ms. Ballard's telephone number is (202) 366–0846. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: The Motor Vehicle Theft Law Enforcement Act of 1984 (Theft Act) was implemented to enhance detection and prosecution of motor vehicle theft (Pub. L. 98–547). The Theft Act added a new Title VI to the Motor Vehicle Information and Cost Savings Act, which required the Secretary of Transportation to issue a theft prevention standard for identifying major parts of certain high-theft lines of passenger cars. The Act also addressed several other actions to reduce motor vehicle theft, such as increased criminal penalties for those who traffic in stolen vehicles and parts, curtailment of the exportation of stolen motor vehicles and off-highway mobile equipment, establishment of penalties for dismantling vehicles for the purpose of trafficking in stolen parts, and development of ways to encourage decreases in premiums charged to consumers for motor vehicle theft insurance.

This notice announces publication by NHTSA of the annual insurer report on motor vehicle theft for the 2002 reporting year. Section 33112(h) of Title 49 of the U.S. Code, requires this information to be compiled periodically and published by the agency in a form that will be helpful to the public, the law enforcement community, and Congress. As required by section 33112(h), this report focuses on the assessment of information on theft and recovery of motor vehicles, comprehensive insurance coverage and actions taken by insurers to reduce thefts for the 2002 reporting period.

Section 33112 of Title 49 requires subject insurers or designated agents to report annually to the agency on theft and recovery of vehicles, on rating rules and plans used by insurers to reduce premiums due to a reduction in motor vehicle thefts, and on actions taken by insurers to assist in deterring thefts. Rental and leasing companies also are required to provide annual theft reports to the agency. In accordance with 49 CFR 544.5, each insurer, rental and leasing company to which this regulation applies must submit a report annually not later than October 25, beginning with the calendar year for which they are required to report. The report would contain information for the calendar year three years previous to the year in which the report is filed. The report that was due by October 25, 2005 contains the required information for the 2002 calendar year. Interested persons may obtain a copy of individual insurer reports for CY 2002 by contacting the U.S. Department of Transportation, Docket Management, 1200 New Jersey Avenue, SE., West Building, Room W12–140 ground level, Washington, DC 20590–001. Requests should refer to Docket No. 2004–20484.

The annual insurer reports provided under section 33112 are intended to aid in implementing the Theft Act and fulfilling the Department's requirements to report to the public the results of the insurer reports. The first annual insurer report, referred to as the section 612 Report on Motor Vehicle Theft, was prepared by the agency and issued in December 1987. The report included theft and recovery data by vehicle type, make, line, and model which were tabulated by insurance companies and, rental and leasing companies. Comprehensive premium information for each of the reporting insurance companies was also included. This report, the seventeenth, discloses the same subject information and follows the same reporting format.

Issued on: March 7, 2008.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E8–4939 Filed 3–11–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of American Buffalo 2008 Celebration Coin Program Price Increase.

SUMMARY: The United States Mint is adjusting prices for its American Buffalo 2008 Celebration Coin Program.

Pursuant to 31 U.S.C. 5112(q), and in accordance with 31 U.S.C. 9701(b)(2)(B), the United States Mint is changing the price of these coins to reflect the increase in value of the underlying precious metal content of the coins—the result of increases in the market price of gold.

Accordingly, effective March 7, 2008, the United States Mint will commence selling the American Buffalo 2008 Celebration Coin Program according to the following price schedule:

Description	Price
American Buffalo 2008 Celebration Coin Program	$1,118.88

FOR FURTHER INFORMATION CONTACT: Gloria C. Eskridge, Associate Director for Sales and Marketing; United States Mint; 801 Ninth Street, NW.,

Washington, DC 20220; or call 202–354–7500.

Dated: March 6, 2008.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. E8–4908 Filed 3–11–08; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974

AGENCY: Department of Veterans Affairs.

ACTION: Notice of establishment of a new system of records.

SUMMARY: The Privacy Act of 1974, (5 U.S.C. 552a(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is establishing a new system of records entitled ''Inquiry Routing & Information System (IRIS)–VA'' (151VA005N).

DATES: Comments on this new system of records must be received no later than April 11, 2008. If no public comment is received, the new system will become effective April 11, 2008.

ADDRESSES: Written comments concerning the proposed new system of records may be submitted through *http://www.Regulations.gov*; by mail or hand delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1063B, Washington, DC 20420; or by fax to (202) 273–9026 (This is not a toll free number). Copies of comments will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 (This is not a toll free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Huber, Director, VA Web Solutions, Office of Information & Technology (005), 1335 East-West Highway, Silver Spring, Maryland 20910, telephone (301) 734–0189 (This is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Description of the Proposed System of Records

The Department of Veterans Affairs (VA) receives and responds to questions, suggestions, compliments, complaints, requests for the status of claims and other information, collectively referred to as inquiries, received from veterans, their representatives and individuals and entities doing business with VA via a Web-based communications system known as the Inquiry Routing & Information System (IRIS). This system is also used by VA call center staff to enter inquiries on behalf of veterans and others doing business with the Department.

The IRIS is accessed by clicking on the ''Contact VA'' link that appears on VA Internet Web sites. Thousands of messages are received each month from VA beneficiaries and other veterans, veterans' family members and/or their representatives, health care professionals, clinicians, employees and managers of small businesses, vendors, funeral directors, mortgage companies, realtors, home buyers, researchers, small business owners, veterans' service organizations, other Federal agencies, State and local government employees, teachers, and other demographic groups representing every segment of the population both at home and abroad. Messages are routed throughout VA based on type of issue and topic as selected by the inquirer and also on the physical location of the inquirer, if provided. Messages go to designated mailgroups in Veterans Benefits Administration, Veterans Health Administration, National Cemetery Administration, and other VA program offices.

In November 2002, VA purchased and implemented a heavily customized version of a Web-based, commercial contact management product for use on VA's Internet Web site at *http://www.va.gov* and for use by VA call center personnel who enter inquiries on behalf of veterans or other callers. Visitors to the VA Web site and other inquirers may ask questions or provide VA with information by completing an approved form or having the form completed for them by call center staff. All personal data are captured and maintained within a database on a secure Web server running Secure Socket Layer (SSL). The information that VA requests on the form is necessary for VA to adequately respond to the inquiries. The IRIS gives VA managers the ability to track inquiry traffic, to measure the quality and timeliness of responses, and to develop and post Frequently Asked Questions (FAQs) based on the analysis of messages received.

The use of the IRIS by VA Web site visitors and callers to VA call centers illustrates its utility for communications with VA. VA staff will search the IRIS database by personal identifier to provide a thorough response to the inquirer. The expansion of the search capability in the IRIS database enables VA to provide better service, associate communications from a single individual and provide more thorough responses to their inquiries. The new system of records will cover anyone who chooses to submit an inquiry in person, by calling a VA call center, or by submitting an electronic message directly to VA.

Information requested to process the request may include name, address, phone number, e-mail address, and service or claim number and Social Security number if provided by the inquirer. Inquirers are not required to provide personal or contact information; however, in some instances VA may need this information in order to respond to specific inquiries. The authority to maintain these records is title 38, United States Code, section 501.

II. Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses

Limitation on Routine Use Disclosures: To the extent that records contained in the system include information protected by 45 CFR Parts 160 and 164, *i.e.*, individually identifiable health information, and 38 U.S.C. 7332, *i.e.*, medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus, that information cannot be disclosed under a routine use unless there is also specific statutory authority in 38 U.S.C. 7332 and regulatory authority in 45 CFR Parts 160 and 164 permitting disclosure.

1. *Contractors:* Disclosure may be made to individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor, subcontractor, public or private agency, or other entity or individual with whom VA has an agreement or contract to perform the services of the contract or agreement. This routine use includes disclosures by the individual or entity performing the service for VA to any secondary entity or individual to perform an activity that

is necessary for individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to provide the service to VA.

2. *Equal Employment Opportunity Commission:* To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or for other functions of the Commission as authorized by law or regulation.

3. *Merit Systems Protection Board:* To disclose information to officials of the Merit Systems Protection Board, or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

4. *Law Enforcement:* VA may disclose on its own initiative any information in this system, except the names and home addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

5. *Credit Risk Analysis and Services:* VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

The Office of Management of Budget (OMB) recommended the inclusion of a routine use in all Privacy Act systems of records to allow for the appropriate mitigation of data breaches.

6. *Litigation:* VA may disclose information in this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

7. *Congressional Offices:* Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. The constituent should sign a release of information statement for this purpose.

Individuals sometimes request the help of a Member of Congress in resolving some issues relating to a matter before VA. The Member of Congress then writes VA, and VA must be able to give sufficient information to be responsive to the inquiry. That response may include communications to VA from an individual that was received through the IRIS.

8. *National Archives and Records Administration (NARA):* Disclosure may be made to NARA in records management activities and inspections conducted under authority of title 44 United States Code.

NARA is responsible for archiving records no longer actively used, but which may be appropriate for preservation. NARA is responsible, in general, for the physical maintenance of the Federal government's records. VA must be able to turn records over to this Agency in order to determine the proper disposition of such records.

9. *Other Federal Agencies:* Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

III. Compatibility of the Routine Uses

The Privacy Act permits disclosure of information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which the information is collected. In all of the routine use disclosures described above, either the recipient of the information will use the information in connection with a matter relating to one of VA's programs; to provide a benefit to VA; or because disclosure is required by law.

The Report of Intent to Publish a New System of Records Notice and an advance copy of the system notice has been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act), as amended, and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: February 25, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

151VA005N

SYSTEM NAME:

Inquiry Routing & Information System (IRIS)—VA.

SYSTEM LOCATION:

The system of records is located in the Department of Veterans Affairs (VA) Data Center, 882 T. J. Jackson Drive, Falling Waters, West Virginia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who contact VA via the VA Web site at *http://www.va.gov* or by contacting a VA call center including beneficiaries and other veterans, veterans' family members and/or their

representatives, health care professionals, clinicians, employees and managers of small businesses, vendors, funeral directors, mortgage companies, realtors, home buyers, researchers, small business owners, veterans' service organizations, other Federal agencies, State and local government employees, teachers, and other demographic groups representing every segment of the population both at home and abroad.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records include questions, complaints, suggestions, compliments, and/or requests for the status of claims and may also include name, address, phone number, e-mail address, service or claim number, Social Security number, date of birth; branch of service; entered on active duty date and released from active duty date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, section 501 and chapters 11, 13, 15, 17, 18, 19, 21, 23, 24, 30, 31, 32, 34, 35, 37, 39, 41, 42, and 43.

PURPOSE:

The purpose of this system of records is to receive and respond to questions, complaints, suggestions, compliments, and requests for the status of claims and other information by gathering sufficient information from the senders of inquiries to provide thorough, accurate and timely responses. The IRIS gives VA the ability to track inquiry traffic, measure the quality and timeliness of responses, and develop and post Frequently Asked Questions (FAQs) based on the analysis of messages received. VA management also uses the information to quantify contacts, analyze issues pertaining to veterans and VA's mission, and to measure staff performance regarding the quality and timeliness of responses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 45 CFR Parts 160 and 164, i.e., individually identifiable health information, and 38 U.S.C. 7332, i.e., medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus, that information cannot be disclosed under a routine use unless there is also specific statutory authority in 38 U.S.C. 7332 and regulatory authority in 45 CFR Parts 160 and 164 permitting disclosure.

1. Disclosure may be made to individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor, subcontractor, public or private agency, or other entity or individual with whom VA has an agreement or contract to perform the services of the contract or agreement. This routine use includes disclosures by the individual or entity performing the service for VA to any secondary entity or individual to perform an activity that is necessary for individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to provide the service to VA.

2. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or for other functions of the Commission as authorized by law or regulation.

3. To disclose information to officials of the Merit Systems Protection Board, or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

4. VA may disclose on its own initiative any information in this system, except the names and home addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

5. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

6. VA may disclose information in this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual if the individual has signed a release statement.

8. Disclosure may be made to National Archives and Records Administration (NARA) in records management activities and inspections conducted under authority of title 44 United States Code.

9. Disclosure may be made to other Federal agencies to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The IRIS stores electronic messages on the IRIS server and archives to secure storage media that is approved for use by VA.

RETRIEVABILITY:

All records in the IRIS are electronic only and are retrieved by system inquiry number, name, residence address, e-mail address, Social Security number, and claim or service number.

SAFEGUARDS:

The IRIS runs on a Secure Socket Layer (SSL) and can only be accessed by authorized persons employed by and/or contracted to VA with the use of unique usernames and passwords, consistent with VA security policy.

The server on which the IRIS software and database reside is located in a secure facility at 882 T. J. Jackson Drive, Falling Waters, West Virginia. This facility is locked down at all times and has a security guard on duty at all times. Access to the computer room is restricted to specifically authorized VA staff or persons contracted to VA. In addition, these persons must have separate and authorized access to the IRIS server itself. All electronic data in this system are backed up nightly, with backups stored electronically and securely in the Falling Waters, West Virginia location.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with the records disposition authority approved by the Archivist of the United States. At the current time, the Office of Information & Technology does not have records disposition authority for these records that has been approved by the Archivist of the United States. The System Manager has initiated action to seek and obtain such disposition authority in accordance with VA Handbook 6300.1, Records Management Procedures. The records will not be destroyed until VA obtains a NARA-approved records disposition authority. Once VA has obtained NARA-approved records disposition authority, VA OGC will amend this notice to reflect that authority, and any destruction of electronic records will occur when no longer needed for administrative, legal, audit, or other operational purposes.

SYSTEM MANAGER(S) AND ADDRESS:

The IRIS system falls under the jurisdiction of the Director, VA Web Solutions, Office of Information & Technology (OI&T) (005Q3), OI Field Office, 1335 East-West Highway, Silver Spring, Maryland 20910.

NOTIFICATION PROCEDURES:

A person who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier or wishes to determine the contents of such records should submit a written request or apply in person to VA Web Solutions, Office of Information & Technology (OI&T) (005Q3), OI Field Office, 1335 East-West Highway, Silver Spring, Maryland 20910. Requests should contain full name, address and phone number of the person making this request.

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to and amendment of records in this system may write, call or visit VA Web Solutions, Office of Information & Technology (OI&T) (005Q3), OI Field Office, 1335 East-West Highway, Silver Spring, Maryland 20910. Requests should contain full name, address and phone number of the person making this request.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedure above.)

RECORD SOURCE CATEGORIES:

Individuals who contact VA via the VA Web site at *http://www.va.gov* or by using a VA call center include veterans, veterans' family members and/or their representatives, government employees (Federal, State and local), realtors and home buyers, small business owners, vendors, funeral directors, clinicians, teachers, researchers, employees of veterans' service organizations, members of the public and all other individuals and representatives of organizations.

EXEMPTIONS CLAIMED FOR SYSTEM:

No exemptions claimed for this system.

[FR Doc. E8–4895 Filed 3–11–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of amendment to system of records.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records entitled ''The Revenue Program—Billing and Collections Records—VA'' (114VA16) as set forth in the **Federal Register** 67 FR 41573 and as amended in 69 FR 4205 and 70 FR 55207. VA is amending the system of records by revising the Purpose and Routine Uses of Records Maintained in the System.

DATES: Comments on the amendment of this system of records must be received no later than April 11, 2008. If no public comment is received, the amended system will become effective April 11, 2008.

ADDRESSES: Written comments concerning the proposed amended system of records may be submitted by: mail or hand-delivery to Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; or e-mail to *VAregulations@mail.va.gov.* All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Stephania H. Putt, Veterans Health Administration (VHA) Privacy Act Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; telephone (704) 245–2492.

SUPPLEMENTARY INFORMATION: VA is amending ''The Revenue Program—Billing and Collections Records-VA'' (114VA16) to allow for the disclosure of the National Provider Identifier (NPI) of VA health care providers (individual practitioners) (1) to non-VA health care providers or their agents to support, or in anticipation of supporting, the submission of health care reimbursement claims by non-VA health care providers or their agents, and (2) to academic affiliates with which VA maintains a business relationship, to support, or in anticipation of supporting, the submission of health care reimbursement claims by these academic affiliates. Purpose(s) is amended to reflect how the data may be used to disclose individual NPI numbers to non-VA health care providers, their agents, and to academic

affiliates with which VA maintains a business relationship.

We are proposing to establish the following Routine Use disclosure of information maintained in the system:

A new Routine Use eighteen (18) is added. Individual NPIs may be disclosed to a non-VA health care provider or its agent for treatment of a veteran or in anticipation of treatment of a veteran where the VA referring provider's NPI is needed, or is anticipated to be needed, in order for the non-VA health care provider or its agent to submit a health care reimbursement claim or for any other lawful use of the NPI as specified in the Health Insurance Portability and Accountability Act (HIPAA) legislation (45 CFR Part 162).

A new Routine Use nineteen (19) is added. Individual NPIs may be disclosed to an academic affiliate with which VA maintains a business relationship, where the VA provider (individual practitioner) also maintains an appointment to that academic affiliate's medical staff. This disclosure is to support, or in anticipation of supporting, a health care reimbursement claim or for any other lawful use of the NPI as specified in the HIPAA (Health Insurance Portability and Accountability Act) legislation (45 CFR Part 162).

A new Routine Use twenty (20) is added. Any records may be disclosed to appropriate agencies, entities, and persons under the following circumstances: when (1) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This disclosure is to support mitigation efforts of the Department when a compromise to information in the system of records occurs.

A new Routine Use twenty (21) is added. VA may disclose information in this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

A new Routine Use twenty (22) is added. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which we collected the information. In all of the routine use disclosures described above, the recipient of the information will use the information in connection with a matter relating to one of VA's programs, will use the information to provide a benefit to VA, or disclosure is required by law.

The Report of Intent to Amend a System of Records Notice and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: February 25, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

Notice of Amendment to System of Records

The system of records identified as 114VA16 ''The Revenue Program—Billing and Collections Records—VA,'' published at 67 FR 41573, June 18, 2002, and amended at 69 FR 4205, January 28, 2004, and amended at 70 FR 55207, September 20, 2005, is revised to amend the purpose section and add routine use number 18, 19 and 20 as follows:

114VA16

SYSTEM NAME:

The Revenue Program—Billing and Collections Records—VA.

PURPOSE(S):

The records and information are used for the billing of, and collections from, a third party payer, including insurance companies, other Federal agencies, or foreign governments, for medical care or services received by a veteran for a nonservice-connected condition or from a first party veteran required to make co-payments. The records and information are also used for the billing of and collections from other Federal agencies for medical care or services received by an eligible beneficiary. The data may be used to identify and/or verify insurance coverage of a veteran or veteran's spouse prior to submitting claims for medical care or services. The data may be used to support appeals for non-reimbursement of claims for medical care or services provided to a veteran. The data may be used to enroll health care providers with health plans and VA's health care clearinghouse in order to electronically file third party claims. For the purposes of health care billing and payment activities to and from third party payers, VA will disclose information in accordance with the legislatively-mandated transaction standard and code sets promulgated by the United States Department of Health and Human Services (HHS) under the Health Insurance Portability and Accountability Act (HIPAA).

The data may be used to make application for an NPI, as required by the HIPAA Administrative Simplification Rule on Standard Unique Health Identifier for Healthcare Providers, 45 CFR Part 162, for all health care professionals providing examination or treatment within VA health care facilities, including participation in pilot test of NPI enumeration system by the Centers of Medicare and Medicaid Services (CMS). The records and information may be used for statistical analyses to produce various management, tracking and follow-up reports, to track and trend the reimbursement practices of insurance carriers, and to track billing and collection information. The data may be used to support, or in anticipation of supporting, reimbursement claims from non-VA health care providers or their agents. The data may be used to support, or in anticipation of supporting, reimbursement claims from academic affiliates with which VA maintains a business relationship.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

18. Relevant information may be disclosed to non-VA health care providers or their agents where the non-VA health care provider provides health care treatment to veterans and requires the Department provide that information in order for that entity or its agent to submit, or in anticipation of submission of, a health care reimbursement claim or, in the case of the NPI, for permissible purposes specified in the HIPAA legislation (45 CFR Part 162).

19. Relevant information may be disclosed to an academic affiliate with which VA maintains a business relationship, where the VA provider also maintains an appointment to that academic affiliate's medical staff. This disclosure is to support, or in anticipation of supporting, a health care reimbursement claim(s) or, in the case of the NPI, for permissible purposes specified in the HIPAA legislation (45 CFR Part 162).

20. Any records may be disclosed to appropriate agencies, entities, and persons under the following circumstances: When (1) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

21. VA may disclose information in this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

22. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

* * * * *

[FR Doc. E8–4896 Filed 3–11–08; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Wednesday,
March 12, 2008

Part II

Department of the Treasury

Internal Revenue Service

Privacy Act of 1974, as Amended; System of Records; Notice

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974, as Amended; System of Records

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Internal Revenue Service, Treasury, is publishing its inventory of Privacy Act systems of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB) Circular No. A–130, the Internal Revenue Service (IRS) has completed a review of its Privacy Act systems of records notices to identify minor changes that will more accurately describe these records.

The changes throughout the document are editorial in nature and consist principally of changes to system locations and system manager addresses. Revisions have also been made due to the restructuring of the IRS along business lines, generally as follows:

(1) Large and Mid-Size Business (LMSB); (2) Small Business/Self-Employed (SBSE); (3) Tax Exempt and Government Entities (TEGE), and (4) Wage and Investment (W & I)

The following 13 systems of records have been added to the IRS' inventory of Privacy Act notices since December 10, 2001:

IRS 00.007—Employee Complaint and Allegation Records,(May 28, 2002, at 67 FR 36963)

IRS 00.008—Recorded Quality Review Records,(November 24, 2003, at 68 FR 65996.)

IRS 00.009—Taxpayer Assistance Center Recorded Quality Review Records,(February 24, 2005, at 79 FR 9132.)

IRS 10.007—SPEC Taxpayer Assistance Reporting System (STARS),(July 19, 2004, at 68 FR 43055.)

IRS 10.555—Volunteer Records, (February 10, 2006, at 71 FR 7115.)

IRS 22.012—Health Coverage Tax Credit Records,(June 4, 2003, at 68 FR 33577.)

IRS 24.031—Medicare Prescription Drug Transitional Assistance Records, (May 12, 2004, at 69 FR 26432.)

IRS 26.055—Private Collection Agency (PCA) Quality Review Records, (July 19, 2006, at 71 FR 41075.)

IRS 35.001—Reasonable Accommodation Request Records, November 5, 2004, at 69 FR 59645.)

IRS 42.002—Excise Compliance Programs, (November 8, 2006, at 71 FR 65570.)

IRS 42.031—Anti Money Laundering/ Bank Secrecy Act and Form 8300 Records, (May 30, 2004, at 69 FR 23854.)

IRS 50.222—Tax Exempt & Government Entities Case Management Records, (December 7, 2005, at 70 FR 72876.)

IRS 60.000—Employee Protection System Records,(November 30, 2001, at 66 FR 59839.)

The following 50 systems of records are removed from IRS' inventory of Privacy Act systems for the reasons described:

IRS 10.007—Stakeholder Partnerships, Education and Communication Taxpayer Assistance Reporting System (STARS), published in June 2004, was deleted on February 10, 2006 (71 FR 7115) because its records are covered by the publication of IRS 10.555—Volunteer Records.

IRS 22.034—Miscellaneous Adjustment Files is withdrawn because the records are covered by IRS 22.054—Subsidiary Accounting Files and IRS 22.060—Automated Non-Master File.

IRS 22.043—Potential Refund Litigation Case Files is withdrawn because IRS is not keeping a separate system of records pertaining to taxpayers showing intent to file lawsuits.

IRS 22.044—P.O.W.–M.I.A. Reference File is withdrawn because the records are covered by IRS 24.030—Customer Account Data Engine Individual Master File.

IRS 22.059—Unidentified Remittance File is withdrawn because its records are covered by IRS 22.054—Subsidiary Accounting Files.

IRS 24.013—Combined Account Number File is withdrawn because its records are covered by IRS 22.054—Subsidiary Accounting Files, IRS 24.030—CADE Individual Master File and IRS 24.046—CADE Business Master File.

IRS 24.029—Individual Account Number File (IANF) is withdrawn because its records are covered by IRS 22.054—Subsidiary Accounting Files, IRS 24.030—CADE Individual Master File and IRS 24.046—CADE Business Master File.

IRS 24.070—Debtor Master File is withdrawn because its records are covered by IRS 26.019—Taxpayer Delinquent Account (TDA) Files.

IRS 26.008—IRS and Treasury Employee Delinquency is withdrawn because its records are covered by IRS 24.030, CADE Individual Master File and IRS 26.019, Taxpayer Delinquent Account (TDA) Files.

IRS 26.010—Lists of Prospective Bidders at IRS Sales of Seized Property is withdrawn because its records are covered by IRS 26.019, Taxpayer Delinquent Account (TDA) Files.

IRS 26.011—Litigation Case Files is withdrawn as its records are no longer maintained.

IRS 26.016—Returns Compliance Programs is withdrawn as its records have been subsumed in IRS 42.021, Compliance Returns and Project Files.

IRS 26.022—Delinquency Prevention Programs is withdrawn as its records are covered by IRS 26.019, Taxpayer Delinquent Accounts, IRS 26.020, Taxpayer Delinquent Investigations, and IRS 42.021, Compliance Returns and Project Files.

IRS 34.020—Audit Trail Lead Analysis System (ATLAS) is withdrawn because its records are covered by IRS 34.037, Audit Trail and Security Records.

IRS 36.002—Employee Activity Records is withdrawn because its records are covered by IRS 36.003, General Personnel and Payroll Records.

IRS 36.005—Medical Records is withdrawn because its records are covered by OPM/GOVT–10 and OPM/GOVT–5.

IRS 36.008—Recruiting Records is withdrawn because its records are covered by OPM/GOVT5, Recruiting, Examining, and Placement Records.

IRS 36.009—Retirement, Life Insurance, and Health Benefits Records is withdrawn because its records are covered by OPM-GOVT–1, General Personnel Records.

IRS 38.001—General Training Records is withdrawn because its records are covered by OPM-GOVT–1, General Personnel Records.

IRS 42.013—Project Files is withdrawn because its records are covered by IRS 42.021—Compliance Programs and Special Project.

IRS 42.014—Employees Returns Control Files is withdrawn because its records are covered by IRS 42.001, Exam Administrative Files.

IRS 42.016—Classification/Centralized Files and Scheduling Files is withdrawn because its records are covered by IRS 42.001, Exam Administrative Files.

IRS 42.030—Discriminant Function File is withdrawn because its records are covered by IRS 42.008, Audit Information Management System.

IRS 46.004—Controlled Accounts is withdrawn because its records are no longer maintained.

IRS 46.011—Illinois Land Trust Files is withdrawn because its records are no longer maintained.

IRS 46.016—Secret Service Details is withdrawn because we no longer perform these services.

IRS 46.051—Criminal Investigation Audit Trail Records is withdrawn because its records are covered by IRS 34.037 Audit Trail and Security Records System.

IRS 49.003—Financial Statements File is withdrawn because its records are covered by IRS 49.001—Collateral and Information Requests System and IRS 42.001—Examination Administrative File.

IRS 49.007—Overseas Compliance System is withdrawn because its records are covered by IRS 42.021—Compliance Programs and Project Files.

IRS 49.008—International Correspondence System is withdrawn because its records are covered by IRS 00.001—Correspondence Files and Correspondence control Files and IRS 00.002—Correspondence File: Inquiries About Enforcement Activities.

IRS 90.007— Chief Counsel Legislation and Regulations Division, Employee Plans and Exempt Organizations Division, and Associate Chief Counsel (Technical and International) Correspondence and Private Bill File, this system is withdrawn. The files maintained under this system are no longer organized in a manner retrievable by

individual identifier or have been subsumed into other Office of Chief Counsel systems of records.

IRS 90.018—Expert Witness Library, this system is withdrawn. The Office of Chief Counsel no longer maintains an Expert Witness Library.

The following nine systems of records are withdrawn because they were consolidated and placed under the jurisdiction of the Treasury Inspector General for Tax Administration (TIGTA):

IRS 60.001—Assault and Threat Investigation Files, Inspection.
IRS 60.002—Bribery Investigation Files, Inspection.
IRS 60.003—Conduct Investigation Files, Inspection.
IRS 60.004—Disclosure Investigation Files, Inspection
IRS 60.005—Enrollee Applicant Investigation Files, Inspection.
IRS 60.006—Enrollee Charge Investigation Files, Inspection.
IRS 60.007—Miscellaneous Information File, Inspection.
IRS 60.009—Special Inquiry Investigation Files, Inspection.
IRS 60.010—Tort Investigation Files, Inspection.

The above records were renamed as Treasury/DO .311—TIGTA Office of Investigations Files, see 68 FR 28,046 (May 22, 2003). This amendment reflects the transfer of investigative responsibility to TIGTA.

The Office of Professional Responsibility systems were consolidated and all records from the following systems of records were included in:

IRS 37.006—Correspondence, Miscellaneous Records and Information Management Records;
IRS 37.007—Practitioner Disciplinary Records; and
IRS 37.009—Enrolled Agent Records.

As a result of that consolidation, published on December 1, 2006, at 71 FR 69613, the following systems are withdrawn:

IRS 37.001—Abandoned Enrollment Applications,
IRS 37.002—Files containing Derogatory Information about Individuals Whose Applications for Enrollment to Practice before the IRS Have Been Denied and Applicant Appeal Files,
IRS 37.003—Closed Files Containing Derogatory Information about Individuals' Practice before the Internal Revenue Service and Files of Attorneys and Certified Public Accountants Formerly Enrolled to Practice,
IRS 37.004—Derogatory Information (No Action),
IRS 37.005—Present Suspension and Disbarments Resulting from Administrative Proceedings,
IRS 37.008—Register of Docketed Cases and Applicant Appeals,
IRS 37.010—Roster of Former Enrollees, and
IRS 37.011—Present Suspensions from Practice before the Internal Revenue Service.

In addition, the title of the system of records ''IRS 21.001—Tax Administration Resources File, Office of Tax Administration Advisory Services'' is changed to ''IRS 21.001—Tax Administration Advisory Services (TAAS) Resources Records.''

Whenever members of Congress request individually identifiable information at the request of a constituent, the IRS requires that a copy of the constituent's written correspondence to the member be included before such information is provided. The constituent's written correspondence to the member is treated as a consent for the IRS to disclose pertinent information back to the member. In light of this practice, the routine use authorizing disclosures to members of Congress in response to constituent inquiries is not needed and is removed from all systems of records. If a constituent inquiry does not include a copy of the constituent's written correspondence to the member (or the member's office cannot furnish a copy), then the IRS simply acknowledges the constituent inquiry and informs the member that the IRS will respond substantively directly to the constituent.

We have also updated our routine use language relating to disclosures in judicial or administrative proceedings to conform to applicable case law. It now reads: ''Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the records are both relevant and necessary to the proceeding or advice sought. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.''

On May 22, 2007, the Office of Management and Budget (OMB) issued Memorandum M–07–16 entitled ''Safeguarding Against and Responding to the Breach of Personally Identifiable Information.'' It required agencies to publish the routine use recommended by the President's Identity Theft Task Force. As part of that effort, the Department published the notice of the proposed routine use on October 3, 2007, at 72 FR 56434 and was effective on November 13, 2007. The new routine use has been added to each IRS system of records below.

We have added language at the beginning of the Routine Use section of certain notices stating that the disclosure of some records maintained in that system of records is restricted by statutes other than the Privacy Act. For example, IRS systems of records already state that ''returns'' and ''return information'' will only be disclosed in accordance with 26 U.S.C. 6103. Experience has demonstrated that certain systems of records regularly contain records the disclosure of which is controlled by statutes other than the Privacy Act. In recognition of this, we have added language to those notices identifying these other statutes. For systems of records that contain ''matters occurring before a grand jury,'' such records (or information contained therein) will only be disclosed in accordance with Rule 6(e) of the Federal Rules of Criminal Procedure. For systems of records that contain ''tax convention information,'' such records (or information contained therein) will only be disclosed in accordance with 26 U.S.C. 6105. For systems of records that contain statistical studies of tax information such records (or information contained therein) will only be disclosed in accordance with 26 U.S.C. 6108. Disclosure of these types of records has always been exclusively governed by these statutes. *See Lake* v. *Rubin,* 162 F.3d 113 (D.C. Cir. 1998). The new language is included under the Routine Use section of certain system of records notices to inform members of the public of this governing authority, in addition to, or in lieu of, the routine uses enumerated for each system of records.

Application of Privacy Act exemptions. It has been recognized by Congress that application of all of the requirements of the Act to certain categories of records may have an undesirable and often unacceptable effects upon agencies in the conduct of necessary public business. Consequently, Congress established general exemptions and specific exemptions that could be used to exempt records from provisions of the Privacy Act. Congress also required that exempting records from provisions of the Privacy Act would require the head of an agency to publish a determination to exempt a record from the Act as a rule in accordance with the Administrative Procedures Act.

One provision of the Act, 5 U.S.C. 552a(d)(5), allows an agency to exempt

qualifying material and is frequently overlooked by the public until it is invoked by an agency. The Internal Revenue Service is providing notice of its authority to assert the exemption granted by subsection (d)(5) to any record maintained in any of its systems of records when appropriate to do so. 5 U.S.C. 552a(d)(5) states that ''nothing in this [Act] shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.'' This subsection permits an agency to withhold a record from the access provisions of the Privacy Act and reflects Congress's intent to exclude civil litigation files which includes quasi-judicial administrative hearings from access under subsection (d)(1). Unlike the other Privacy Act exemptions (see 5 U.S.C. 552a(j)(2) and (k)), subsection (d)(5) is entirely ''self-executing,'' and as such it does not require an implementing regulation in order to be effective.

On September 25, 2007, the Department published a final rule to change the basis of the exemption claimed for the system of records entitled ''IRS 34.022—Automated Background Investigations System (ABIS),'' from that which is provided under 5 U.S.C. 552a(j)(2), to that which is provided under 5 U.S.C. 552a(k)(5). IRS determined that the records were no longer compiled for law enforcement purposes and did not qualify for the Privacy Act exemption at 5 U.S.C. 552a (j)(2). The (k)(5) exemption is more appropriate because the investigatory material contained in this system of records is collected and maintained solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment.

Systems Covered by This Notice

This notice covers all systems of records adopted by the IRS up to November 5, 2007. The systems notices are reprinted in their entirety following the Table of Contents.

Dated: February 27, 2008.

Peter B. McCarthy,

Assistant Secretary for Management andChief Financial Officer.

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IRS 35.001—Reasonable Accommodation Request Record
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IRS 49.001—Collateral and Information Requests System
IRS 49.002—Tax Treaty Information Management System
IRS 50.001—Tax Exempt & Government Entities (TE/GE) Correspondence Control Records (formerly: Employee Plans/Exempt Organizations Correspondence Control Records)
IRS 50.003—Tax Exempt & Government Entities (TE/GE) Reports of Significant Matters (formerly: Employee Plans/Exempt Organizations, Reports of Significant Matters in Technical)
IRS 50.222—Tax Exempt/Government Entities (TE/GE) Case Management Records.

IRS 60.000—Employee Protection System Records
IRS 70.001—Individual Income Tax Returns, Statistics of Income
IRS 90.001—Chief Counsel Criminal Tax Case Files
IRS 90.002—Chief Counsel Disclosure Litigation Case Files
IRS 90.003—Chief Counsel General Administrative Files
IRS 90.004—Chief Counsel General Legal Services Case Files
IRS 90.005—Chief Counsel General Litigation Case Files
IRS 90.009—Chief Counsel Field Service Case Files
IRS 90.010—Chief Counsel Digest Room Files Containing Briefs, Legal Opinions, and Digests of Documents Generated Internally or by the Department of Justice Relating to the Administration of the Revenue Laws
IRS 90.011—Chief Counsel Attorney Recruiting Files
IRS 90.013—Chief Counsel, Deputy Chief Counsel and Associate Chief Counsel Legal Files (formerly Files of the Chief Counsel; Deputy Chief Counsel; Division Counsel (Wage & Investment); and their respective immediate staffs)
IRS 90.015—Chief Counsel Library Reference Records (formerly Reference Records of the Library in the Office of the Chief Counsel)
IRS 90.016—Chief Counsel Automated System Environment (CASE) Records (formerly Chief Counsel Management Information System)
IRS 90.017—Chief Counsel Correspondence Control and Records, Associate Chief Counsel (Technical and International) (formerly Files of the Offices of the Associate Chief Counsel (Corporate), (Financial Institutions & Products), (Income Tax & Accounting), (International), (Passthroughs & Special Industries), and Office of the Division Counsel/Associate Chief Counsel (Tax Exempt & Government Agencies))

Internal Revenue Service (IRS) Treasury/IRS 00.001

SYSTEM NAME:

Correspondence Files and Correspondence Control Files—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Initiators of correspondence; persons upon whose behalf the correspondence is initiated (including customers and employees who are asked to complete surveys); and subjects of correspondence.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence received and sent with respect to matters under the jurisdiction of the IRS. Correspondence includes letters, telegrams, memoranda of telephone calls, email, and other forms of communication. Correspondence may be included in other systems of records described by specific notices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To track correspondence including responses from voluntary surveys.

ROUTINE USES OF RECORDS MAINTAINED BY THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority that has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to foreign governments in accordance with international agreements.

(6) Disclose information to the news media as described in IRS Policy Statement P–11–8, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(8) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(9) To appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

System Manager may be any IRS supervisor. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record access procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Initiators of correspondence and information secured internally from other systems of records in order to prepare responses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 00.002

SYSTEM NAME:

Correspondence Files: Inquiries about Enforcement Activities—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Initiators of correspondence; persons upon whose behalf the correspondence was initiated; and subjects of the correspondence. Includes individuals for whom tax liabilities exist, individuals who have made a complaint or inquiry, or individuals for whom a third party is interceding relative to an internal revenue tax matter.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, and, if applicable, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS); chronological investigative history; other information relative to the conduct of the case; and/or the taxpayer's compliance history. Correspondence may include letters, telegrams, memoranda of telephone calls, email, and other forms of communication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To track correspondence concerning enforcement matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to foreign governments in accordance with international agreements.

(6) Disclose information to the news media as described in the IRS Policy Statement P–11–8, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(8) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and

Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioners, SB/SE, TEGE, and W & I and Chief, Criminal Investigation. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3); (d)(1)–(4); (e)(1); (e)(4)(G)–(I); and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36).

Treasury/IRS 00.003

SYSTEM NAME:

Taxpayer Advocate Service and Customer Feedback and Survey Records—Treasury/IRS

SYSTEM LOCATION:

Headquarters, field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who provide feedback (both complaints and compliments) about IRS employees, including customer responses to surveys from IRS business units and IRS employees about whom complaints and compliments are received by the Taxpayer Advocate Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Quality review and tracking information, customer feedback, and reports on current and former IRS employees and the resolution of that feedback.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801; and Sec. 1211 of Pub. L. 104–168, Taxpayer Bill of Rights (TBOR) 2.

PURPOSE:

To improve quality of service by tracking customer feedback (including complaints and compliments), and to analyze trends and to take corrective action on systemic problems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS), and administrative case control number.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Taxpayer Advocate Service headquarters and field offices or Head of the Office where the records are maintained. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Customer feedback and information from IRS employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 00.007

SYSTEM NAME:

Employee Complaint and Allegation Referral Records.

SYSTEM LOCATION:

Operations Support: Human Capital Office (Workforce Relations: Employee Conduct and Compliance Office). (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former IRS employees or contractors of the IRS who are the subject of complaints directed to the IRS or the Treasury Inspector General for Tax Administration (TIGTA); and individuals who submit these complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents containing the complaint, allegation or other information regarding current and former IRS employees and contractors; documents reflecting investigations or other inquiries into the complaint, allegation

or other information; and documents reflecting management's actions taken in response to a complaint, allegation or other information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801; Sections 3701 and 7803 of Pub. L. 105–206, IRS Restructuring and Reform Act of 1998 (RRA1998); and Section 1211 of Pub. L. 104–168, Taxpayer Bill of Rights 2 (TBOR2).

PURPOSE:

To provide a timely and appropriate response to complaints and allegations concerning current and former IRS employees and contractors; and to advise complainants of the status, and results, of investigations or inquiries into those complaints or allegations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(6) Disclose information to professional organizations or associations with which individuals covered by this system of records may be affiliated, such as state bar disciplinary authorities, to meet their responsibilities in connection with the administration and maintenance of standards of conduct and discipline.

(7) Disclose information to complainants or victims to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim. Information concerning the progress of the investigation or case is limited strictly to whether the investigation/case is opened or closed. Information about any disciplinary action is provided only after the subject of the action has exhausted all reasonable appeal rights.

(8) Disclose information to a contractor, including an expert witness or a consultant hired by the IRS, to the extent necessary for the performance of a contract.

(9) Disclose information to complainants or victims to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim. Information concerning the progress of the investigation or case is limited strictly to whether the case is open or closed. Information about any disciplinary action is provided only after the subject of the action has exhausted all reasonable appeal rights.

(10) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name of individual who submitted the complaint, allegation or other information; or by name of the individual who is the subject of the complaint, allegation or other information.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10 Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief Human Capital Officer (Operations Support, Headquarters). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other

records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

This system of records is exempt from the Privacy Act provision which requires that record source categories be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3), (d), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act pursuant to U.S.C. 552a(k)(2). (See 31 CFR 1.36).

Treasury/IRS 00.008

SYSTEM NAME:

Recorded Quality Review Records—Treasury/IRS.

SYSTEM LOCATION:

Wage & Investment (W & I) call sites. A list of these sites is available on-line at: *http://www.irs.gov/help/article/0,,id=96730,00.html.* See IRS appendix A for other W & I addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who respond to taxpayer assistance calls.

CATEGORIES OF RECORDS IN THE SYSTEM:

Quality review and employee performance feedback program records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To administer quality review programs at call sites. Information maintained includes questions and other statements from taxpayers or their representatives on recordings. The primary focus of the system is to improve service of, and retrieve information by, the employee and not to focus on the taxpayer.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to a contractor, including an expert witness or a consultant hired by the IRS, to the extent necessary for the performance of a contract.

(3) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By IRS employee/assistor's name or identification number (e.g., SEID, badge number). Recorded calls or screens are not retrieved by taxpayer name or Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS.).

SAFEGUARDS:

Access controls are not less than those provided for by IRM 25.10.1, Information Technology (IT) Security Policy and Guidance, and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management. Audio recordings and screen capture images are kept long enough for the review and discussion process to take place, generally not more than 45 days.

SYSTEM MANAGER AND ADDRESS:

Director, Customer Account Services, W & I. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Officer listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Records in this system are provided by IRS employees identifying themselves when they provide information to assist a taxpayer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 00.009

SYSTEM NAME:

Taxpayer Assistance Center (TAC) Recorded Quality Review Records—Treasury/IRS

SYSTEM LOCATION:

W & I Taxpayer Assistance Centers. A list of these sites is available on-line at: *http://www.irs.gov/localcontacts/index.html.* Other W & I office addresses are listed in IRS appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who respond to in-person taxpayer assistance contacts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Audio recordings of conversations with taxpayers, captured computer screen images of taxpayer records reviewed during the conversation, and associated records required to administer quality review and employee performance feedback programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To evaluate and improve employee performance and the quality of service at TAC sites.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(4) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(5) Disclose information to a contractor, including an expert witness or a consultant hired by the IRS, to the extent necessary for the performance of a contract.

(6) Disclose information to an arbitrator, mediator, or other neutral, in the context of alternative dispute resolution, to the extent relevant and necessary for resolution of the matters presented, including asserted privileges. Information may also be disclosed to the parties in the alternative dispute resolution proceeding.

(7) Disclose information to the Office of Personnel Management, Merit Systems Protection Board, the Office of Special Counsel, or the Equal Employment Opportunity Commission when the records are relevant and necessary to resolving personnel, discrimination, or labor management matters within the jurisdiction of these offices.

(8) Disclose information to the Federal Labor Relations Authority, including the Office of the General Counsel of that authority, the Federal Service Impasses Board, or the Federal Mediation and Conciliation Service, when the records are relevant and necessary to resolving any labor management matter within the jurisdiction of these offices.

(9) Disclose information to the Office of Government Ethics when the records are relevant and necessary to resolving any conflict of interest, conduct, financial statement reporting, or other ethics matter within the jurisdiction of that office.

(10) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name of the employee to whom they apply.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management. Audio recordings and screen capture images are kept long enough for the review and discussion process to take place, generally not more than 45 days.

The agency may keep audio recordings and captured computer screen images for a longer period under certain circumstances, including, but not limited to, resolution of matters pertaining to poor employee performance, security (threat, altercation, etc.), or conduct-related issues.

SYSTEM MANAGER AND ADDRESS:

Director, Customer Account Services, W&I. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Records in this system are provided by taxpayers, employees, and IRS taxpayer account records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 00.333

SYSTEM NAME:

Third Party Contact Records —Treasury/IRS.

SYSTEM LOCATION:

Field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals on whom Federal tax assessments have been made; individuals believed to be delinquent in filing Federal tax returns or in paying Federal taxes, penalties or interest; individuals who are or have been considered for examination for tax determination purposes, i.e., income, estate and gift, excise or employment tax liability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of third party contacts including the taxpayer's name; Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS); the third party contact's name; date of contact; and IRS employee's identification number (e.g., SEID, badge number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602(c); and 7801.

PURPOSE:

To comply with 26 U.S.C. 7602(c), records document third party contacts with respect to the determination or collection of the tax liability of the taxpayer. Third party contact data is provided periodically to taxpayers and upon the taxpayer's written request.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer's name or TIN.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Director, Collection, Small Business/Self-Employed Division (SB/SE). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Officer listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax records of the individual; public information sources; third parties including individuals, city and state governments, other Federal agencies, taxpayer's employer, employees and/or clients, licensing and professional organizations, and foreign governments under tax treaties.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 00.334

SYSTEM NAME:

Third Party Contact Reprisal Records—Treasury/IRS.

SYSTEM LOCATION:

Field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals on whom Federal tax assessments have been made; individuals believed to be delinquent in filing Federal tax returns or in paying Federal taxes, penalties or interest; individuals who are or have been considered for examination for tax determination purposes; i.e., income, estate and gift, excise or employment tax liability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of third party contacts as described in 26 U.S.C. 7602(c), where reprisal determinations have been made, including the taxpayer name, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS); date of contact; fact of reprisal determination; and IRS employee's identification number (e.g., SEID, badge number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602(c); and 7801.

PURPOSE:

To track the number of reprisal determinations made pursuant to 26 U.S.C. 7602(c)(3)(B).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or

confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name and /or TIN

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Director, Collection, SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records is exempt from the Privacy Act provision which requires that record source categories be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3); (d)(1)–(4); (e)(1); (e)(4)(G)–(I); and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36).

Treasury/IRS 10.001

SYSTEM NAME:

Biographical Files, Communications and Liaison—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are biographical data and photographs of key IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the media and the public.

(2) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By key employee's name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10 Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Communications & Liaison. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

By employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 10.004

SYSTEM NAME:

Stakeholder Relationship Management and Subject Files—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have stakeholder relationships with the IRS, including individuals who attend IRS forums and educational outreach meetings.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include stakeholder relationship information, correspondence, newspaper clippings, email and other forms of communication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE OF THE SYSTEM:

To track stakeholder relationships and inform individuals about tax administration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the media and the public.

(2) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the

security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name or administrative case control number.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Communications & Liaison. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Information from news media, and correspondence within the IRS and from IRS stakeholders.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 10.555

SYSTEM NAME:

Volunteer Records—Treasury/IRS.

SYSTEM LOCATION:

W & I Headquarters, field and campus offices. See IRS Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who promote and participate in IRS volunteer programs; and individuals who have an interest in promoting tax outreach and return preparation, including tax professionals and practitioners.

CATEGORIES OF RECORDS IN THE SYSTEM:

Volunteer names; contact information; electronic filing identification numbers (EFINs); and information to be used in program administration; and information pertaining to reviews of each site and other information about volunteer operations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To manage IRS volunteer programs, including determining assignments of IRS resources to various volunteer programs and making recommendations for training or other quality improvement measures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or the Department of Justice (DOJ) has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a contractor, including an expert witness or a consultant, hired by the IRS to the extent necessary for the performance of a contract.

(4) Disclose information to the news media as described in the IRS Policy Statement P–1–183, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(5) Provide information to volunteers who coordinate activities and staffing at taxpayer assistance sites.

(6) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By the name of the volunteer. Records pertaining to electronic filing capabilities may also be retrieved by the electronic filing identification number (EFIN).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioner, W & I. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''RECORD ACCESS PROCEDURES'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest content of a record in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B.

RECORD SOURCE CATEGORIES:

Treasury employees; Federal, State, or local agencies that sponsor free financial services in coordination with IRS; taxpayers who visit these sites; and volunteer individuals and organizations that provide free tax preparation and tax-related services to these taxpayers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 21.001

SYSTEM NAME:

Tax Administration Advisory Services (TAAS) Resources Records—Treasury/IRS.

SYSTEM LOCATION:

Office of Tax Administration Advisory Services (TAAS), International, Large & Mid-Size Business (LMSB). (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and potential tax administration advisors who have served or indicated an interest in serving on advisory assignments, and selected officials engaged in tax administration and related fields for matters pertaining to international issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applicant roster database, locator cards or lists with names, addresses, telephone numbers, and organizational affiliations of officials engaged in tax administration; work assignment or application folders of past and potential tax administration advisors, which contain employment history, information, medical abstracts, security clearances, and passport information; bio-data sketches on IRS employees and others engaged in tax administration and related fields.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To identify employees who have expressed an interest in overseas assignments, and to identify historical and current activities pertaining to international issues.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By employee name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Deputy Commissioner, LMSB (International). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURESS:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Individuals, organizations with which they are associated, or other knowledgeable tax administration experts.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.003

SYSTEM NAME:

Annual Listing of Undelivered Refund Checks—Treasury/IRS.

SYSTEM LOCATION:

Field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers whose refund checks have been returned as undeliverable since the last Annual Listing of Undelivered Refund Checks was produced.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN),or similar number assigned by the IRS), and records containing tax module information (tax period, amount of credit balance and Document Locator Number (DLN).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To keep track of refund checks returned as undeliverable.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name or TIN.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioners, W & I and SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.011

SYSTEM NAME:

File of Erroneous Refunds—Treasury/IRS.

SYSTEM LOCATION:

Campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers issued erroneous refunds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case reference taxpayer name, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or other similar number assigned by IRS), administrative control number, date of erroneous refund, statute expiration date, status of case, location, correspondence and research material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To maintain records necessary to resolve erroneous refunds.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and TIN.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioners, W & I and SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.012

SYSTEM NAME:

Health Coverage Tax Credit (HCTC) Program Records—Treasury/IRS

SYSTEM LOCATION:

W & I Headquarters and HCTC contractor location offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who apply for and are eligible for the credit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records required to administer the HCTC program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 35, 7527, and 7801.

PURPOSE:

To administer the health care credit provisions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or other similar number assigned by the IRS), or health care insurance policy number.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Commissioner, W & I. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester. The IRS may assert 5 U.S.C. 552a(d)(5) as appropriate.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individuals eligible under HCTC program; IRS taxpayer account information; Health Coverage providers; Department of Labor; Pension Benefit Guaranty Corporation; state workforce agencies, and the Department of Health and Human Services.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.026

SYSTEM NAME:

Form 1042S Index by Name of Recipient—Treasury/IRS.

SYSTEM LOCATION:

Campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens living abroad subject to federal tax withholding.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include taxpayer's name, address, country of residence and Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS), and name of withholding agent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To administer the back-up withholding laws and regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has

been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and TIN.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Deputy Commissioner, LMSB (International). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester. The IRS may assert 5 U.S.C. 552a(d)(5) as appropriate.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.027

SYSTEM NAME:

Foreign Information System (FIS)—Treasury/IRS.

SYSTEM LOCATION:

International (LMSB) headquarters, field, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual taxpayers who file Form 5471, Information Return with Respect to a Foreign Corporation and Form 5472, Information Return of a Foreign Owned Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS), foreign corporation identification, information relating to stock, U.S. shareholders, Earnings and Profits, Balance Sheet, and other available accounting information relating to a specific taxable period.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To administer laws and regulations relative to foreign owned corporations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Documents are stored and retrieved by Document Locator Number (DLN).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Deputy Commissioner, LMSB (International). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.028

SYSTEM NAME:

Disclosure Authorizations for U.S. Residency Certification Letters—Treasury/IRS.

SYSTEM LOCATION:

Philadelphia Campus. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and third parties who are subjects of correspondence and who initiate correspondence requesting U.S. Residency Certification.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to the individual requesting certification, including identifying information of the individual requesting certification, and records relating to the identity of third party designees authorized to receive tax information specific to the U.S. Residency Certification request.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To certify filing and payment of U.S. income tax returns and taxes to allow a reduction in foreign taxes due in accordance with various treaty provisions for U.S. citizens living abroad and U.S. domestic corporations conducting business in foreign countries.

ROUTINE USES OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employee identification number (EIN) or similar number assigned by the IRS), and name of designee.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Deputy Commissioner, LMSB (International). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individuals seeking certification, or persons acting on their behalf.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.032

SYSTEM NAME:

Individual Microfilm Retention Register—Treasury/IRS.

SYSTEM LOCATION:

Computing centers and through terminals at field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who file, or may be required to file, individual income tax returns (e.g., Form 1040, 1040A, or 1040EZ).

CATEGORIES OF RECORDS IN THE SYSTEM:

Selected data elements that have been archived from the Individual Master File (IMF).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:5 U.S.C. 301 AND 26 U.S.C. 7801.

PURPOSE:

To archive individual tax account information after a certain period of inactivity on the master file in order not to overburden the computer system required for active accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By individual taxpayer name Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS), tax period, name, and type of tax.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and

Guidance and IRM 1.16, Physical SecurityProgram.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Directors, Computing Centers. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.054

SYSTEM NAME:

Subsidiary Accounting Files—Treasury/IRS.

SYSTEM LOCATION:

Campuses. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers affected by one or more of the transactions reflected in the categories of records listed below.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents containing name, address, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS), and accounting information relevant to various transactions related to unapplied credits and payments, property held by the IRS, erroneous payments, accounts transferred, funds collected for other agencies, abatements and/or assessments of tax, uncollectible accounts, and Offers-in-Compromise.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To administer the accounting files relevant to the types of transactions described in ''Categories of records in the system'' above.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and TIN, or document locator number (DLN).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioners, W & I and SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.060

SYSTEM NAME:

Automated Non-Master File (ANMF)—Treasury/IRS.

SYSTEM LOCATION:

Computing Centers and through terminals at field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers whose accounts are not compatible with the normal master file processes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS) and information that cannot be input into the Master File, including child support payment information from the states.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To track taxpayer account information that is not input to the Master File.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and TIN, or document locator number (DLN).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioners, W & I and SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.061

SYSTEM NAME:

Information Return Master File (IRMF)—Treasury/IRS.

SYSTEM LOCATION:

Computing Centers and through terminals at field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual payors and payees of various types of income for which information reporting is required (e.g., wages, dividends, interest, etc.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Information returns.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To administer tax accounts related to the filing of information returns.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By payor and payee name and Taxpayer Identification Number (TIN) (e.g.), social security number (SSN)), employer identification number (EIN), or similar number assigned by the IRS.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioner, W & I. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3); (d)(1)–(4);

(e)(1); (e)(4)(G), (H), (I); and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36).

Treasury/IRS 22.062

SYSTEM NAME:

Electronic Filing Records—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Electronic return providers (electronic return preparers, electronic return collectors, electronic return originators, electronic filing transmitters, individual filing software developers) who have applied to participate, are participating, or have been rejected, expelled or suspended from participation, in the electronic filing program (including Volunteer Income Tax Assistance (VITA) volunteers). Individuals who attend, or have indicated interest in attending, seminars and marketing programs to encourage electronic filing and improve electronic filing programs (including individuals who provide opinions or suggestions to improve electronic filing programs), or who otherwise indicate interest in participating in electronic filing programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to individual electronic filing providers, including applications to participate in electronic filing, credit reports, reports of misconduct, law enforcement records, and other information from investigations into suitability for participation. Records pertaining to the marketing of electronic filing, including surveys and opinions about improving electronic filing programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 6011, 6012, and 7803.

PURPOSE:

To administer and market electronic filing programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(3) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(4) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(5) Disclose information to the news media as described in the IRS Policy Statement P–11–8, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(6) Disclose information to a contractor, including an expert witness or a consultant, hired by the IRS, to the extent necessary for the performance of a contract.

(7) Disclose information to state taxing authorities to promote joint and state electronic filing, including marketing such programs and enforcing the legal and administrative requirements of such programs.

(8) Disclose to the public the names and addresses of electronic return originators, electronic return preparers, electronic return transmitters, and individual filing software developers, who have been suspended, removed, or otherwise disciplined. The Service may also disclose the effective date and duration of the suspension, removal, or other disciplinary action.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By electronic filing provider name or Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN) or similar number assigned by the IRS), or document control number (DCN).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Director, Electronic Tax Administration. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with

instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. See ''RECORD ACCESS PROCEDURES'' above for records that are not tax records.

RECORD SOURCE CATEGORIES:

(1) Electronic filing providers; (2) informants and third party witnesses; (3) city and state governments; (4) IRS and other Federal agencies; (5) professional organizations; (6) business entities; and (7) participants in marketing efforts or who have otherwise indicated interest in electronic filing programs.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.030

SYSTEM NAME:

CADE Individual Master File (IMF)—Treasury/IRS.

SYSTEM LOCATION:

Computing Centers and through terminals at field and campus offices. (See the IRS Appendix below for address.).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who file Federal Individual Income Tax Returns; individuals who file other information filings; and individuals operating under powers of attorney.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tax records for each applicable tax period or year, representative authorization information (including Centralized Authorization Files (CAF), and a code identifying taxpayers who threatened or assaulted IRS employees. An indicator will be added to any taxpayer's account who owes past due child and/or spousal support payments and whose name has been submitted to IRS by a state.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To maintain records of tax returns, return transactions, and authorized taxpayer representatives.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or other similar number assigned by the IRS), or document locator number (DLN).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioner, W & I. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual or taxpayer representative and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.031

SYSTEM NAME:

Medicare Prescription Drug Transitional Assistance Records—Treasury/IRS

SYSTEM LOCATION:

Martinsburg Computing Center. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by Medicare who are eligible to apply for the prescription drug transitional assistance subsidy under the Medicare Prescription Drug Improvement and Modernization Act of 2003.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information on individuals who are Medicare beneficiaries and are eligible to apply for the prescription drug transitional assistance subsidy under the Medicare Prescription Drug Improvement and Modernization Act of 2003.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 6103(l)(19), and 7801.

PURPOSE:

To maintain records for disclosure to the Department of Health and Human Services (HHS) under the Medicare Prescription Drug Improvement and Modernization Act of 2003 to assist HHS in ensuring that applicants qualify for prescription drug transitional assistance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name or social security number (SSN) of the Medicare beneficiary.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Director, Martinsburg Computing Center. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

The Individual Master File (IMF), and the Centers for Medicare and Medicaid Services, HHS.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.046

SYSTEM NAME:

CADE Business Master File (BMF)—Treasury/IRS.

SYSTEM LOCATION:

Computing Centers and through terminals at field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who file business tax and information returns; individuals who file other information filings; and individuals operating under powers of attorney for these businesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tax records for each applicable tax year or period, including employment tax returns, partnership returns, excise tax returns, retirement and employee plan returns, wagering returns, estate tax returns; information returns; and representative authorization information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To maintain records of business tax returns, return transactions, and authorized taxpayer representatives.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name, type of tax, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or other similar number assigned by the IRS), or document locator number (DLN).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioner, SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office

listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 24.047

SYSTEM NAME:

Audit Underreporter Case File—Treasury/IRS.

SYSTEM LOCATION:

Campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of income (payees) with a discrepancy between the income tax returns they file and information returns filed by payors with respect to them.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payee and payor name, address, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS), and income records containing the types and amounts of income received/reported.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To reconcile discrepancies between tax returns and information returns filed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Payee's and payor's names and TINs.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioners, W & I and SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Information returns filed by payors and income tax returns filed by taxpayers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3); (d)(1)–(4); (e)(1); (e)(4)(G)–(I); (e)(5); (e)(8); and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36).

Treasury/IRS 26.001

SYSTEM NAME:

Acquired Property Records—Treasury/IRS.

SYSTEM LOCATION:

Field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals with delinquent tax accounts whose property has been acquired by the government by purchase or right of redemption.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS, and revenue officer reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To track property acquired under 26 U.S.C. 6334.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and TIN.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Commissioner, SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3); (d)(1)–(4); (e)(1); (e)(4)(G)–(I); and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36).

Treasury/IRS 26.006

SYSTEM NAME:

Form 2209, Courtesy Investigations—Treasury/IRS.

SYSTEM LOCATION:

Field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals on whom a delinquency or other investigation is located in one IRS office, but the individual is now living or has assets located in the jurisdiction of another IRS office.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS), asset ownership information, chronological investigative history, and, where applicable, Form SSA–7010 cases (request for preferential investigation on an earning discrepancy case).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To track the assignment of, and progress of, these investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and TIN.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioner, SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3); (d)(1)–(4); (e)(1); (e)(4)(G)–(I); and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36.)

Treasury/IRS 26.009

SYSTEM NAME:

Lien Files—Treasury/IRS.

SYSTEM LOCATION:

Field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals on whom Notices of Federal Tax Liens have been filed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Open and closed Federal tax liens, including Certificates of Discharge of Property from Federal Tax Lien; Certificates of Subordination; Certificates of Non-Attachment; Exercise of Government's Right of Redemption of Seized Property; and Releases of Government's Right of Redemption.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 6323 and 7801.

PURPOSE:

To identify those individuals on whom a Notice of Federal Tax Lien, discharge, or subordination on lien attachment has been filed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioner, SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Officer listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 26.012

SYSTEM NAME:

Offer in Compromise (OIC) File—Treasury/IRS.

SYSTEM LOCATION:

Field, campus and computing center offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted an offer to compromise a tax liability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS), assignment information; and records, reports and work papers relating to the assignment, investigation, review and adjudication of the offer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To process offers to compromise a tax liability.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and TIN.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Commissioner, SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I)

and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36.)

Treasury/IRS 26.013

SYSTEM NAME:

Trust Fund Recovery Cases/One Hundred Percent Penalty Cases—Treasury/IRS.

SYSTEM LOCATION:

Field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom Federal tax assessments have been made or are being considered as a result of their being deemed responsible for payment of unpaid corporation withholding taxes and social security contributions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS), information about basis of assessment, including class of tax, period, dollar figures, waivers extending the period for asserting the penalty (if any), and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To administer and enforce Trust Fund Recovery Penalty cases under 26 U.S.C. 6672.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and TIN; cross-referenced to business name from which the penalty arises.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Commissioner, SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36.)

Treasury/IRS 26.014

SYSTEM NAME:

Record 21, Record of Seizure and Sale of Real Property—Treasury/IRS.

SYSTEM LOCATION:

Field offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom tax assessments have been made and whose real property was seized and sold to satisfy their tax liability. Names and addresses of purchasers of this real property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS), information about basis of assessment, including class of tax, period, dollar amounts, and property description.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To administer sales of real property.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic records.

RETRIEVABILITY:

By taxpayer name, TIN, and seizure number.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioner, SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Manager listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Property records and information supplied by third parties pertaining to property records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 26.019

SYSTEM NAME:

Taxpayer Delinquent Account (TDA) Files—Treasury/IRS.

SYSTEM LOCATION:

Field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals on whom Federal tax assessments have been made and persons who owe child support obligations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigatory records generated or received in the collection of Federal taxes and all other related sub-files related to the processing of the tax case. This system also includes other management information related to a case and used for tax administration purposes including the Debtor Master File, and records that have a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To provide inventory control of delinquent accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN) or similar number assigned by the IRS), or name of person who owes child support obligations.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Field and campus offices. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36.)

Treasury/IRS 26.020

SYSTEM NAME:

Taxpayer Delinquency Investigation (TDI) Files—Treasury/IRS.

SYSTEM LOCATION:

Field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are, or may be, delinquent in filing Federal tax returns.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS); information from previously filed returns, information about the potential delinquent return(s), including class of tax, chronological investigative history; and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To track information on taxpayers who may be delinquent in Federal tax payments or obligations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic records.

RETRIEVABILITY:

By taxpayer name and TIN.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioner, SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36.)

Treasury/IRS 26.021

SYSTEM NAME:

Transferee Files—Treasury/IRS.

SYSTEM LOCATION:

Field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals on whom tax assessments have been made but who have, or may have, transferred their assets in order to place them beyond the reach of the government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS), assessment, including class of tax, period, dollar amounts and information about the transferee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To provide inventory control on taxpayers believed to have transferred assets that may not be available to satisfy their delinquent tax accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and TIN.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioner, SB/SE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in RECORD ACCESS PROCEDURES, above.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law

enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36).

Treasury/IRS 26.055

SYSTEM NAME:

Private Collection Agency (PCA) Quality Review Records.

SYSTEM LOCATION:

PCA locations may change from time to time. See ''System manager'' below for contact information.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system includes information about the PCAs (to the extent they are individuals) and employees of PCAs.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes quality review and PCA employee performance records used to administer private debt collection; records of allegations of PCA employee misconduct, including records of investigations and actions by PCAs and IRS in response to allegations or complaints against PCA employees; records used to make a final determination of whether a PCA employee has committed an act or omission described in I.R.C. 6306(b) that makes the individual ineligible to perform services under the PCA contract; and a log of complaints detailing IRS and PCA investigations and actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801; and 881 of the American Jobs Creation Act of 2004 (Pub. L. 108–357).

PURPOSE:

To administer, evaluate and improve the service and performance of PCAs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Disclosure of return and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to DOJ when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity under circumstances in which the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States government is a party to the proceeding or has an interest in such proceeding, and the IRS determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity where the IRS or the Department of Justice (DOJ) has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding, and the IRS (or DOJ) determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, State, local, tribal agency, or other public authority, that has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to the news media as described in IRS Policy Statement P–11–8, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(6) Disclose information to an arbitrator, mediator, or other neutral person, and to the parties, in the context of alternative dispute resolution, to the extent relevant and necessary for the resolution of the matters presented to permit the arbitrator, mediator, or similar person to resolve the matters presented, including asserted privileges.

(7) Disclose information to a former employee of the IRS or a PCA to the extent necessary for official purposes when the IRS requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(8) Disclose information to professional organizations or associations with which individuals covered by this system of records may be affiliated, such as state bar disciplinary authorities, to meet their responsibilities in connection with tax administration and maintenance of standards of conduct and discipline.

(9) Disclose to a contractor, including an expert witness or consultant, hired by the IRS to the extent necessary for the performance of a contract.

(10) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name or Taxpayer Identification Number (TIN) (e.g., Social Security Number (SSN), or Employer Identification Number (EIN)), or by PCA names (to the extent they are individuals) and PCA employee name and/or identifying number.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance, and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Collection, Small Business/Self-Employed Division (SB/SE). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Manager listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Individuals seeking access to any non-tax record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

RECORD SOURCE CATEGORIES:

Taxpayers, their representatives and PCAs.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 30.003

SYSTEM NAME:

Requests for Printed Tax Materials Including Lists—Treasury/IRS.

SYSTEM LOCATION:

Field and campus offices. See appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals that request various IRS printed and electronic materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of individuals wanting to receive tax forms, newsletters, publications or educational products.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE:

The purpose of this system is to administer tracking and responses to requests for printed tax materials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to mailing or distribution services contractors for the purpose of executing mail outs, order fulfillment, or subscription fulfillment.

(2) Disclose information to mailing or distribution services contractors for the purpose of maintaining mailing lists.

(3) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Alphabetically by name or numerically by zip code.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Agency Wide Shared Services (Publishing Services). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester. The IRS may assert 5 U.S.C. 552a(d)(5) as appropriate.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

The information is supplied by the individual making the request and agency entries made in fulfilling the request.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 30.004

SYSTEM NAME:

Security Violations—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who violate physical security regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of violator, circumstances of violation (e.g., date, time, actions of violator, etc.), supervisory action taken, and other information pertaining to the violation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE:

The purpose of this system is to administer programs to track and take appropriate action for security violations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any

component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Agency Wide Shared Services (Property, Security, and Records). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Contract guard force and security inspections.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.003

SYSTEM NAME:

Assignment and Accountability of Personal Property Files—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, computing center, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals receiving government property for use and repair.

CATEGORIES OF RECORDS IN THE SYSTEM:

Descriptions of property, receipts, reasons for removal, and property passes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE:

To maintain an inventory control over government property assigned to IRS employees for their use and to account for government property requiring repair.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(4) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(5) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By employee name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Agency Wide Shared Services (Space and Property). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Individuals who receive government property; request property passes; or who request repairs on equipment.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.007

SYSTEM NAME:

Record of Government Books of Transportation Requests—Treasury/IRS.

SYSTEM LOCATION:

Field offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees issued Transportation Requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form 496, alphabetical card record by name or the serial numbers of Transportation Requests issued to the employee; and Form 4678, numerical list by serial number listing the name of the employee to whom issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE:

To administer Government Transportation Requests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information to another Federal agency to effect inter-agency salary offset.

(3) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By employee name or transportation request serial number.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Field managers where these records are used. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Government Books of Transportation Requests and employees to whom books were issued.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.009

SYSTEM NAME:

Safety Program Files—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, computing center, and campus offices. (See the IRS Appendix below for address.)

PURPOSE:

To administer safety programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and other individuals involved in IRS motor vehicle accidents, accidents, or injuries, on IRS property, or who have brought tort or personal property claims against the Service; individuals issued IRS driver's licenses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual driving records and license applications, motor vehicle accident

reports, lost time and no-lost time personal injury reports, tort and personal property claims case files, informal and formal investigative report files. Injury information is contained in the Safety and Health Information System (SHIMS), which is part of the records of Treasury .011—Treasury Safety Incident Management Information System (70 **Federal Register** 44177–44197 (August 1, 2005).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and Executive Order 12196.

PURPOSE:

To administer the agency's health and safety program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(3) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(4) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(5) Provide information to the Department of Labor in connection with investigations of accidents occurring in the work place.

(6) Provide information to other federal agencies for the purpose of effecting inter-agency salary offset or interagency administrative offset.

(7) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By employee or other individual's name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Agency Wide Shared Services. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Individuals seeking access to any non-tax record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

RECORD SOURCE CATEGORIES:

IRS employees, and other claimants and third party witnesses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.012

SYSTEM NAME:

Emergency Preparedness Cadre Assignments and Alerting Rosters Files—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, computing center, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have been identified as emergency preparedness points of contact.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cadre assignments: personal information on employees; e.g., name, address, phone number, family data, security clearance, relocation assignment, etc. Alerting rosters: current listing of individuals by name and title, stating their addresses (work, home, and email), and phone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE:

To identify emergency preparedness team members and their responsibilities; and to provide a means of contacting cadre members in the event of any emergency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose

of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By employee name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Mission Assurance & Security Services (Physical Security Section). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Cadre members.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.013

SYSTEM NAME:

Identification Media Files System for Employees and Others Issued IRS ID—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, computing center, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and contractors having one or more items of identification. Federal and non-federal personnel working in or visiting IRS facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home address, and other personal information and reports on loss, theft, or destruction of pocket commissions, enforcement badges and other forms of identification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE:

To track the issuance and loss of identification media.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By employee, contractor, or visitor's name and identification media serial number.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Mission Assurance & Security Services (Operations Support).

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing

at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Document 882, New Identification Badge Request; Form 11646, Proximity Card Badge Application; Form 12598, Lost Badge Record; Form 4589, Lost or Forgotten Badge Record; Form 9516, Visitor Badge.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.014

SYSTEM NAME:

Motor Vehicle Registration and Entry Pass Files—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, computing center, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are issued parking permits because they require continued access to IRS facilities; and parking area violators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of employee, registered owner of vehicle, office branch, telephone number, description of car, license number, employee's signature, name and expiration date of insurance, decal number; parking violations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE:

To track individuals to whom parking permits are issued and to whom parking violations are issued.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By employee or other individual's name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Mission Assurance & Security Services (Operations Support). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester. The IRS may assert 5 U.S.C. 552a (d)(5) as appropriate.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Parking permits: Employees and other individuals to whom they are issued. Parking violations: Security guard personnel who issue the tickets.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.016

SYSTEM NAME:

Security Clearance Files—Treasury/IRS.

SYSTEM LOCATION:

Chief, Mission Assurance & Security Services (Operation Support). (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and contractors who require security clearance, or have their security clearance canceled or transferred; individuals who have violated IRS security regulations regarding classified national security information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, employing office, date of security clearance, level of clearance, reason for the need for the national security clearance, and any changes in such clearance. Security violations records contain name of violator, circumstance of violation and supervisory action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and Executive Order 11222.

PURPOSE:

To administer the security clearance program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose

of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information to agencies and on a need-to-know basis to determine the current status of an individual's security clearance.

(3) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name or social security number (SSN) of the employee.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Mission Assurance & Security Services (Operations Support). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Security Clearance Records: employee, employee's personnel records, employee's supervisor. Security Violation Records: guard reports, security inspections, supervisor's reports, internal audit reports, etc.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 34.021

SYSTEM NAME:

Personnel Security Investigations, National Background Investigations Center (NBIC)—Treasury/IRS.

SYSTEM LOCATION:

NBIC. See IRS appendix A for address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current, former and prospective employees of IRS, and private contractors at IRS and lock box facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to background investigations including application information, references, military service, work and academic history, financial and tax information, reports of findings and contacts with third party witnesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, Executive Orders 10450 and 11222.

PURPOSE:

To carry out personnel security investigations as to a person's character, reputation and loyalty to the United States, so as to determine that person's suitability for employment, retention in employment, or the issuance of security clearances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(3) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(4) Disclose information to the news media as described in the IRS Policy Statement P–11–8, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(5) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(6) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By employee's name or social security number (SSN);, or administrative case control number.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Mission Assurance & Security Services (Operations Support). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(5).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(5).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Subjects of investigation (through employment application forms and interviews, or financial information); third parties including Federal, state and local government agencies (police, court and vital statistics records), credit reporting agencies, schools and others; and tax returns and examination results.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(5). (See 31 CFR 1.36).

Treasury/IRS 34.022

SYSTEM NAME:

Automated Background Investigations System (ABIS)—Treasury/IRS.

SYSTEM LOCATION:

National Background Investigations Center. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of IRS and contractors for IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to background investigations, including: (1) ABIS records contain National Background Investigations Center (NBIC) employee name, office, start of employment, series/grade, title, separation date; (2) ABIS tracking records contain status information on investigations from point of initiation through conclusion; (3) ABIS timekeeping records contain assigned cases and distribution of time; (4) ABIS records contain background investigations; and (5) levels of clearance, date of clearance and any change in status of clearance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, and Executive Order 11222.

PURPOSE:

To track and administer background investigation records and to analyze trends in integrity matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) the IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation

(6) Disclose information to the news media as described in the IRS Policy Statement P–11–8, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to professional organizations or associations with which individuals covered by this system of records may

be affiliated, such as state bar disciplinary authorities, to meet their responsibilities in connection with the administration and maintenance of standards of conduct and discipline.

(8) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name of individual to whom it applies, social security number (SSN), alias, date of birth.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Mission Assurance & Security Systems. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(5).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(5).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3, (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(5). (See 31 CFR 1.36).

Treasury/IRS 34.037

SYSTEM NAME:

Audit Trail and Security Records—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, computing center, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have accessed, by any means, information contained within IRS electronic or paper records or who have otherwise used any IRS computing equipment/resources, including access to Internet sites.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records concerning employees, contractors or other individuals who have accessed IRS information or otherwise used IRS computing equipment or other resources.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, and 18 U.S.C. 1030(a)(2)(B).

PURPOSE:

To identify and track any unauthorized accesses to sensitive but unclassified information or inappropriate access by government computers to access Internet sites for gambling, playing computer games, or engaging in illegal activity.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(4) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(5) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(6) Disclose information to a contractor, including an expert witness or a consultant, hired by the IRS, to the extent necessary for the performance of a contract.

(7) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department

has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name and Social Security Number (SSN) of employee, contractor, or other individual who has been granted access to IRS information, or to IRS equipment and resources.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Mission Assurance & Security Services. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36).

Treasury/IRS 35.001

SYSTEM NAME:

Reasonable Accommodation Request Records—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, computing center, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective, current and former employees with disabilities who request reasonable accommodation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records that are used to determine qualification for reasonable accommodation (RA), including medical documentation.

AUTHORITY:

5 U.S.C. 301; Title VII of the Civil Rights Act of 1964, as amended; Civil Rights Act of 1991; The Rehabilitation Act of 1973, 29 U.S.C. 701 *et seq.*, as amended; The Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.* (ADA); Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000).

PURPOSE:

To track and administer reasonable accommodation requests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to the news media as described in the IRS Policy Statement P–11–8, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(6) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(7) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(8) Disclose information to a contractor, including an expert witness or a consultant, hired by the IRS, to the extent necessary for the performance of a contract.

(9) Disclose information to an arbitrator, mediator, or other neutral, in the context of alternative dispute resolution, to the extent relevant and necessary for resolution of the matters

presented, including asserted privileges. Information may also be disclosed to the parties in the alternative dispute resolution proceeding.

(10) Disclose information to the Merit Systems Protection Board and the Office of Special Counsel in personnel, discrimination, and labor management matters when relevant and necessary to their duties.

(11) Disclose information to foreign governments in accordance with international agreements.

(12) Disclose information to the Office of Personnel Management and/or to the Equal Employment Opportunity Commission in personnel, discrimination, and labor management matters when relevant and necessary to their duties.

(13) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Name of employee or applicant for employment who requests reasonable accommodation, and administrative case control number.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10, Information Technology (IT) Security Policy and Guidance, and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Office of Equal Employment and Diversity. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Individual requesting accommodation; individual's manager, individual's medical practitioner; agency medical representative.

EXEMPTIONS:

None.

Treasury/IRS 36.001

SYSTEM NAME:

Appeals, Grievances and Complaints Records—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, computer center, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Federal employment, current and former Federal employees (including annuitants) who submit appeals, grievances, or complaints for resolution.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to a decision or determination made by the IRS or other organization (e.g., Office of Personnel Management, Equal Employment Opportunity Commission, Merit Systems Protection Board) affecting the employment status of an individual. The records consist of the initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimonies of witnesses, investigative reports, instructions to an agency about action to be taken to comply with decisions, and related correspondence, opinions and recommendations. Automated Labor and Employee Relations Tracking System (ALERTS) records are included to provide administrative tracking for personnel administration.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, 4308, 5115, 5338, 5351, 5388, 7105, 7151, 7154, 7301, 7512, 7701 and 8347, Executive Orders 9830, 10577, 10987, 11222, 11478 and 11491; and Pub. L. 92–261 (EEO Act of 1972), and Pub. L. 93–259.

PURPOSE:

To track, and process, employment-related appeals, grievances and complaints.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be only made as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to

hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(6) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(7) Disclose information to a contractor, including an expert witness or a consultant, hired by the IRS, to the extent necessary for the performance of a contract.

(8) Disclose information to a Member of Congress regarding the status of an appeal, complaint or grievance.

(9) Disclose information to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies.

(10) Disclose information to the Office of Personnel Management, Merit Systems Protection Board or Equal Employment Opportunity Commission for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations.

(11) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name of the individual and administrative case control number.

SAFEGUARDS:

Access controls are not less than those published in IRM 10.8.1, Information Technology Security Policy and Guidance, and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Office of Equal Employment and Diversity and Human Capital Officer. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Individuals who file complaints or grievances, IRS and/or other authorized Federal officials, affidavits or statements from employees, testimony of witnesses, official documents relating to the appeal, grievance, or complaints, and third party correspondence.

EXEMPTIONS:

None.

Treasury/IRS 36.003

SYSTEM NAME:

General Personnel and Payroll Records—Treasury/IRS.

SYSTEM LOCATION:

Current employee personnel records: Headquarters, field, computing center and campus offices.

Current employee payroll records: Transactional Processing Center (TPC), U.S. Department of Agriculture, National Finance Center.

Former employee personnel records: The National Archives and Records Administration, National Personnel Records Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective, current and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a wide variety of records relating to personnel actions and determinations made about an individual while employed in the Federal service, including information required by the Office of Personnel Management (OPM) and maintained in the Official Personnel File (OPF) or Employee Personnel File (EPF). Information is also maintained electronically in Automated Labor and Employee Relations Tracking System (ALERTS) and Totally Automated Personnel System (TAPS). Listing of employee pseudonyms and Forms 3081 is also included. This system also includes payroll records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 1302, 2951, 4118, 4308, 4506 and Executive Orders 9397 and 10561.

PURPOSE:

To administer personnel and payroll programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to the news media as described in the IRS Policy Statement P–11–8, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(6) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(7) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(8) Disclose information to a contractor, including an expert witness or a consultant, hired by the IRS, to the extent necessary for the performance of a contract.

(9) Disclose information to a prospective employer of an IRS employee or former IRS employee.

(10) Disclose information to hospitals and similar institutions or organizations involved in voluntary blood donation activities.

(11) Disclose information to educational institutions for recruitment and cooperative education purposes.

(12) Disclose information to financial institutions for payroll purposes.

(13) Disclose information about particular Treasury employees to requesting Federal agencies or non-Federal entities under approved computer matching efforts, limited to only those data elements considered relevant to making a determination of eligibility under particular benefit programs administered by those agencies or entities or by the Department of the Treasury or any constituent unit of the Department, to improve program integrity, and to collect debts and other monies owed under those programs.

(14) Disclose information to respond to state and local authorities for support garnishment interrogatories.

(15) Disclose information to private creditors for the purpose of garnishment of wages of an employee if a debt has been reduced to a judgment.

(16) Disclose records to the Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, and General Accounting Office for the purpose of properly administering Federal Personnel systems or other agencies' systems in accordance with applicable laws, Executive Orders, and applicable regulations;

(17) Disclose information to a Federal, state, or local agency so that the agency may adjudicate an individual's eligibility for a benefit, such as a state unemployment compensation board, housing administration agency and Social Security Administration;

(18) Disclose information to another agency such as the Department of Labor or Social Security Administration and state and local taxing authorities as required by law for payroll purposes;

(19) Disclose information to Federal agencies to effect inter-agency salary offset; to effect inter-agency administrative offset to the consumer reporting agency for obtaining commercial credit reports; and to a debt collection agency for debt collection services;

(20) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Name, social security number (SSN) or other employee identifier, such as standard employee identification number (SEID) or badge number.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Human Capital Office. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Personnel and payroll records come from the individual to whom they apply or from agency officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

IRS 37.006

SYSTEM NAME:

Correspondence, Miscellaneous Records, and Information Management Records—Treasury/IRS.

SYSTEM LOCATION:

Office of Professional Responsibility (OPR). (See the IRS Appendix below for address.).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who correspond with OPR, individuals on whose behalf correspondence is initiated, and individuals who are the subject of correspondence; individuals who apply, pursuant to 31 CFR part 10, for recognition as a qualified sponsor of continuing professional education for enrolled agents; individuals who apply, pursuant to 31 CFR part 10, for authorization to make a special appearance before the IRS to represent another person in a particular matter; former Government employees who must file, pursuant to 31 CFR part 10, a statement that their current employer has isolated them from representations that would constitute a post-employment conflict of interest; individuals who appeal from determinations that they are ineligible to engage in limited practice before the IRS under 31 CFR part 10; and individuals who serve as point of contact for organizations (including organizations that apply for recognition as a sponsor of continuing professional education for enrolled agents and tax clinics that request OPR to issue special orders authorizing tax clinic personnel to practice before the IRS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence (including, but not limited to, letters, faxes, telegrams, and e-mails) sent and received; mailing lists of, and responses to, quality and improvement surveys of individuals; applications for recognition as a qualified sponsor of continuing professional education; applications for authorization to make a special appearance before the IRS; statements of isolation from representations that would constitute a post-employment conflict of interest; appeals from determinations of ineligibility to engage in limited practice; records pertaining to consideration of these matters; and workload management records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801; 31 U.S.C. 330, as amended by Section 822 of the American Jobs Creation Act of 2004.

PURPOSE:

To manage correspondence, to track responses from quality and improvement surveys, to manage workloads, and to collect and maintain other administrative records that are necessary for OPR to perform its functions under the regulations governing practice before the IRS, which are set out at 31 CFR part 10 and are published in pamphlet form as Treasury Department Circular No. 230, and its functions under other grants of authority.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems the purpose of the disclosure to be compatible with the purpose for which the IRS collected the records and no privilege is asserted:

(1) Disclose information to the DOJ when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or the DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or the DOJ determines that the information is relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or the Department of Justice (DOJ) has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or the DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, state, local, tribal, or foreign agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee or to issuing, or continuing, a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to a Federal, state, local, tribal, or foreign agency or other public authority responsible for implementing or enforcing, or for investigating or prosecuting, the violation of a statute, rule, regulation, order, or license when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to a contractor to the extent necessary to perform the contract.

(6) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By individual's name. Non-unique names will be distinguished by addresses.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10, Information Technology (IT) Security Policy and Guidance, and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are retained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Professional Responsibility. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, Subpart C, Appendix B. Inquiries should be addressed to the Disclosure Manager listed in Appendix A serving the requester. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, Subpart C, Appendix B. Inquiries should be addressed to the Disclosure Manager listed in Appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Individuals, other correspondents, and Treasury Department records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 37.007

SYSTEM NAME:

Practitioner Disciplinary Records—Treasury/IRS.

SYSTEM LOCATION:

Office of Professional Responsibility (OPR). (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects and potential subjects of disciplinary proceedings relating to attorneys, certified public accountants, enrolled agents, enrolled actuaries, and appraisers; subjects or potential subjects of actions to deny eligibility to engage in limited practice before the IRS or actions to withdraw eligibility to practice before the IRS in any other capacity; and individuals who have received disciplinary sanctions or whose eligibility to practice before the IRS has been denied or withdrawn.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information sent to, or collected by, OPR concerning potential violations of the regulations governing practice before the IRS, including disciplinary decisions and orders (and related records) of Federal or state courts, agencies, bodies, and other licensing authorities; records pertaining to OPR's investigation and evaluation of such information; records of disciplinary proceedings brought by OPR before administrative law judges (ALJs), including records of appeals from decisions in such proceedings; petitions for reinstatement to practice before the IRS (and related records); Federal court orders enjoining individuals from representing taxpayers before the IRS; and press releases concerning such injunctions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801; 31 U.S.C. 330, as amended by Section 822 of the American Jobs Creation Act of 2004.

PURPOSE:

To enforce and administer the regulations governing practice before the IRS, which are set out at 31 CFR part 10 and are published in pamphlet form as Treasury Department Circular No. 230; to make available to the general public information about disciplinary proceedings and disciplinary sanctions; and to assist professional organizations and associations and other law enforcement and regulatory authorities in the performance of their duties in connection with the administration and maintenance of standards of conduct and discipline.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems the purpose of the disclosure to be compatible with the purpose for which the IRS collected the records and no privilege is asserted:

(1) Disclose information to the DOJ when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or the DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or the DOJ determines that the information is relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or the Department of Justice (DOJ) has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or the DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, state, local, tribal, or foreign agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee or to issuing, or continuing, a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to a Federal, state, local, tribal, or foreign agency or other public authority responsible for implementing or enforcing, or for investigating or prosecuting, the violation of a statute, rule, regulation, order, or license when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to a contractor to the extent necessary to perform the contract.

(6) Disclose information to third parties during the course of an investigation to the extent deemed necessary by the IRS to obtain information pertinent to the investigation.

(7) To the extent permitted under 31 CFR part 10, disclose to the public pleadings filed with the ALJ, evidence received by the ALJ, reports and decisions of the ALJ in a disciplinary proceeding under those regulations, and pleadings to, and decisions by, the Secretary of the Treasury or delegate on review of ALJ decisions.

(8) Make available for public inspection or otherwise disclose to the general public, after the subject individual has exhausted appeal rights: (1) The name, mailing address, professional designation (attorney, certified public accountant, enrolled

agent, enrolled actuary, or appraiser), type of disciplinary sanction, effective dates, and information about the conduct that gave rise to the sanction pertaining to individuals who have been censured, individuals who have been suspended or disbarred from practice before the IRS, individuals who have resigned as an enrolled agent in lieu of a disciplinary proceeding being instituted or continued, individuals upon whom a monetary penalty has been imposed, and individual appraisers who have been disqualified; and (2) the name, mailing address, representative capacity (family member; general partner; full-time employee or officer of a corporation, association, or organized group; full-time employee of a trust, receivership, guardianship, or estate; officer or regular employee of a government unit; an individual representing a taxpayer outside the United States; or unenrolled return preparer), the fact of the denial of eligibility for limited practice, effective dates, and information about the conduct that gave rise to the denial pertaining to individuals who have been denied eligibility to engage in limited practice before the IRS pursuant to 31 CFR part 10.

(9) Make available for public inspection or otherwise disclose to the general public: the name, mailing address, professional designation or representative capacity, the fact of being enjoined from representing taxpayers before the IRS, the scope of the injunction, effective dates, and information about the conduct that gave rise to the injunction pertaining to individuals who have been enjoined by any Federal court from representing taxpayers before the IRS.

(10) Disclose information to a public, quasi-public, or private professional organization or association which individuals covered by this system of records may be affiliated with, or subject to the jurisdiction of, including but not limited to disciplinary authorities of state bars or certified public accountancy boards, to meet their responsibilities in connection with the administration and maintenance of standards of conduct and discipline.

(11) Disclose upon written request to a member of the public who has submitted to OPR written information concerning potential violations of the regulations governing practice before the IRS: (1) That OPR is currently investigating or evaluating the information; or (2) that OPR has determined that no action will be taken, because jurisdiction is lacking, because a disciplinary proceeding would be time-barred, or because the information does not constitute actionable violations of the regulations; and (3) if applicable, the name of the agency or authority or Department of the Treasury or IRS office to which OPR has referred the information.

(12) Disclose to the Office of Personnel Management (OPM) the identity and status of disciplinary cases in order for OPM to process requests for assignment of ALJs employed by other Federal agencies to conduct disciplinary proceedings.

(13) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By individual's name and, where available, social security number (SSN); complaint number pertaining to a disciplinary proceeding. Non-unique names will be distinguished by addresses.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10, Information Technology (IT) Security Policy and Guidance, and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are retained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Professional Responsibility. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Individuals covered by this system of records; witnesses; Federal or state courts, agencies, bodies, and other licensing authorities; professional organizations and associations; Treasury Department records; and public records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to section (k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), the records contained within this system are exempt from the following sections of the Act: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). ((See 31 CFR 1.36)).

Treasury/IRS 37.009

SYSTEM NAME:

Enrolled Agent and Resigned Enrolled Agents (Actions pursuant to 31 CFR 10.55(b) (formerly, Enrolled Agent Records) —Treasury/IRS.

SYSTEM LOCATION:

Office of Professional Responsibility. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals currently or formerly enrolled to practice before the IRS; applicants for enrollment to practice before the IRS, including those who have appealed denial of applications for enrollment; and candidates for enrollment examinations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for enrollment to practice before the IRS; records pertaining to OPR's investigation and evaluation of eligibility for enrollment; appeals from denials of applications for enrollment (and related records); records relating to enrollment examinations, including candidate applications, answer sheets, and examination scores; applications for renewal of enrollment, including information on continuing professional education; and administrative records

pertaining to enrollment status, including current status, dates of enrollment, dates of renewal, and dates of resignation or termination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801; 31 U.S.C. 330, as amended by Section 822 of the American Jobs Creation Act of 2004.

PURPOSE:

To administer the enrolled agent program under the regulations governing practice before the IRS, which are set out at 31 CFR part 10 and are published in pamphlet form as Treasury Department Circular No. 230; to make available to the general public sufficient information to identify all individuals enrolled, or formerly enrolled, to practice before the IRS and the status of their enrollment; and to assist professional organizations and associations and other law enforcement and regulatory authorities in the performance of their duties in connection with the administration and maintenance of standards of conduct and discipline.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems the purpose of the disclosure to be compatible with the purpose for which the IRS collected the records and no privilege is asserted:

(1) Disclose information to the DOJ when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or the DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or the DOJ determines that the information is relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or the Department of Justice (DOJ) has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or the DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, state, local, tribal, or foreign agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee or to issuing, or continuing, a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to a Federal, state, local, tribal, or foreign agency or other public authority responsible for implementing or enforcing, or for investigating or prosecuting, the violation of a statute, rule, regulation, order, or license when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to a contractor to the extent necessary to perform the contract.

(6) Disclose information to third parties during the course of an investigation to the extent deemed necessary by the IRS to obtain information pertinent to the investigation.

(7) Make available for public inspection or otherwise disclose to the general public: the name; mailing address; enrollment status (active, inactive, inactive retired, terminated for failure to meet the requirements for renewal of enrollment, or resigned for reasons other than in lieu of a disciplinary proceeding being instituted or continued); and effective dates pertaining to individuals who are, or were, enrolled to practice before the IRS.

(8) Disclose information to a public, quasi-public, or private professional organization or association which individuals covered by this system of records may be affiliated with, or subject to the jurisdiction of, including but not limited to disciplinary authorities of state bars or certified public accountancy boards, to meet their responsibilities in connection with the administration and maintenance of standards of conduct and discipline.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By individual's name (including other names used) and, where available, social security number (SSN); enrollment examination candidate number, enrollment application control number, enrollment number, or street address. Non-unique names will be distinguished by addresses.

SAFEGUARDS:

Access controls will not be less than those provided for by IRM 25.10, Information Technology (IT) Security Policy and Guidance, and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Professional Responsibility. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Individuals covered by this system of records; witnesses; Federal or state courts, agencies, bodies, and other licensing authorities; professional organizations and associations; Treasury Department records; and public records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to section (k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), the records contained within this system are exempt from the following sections of the Act: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). ((See 31 CFR 1.36)).

Treasury/IRS 42.001

SYSTEM NAME:

Examination Administrative File—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, computing center, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who are being considered for examination, or who are, or were, examined to determine an income, estate and gift, excise, or employment tax liability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigatory materials required in making a tax determination or other verification in the administration of tax laws and all other sub-files related to the processing of the tax case. This system also includes other management information related to a case and used for tax administration purposes, including classification and scheduling records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To document the examinations of tax returns or other determinations as to a taxpayer's tax liability; to document determinations whether or not to examine a taxpayer; and to analyze trends in taxpayer compliance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer's name, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS), and document locator number (DLN).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Commissioners, W & I, SB/SE, TEGE, and LMSB. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers' returns, books and records; informants and other third party witnesses; city and state governments; other Federal agencies; examinations of examinations of other taxpayers; and taxpayers' representatives.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). ((See 31 CFR 1.36)).

Treasury/IRS 42.002

SYSTEM NAME:

Excise Compliance Programs—Treasury/IRS.

SYSTEM LOCATION:

SBSE (Excise Program) area and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

These records include information about individuals engaged in any taxable activity related to excise taxes; the filing, preparing, or transmitting of Federal excise taxes; or witnesses or other parties with knowledge of such taxable activity.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information about individuals who are the subject of excise tax compliance programs administered by the IRS, including records pertaining to witnesses or other parties with knowledge of such taxable activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

These records are used to administer the Federal Excise Compliance Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USE:

Disclosure of return and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has

been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Records are retrievable by taxpayer name and Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by IRS), or document locator number (DLN).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10, Information Technology (IT) Security Policy and Guidance, and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Commissioner SB/SE (Excise Program), (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Filed IRS Forms 720, 720–TO/CS, 637, 2290, 8849; Customs Form 7501, Entry Summary; dyed diesel fuel inspections; individuals engaged in any activity related to excise taxes, or the filing, preparing, or transmitting of excise taxes; witnesses or other parties with knowledge of such activity.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Records maintained in this system have been designated as exempt from 5 U.S.C. 552a(c)(3), (d)(1), (2), (3), and (4), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). ((See 31 CFR 1.36)).

Treasury/IRS 42.008

SYSTEM NAME:

Audit Information Management System (AIMS)—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers whose tax returns are under the jurisdiction of examiners in W & I, SB/SE, TEGE and LMSB.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, and Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or other similar number assigned by the IRS) of taxpayers; information from the Master Files (IRS 24.030 and 24.046) and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To maintain information about returns in inventory and closed returns.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and TIN.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioners, W & I, SB/SE, TEGE and LMSB. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and examination files.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). ((See 31 CFR 1.36)).

Treasury/IRS 42.017

SYSTEM NAME:

International Enforcement Program Information Files—Treasury/IRS.

SYSTEM LOCATION:

Deputy Commissioner, LMSB (International) (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual having foreign business or financial activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of individual taxpayers, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by IRS), summary of income expenses, financial information as to foreign operations or financial transactions, acquisition of foreign stock, controlling interest of a foreign corporation, organization or reorganization of foreign corporation examination results, information concerning potential tax liability, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To monitor the International Enforcement Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Disclosure of tax convention information may be made only as provided by 26 U.S.C. 6105. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and TIN.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Commissioner, LMSB (International). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax convention and treaty partners; individual's tax returns; examinations of other taxpayers; and public sources of information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). ((See 31 CFR 1.36)).

Treasury/IRS 42.021

SYSTEM NAME:

Compliance Programs and Projects Files—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who may be involved in tax evasion schemes or noncompliance schemes, including but not limited to withholding noncompliance or other areas of noncompliance grouped by industry, occupation, or financial transactions; individuals who may be selling or promoting abusive tax schemes or abusive tax avoidance transactions; individuals who may be in noncompliance with tax laws concerning tax exempt organizations, return preparers, corporate kickbacks, or questionable Forms W–4, among others.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to individuals in compliance projects and programs, and records used to consider individuals for selection in these compliance projects and programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To track information relating to special programs and projects to identify non-compliance schemes and to select individuals involved in such schemes for enforcement actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer

identification number (EIN), or other similar number assigned by the IRS), or document locator number (DLN).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioners, W & I, SB/SE. TEGE, and LMSB. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36).

Treasury/IRS 42.027

SYSTEM NAME:

Data on Taxpayers Filing on Foreign Holdings—Treasury/IRS.

SYSTEM LOCATION:

Deputy Commissioner, LMSB (International). (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who file Form 5471, Information Return with respect to a Foreign Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals who file Form 5471.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To monitor individuals who file Form 5471, Controlled Foreign Corporation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name and Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Deputy Commissioner, LMSB (International). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Form 5471.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 42.031

SYSTEM NAME:

Anti-Money Laundering/Bank Secrecy Act (BSA) and Form 8300 Records.

SYSTEM LOCATION:

Computing Center and field offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals subject to the reporting and recordkeeping requirements of the BSA, including:

(1) Individuals whose businesses provide any of the financial services which subject them to the reporting, recordkeeping or registration requirements of the laws commonly known as the Bank Secrecy Act (BSA), or the related reporting and recordkeeping requirements of 26 U.S.C. 6050I.

(2) Individuals acting as employees, owners or customers of such institutions or involved, directly or indirectly, in any transaction with such institutions. Examples of institutions that offer financial services are: Currency dealers, check cashiers, money order or traveler's check issuers, sellers, or redeemers, casinos, card clubs, and other money transmitters.

(3) Individuals who are required to file reports or maintain records required under the Bank Secrecy Act, such as the Report of Foreign Bank and Financial Accounts and related records.

(4) Persons who may be witnesses or may otherwise provide information concerning these individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relate to the administration of the IRS anti-money laundering program including the registration, reporting and recordkeeping requirements of the BSA and 26 U.S.C.6050I. They may also relate to individuals who, based upon certain tolerances, exhibit patterns of financial transactions suggesting noncompliance with the registration, reporting and recordkeeping requirements of the BSA and 26 U.S.C. 6050I. Records may also relate to individuals who are required to file reports or maintain records required under the Bank Secrecy Act, such as the Report of Foreign Bank and Financial Accounts and related records. Records may also relate to IRS administrative actions, such as notification, educational or other outreach efforts, examination results, and civil or criminal referrals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 31 U.S.C. 5311–5332, 26 U.S.C. 6050I, and 7801.

PURPOSE:

To administer 26 U.S.C. 6050I and the Bank Secrecy Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of or for enforcing or implementing a statute, rule, regulation, order, or license, where the Service becomes aware of an indication of a potential violation of civil or criminal law or regulation, or the use is required in the conduct of intelligence or counter-intelligence activities, including analysis, to protect against international terrorism.

(5) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(6) Disclose information to the news media as described in the IRS Policy Statement P–11–8, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to any agency, including any State financial institutions supervisory agency, United States intelligence agency or self-regulatory organization registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission, upon written request of the head of the agency or organization. The records shall be available for a purpose that is consistent with title 31, as required by 31 U.S.C. 5319.

(8) Disclose information to representatives of the National Archives and Records Administration (NARA) who are conducting records management inspections under authority of 44 U.S.C. 2904 and 2906.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THIS SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Name and Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Commissioner, SBSE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

SOURCE CATEGORIES:

The system contains material for which sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36).

Treasury/IRS 44.001

SYSTEM NAME:

Appeals Case Files—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, campus, and field offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who seek administrative review of IRS proposed adjustments and collection actions with which they disagree . Persons who seek administrative review of initial Freedom of Information ACT (FOIA) determinations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigatory materials required in making a tax determination or other verification in the administration of tax laws and all other sub-files related to the processing of the tax case, including history notes and work papers required in an administrative review of an assessment or other initial tax determination, collection action, or FOIA determination. This system also includes other management information related to a case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 5 U.S.C. 552, and 26 U.S.C. 7801.

PURPOSE:

To document the actions taken during Appeals' administrative review of IRS proposed adjustments, collection actions, or Freedom of Information ACT (FOIA) initial determinations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By individual's name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Appeals. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). ((See 31 CFR 1.36)).

Treasury/IRS 44.003

SYSTEM NAME:

Appeals Centralized Data (ACD)—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who seek administrative review of IRS proposed adjustments and collection actions with which they disagree. Persons who seek administrative review of initial Freedom of Information Act (FOIA) determinations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information from 24.030, 24.046, 42.001, and 44.001 systems, related internal management information, including the taxpayer's DIF Score, and a code identifying taxpayers that threatened or assaulted IRS employees. Information pertaining to FOIA cases under administrative appeal.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 5 U.S.C. 552, and 26 U.S.C. 7801.

PURPOSE:

To track information about cases in inventory and closed cases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or

confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name and Taxpayer Identification Number (TIN) (e.g., Social Security Number (SSN), employer identification number (EIN), or other similar number assigned by the IRS).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Appeals. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account. FOIA administrative appeals and agency entries made in the administration of the FOIA appeal. Also, time reports prepared by Appeals Officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 44.004

SYSTEM NAME:

Art Case File—Treasury/IRS.

SYSTEM LOCATION:

Headquarters (Appeals). (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Famous or noted artists whose works have been evaluated by the Commissioner's Art Panel or its staff for use in a taxpayer case.

CATEGORIES OF RECORDS IN THE SYSTEM:

Commissioner's Art Panel or its staff decisions on values of works of art by named artists and appraisal documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To establish value of art works for purposes of tax administration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(6) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(7) Disclose information to the news media as described in the IRS Policy Statement P–11–8, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(8) Disclose information to foreign governments in accordance with international agreements.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer, artist, and appraiser name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Appeals. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Commissioner's Art panel and staff decisions and appraisal documentation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 44.005

SYSTEM NAME:

Expert Witness and Fee Appraiser Files—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Expert witnesses for litigation and appraisers, including Art Advisory Panelists whose services may be or are used.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data, application letters, or list of expert/appraiser names by specialty.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To track individuals available for expert witness and appraisal services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(6) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(7) Disclose information to the news media as described in the IRS Policy Statement P–11–8, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(8) Disclose information to foreign governments in accordance with international agreements.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Expert witness or appraiser name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Appeals. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record

pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

See ''Records Access Procedure'' above.

RECORD SOURCE CATEGORIES:

Expert witnesses, appraisers, or public sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 46.002

SYSTEM NAME:

Criminal Investigation Management Information System (CIMIS) and case files—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, computing center, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects and potential subjects of Criminal Investigation (CI) investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Criminal investigatory materials required in making a determination or other verification in the administration of tax and other laws under the jurisdiction of Criminal Investigation and all other sub-files related to the processing of the case. This system also includes other management information related to a case and used for administrative purposes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 31 U.S.C. 5311–5332, and 26 U.S.C. 7801.

PURPOSE:

To maintain and process investigative information that identifies patterns of noncompliance (including criminal and civil noncompliance that does not rise to the level of criminal noncompliance) with federal tax laws and other statutes CI is authorized to investigate.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer's name and Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or other similar number assigned by the IRS), and administrative case control number.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Criminal Investigation. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(j)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(j)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3)–(4), (d)(1)–(4), (e)(1)–(3), (e)(4)(G)–(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act, pursuant to 5 U.S.C. 552a(j)(2). (See 31 CFR 1.36).

Treasury/IRS 46.003

SYSTEM NAME:

Confidential Informants—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Confidential informants and subjects of confidential informant's reports.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information related to confidential informant reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To track the identities of, and related information regarding, confidential informants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the

security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By confidential informant's name and administrative case control number and by name of subject in informant's case report.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Criminal Investigation. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(j)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(j)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3)–(4), (d)(1)–(4), (e)(1)–(3), (e)(4)(G)–(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act, pursuant to 5 U.S.C. 552a(j)(2). (See 31 CFR 1.36).

Treasury/IRS 46.005

SYSTEM NAME:

Electronic Surveillance File—Treasury/IRS.

SYSTEM LOCATION:

Headquarters (Criminal Investigation). (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of electronic surveillance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to the conduct of electronic surveillance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To monitor and track all electronic surveillances conducted by field offices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By names, addresses, and telephone numbers of the subjects of surveillance.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Criminal Investigation. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(j)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(j)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3)–(4), (d)(1)–(4), (e)(1)–(3), (e)(4)(G)–(I), (e)(5), (e)(8) (f) and (g) of the Privacy Act, pursuant to 5 U.S.C. 552a(j)(2). (See 31 CFR 1.36).

Treasury/IRS 46.009

SYSTEM NAME:

Centralized Evaluation and Processing of Information Items (CEPIIs), Evaluation and Processing of Information (EOI)—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals about whom the IRS has received information alleging a violation of laws within IRS jurisdiction.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of income tax returns, special agent's reports, revenue agent's reports, reports from police and other investigative agencies, memoranda of interview, question-and-answer statements, sworn statements, collateral requests and replies, information items, newspaper and magazine articles and other published data, financial information from public records, court records, confidential reports, case initiating documents and other similar and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To maintain and process sensitive investigative information that identifies potential criminal and/or civil noncompliance with federal tax law and money-laundering laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name of the individual about whom information is received or the provider of the information.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Criminal Investigation. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(j)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(j)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3)–(4), (d)(1)–(4), (e)(1)–(3), (e)(4)(G)–(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act, pursuant to 5 U.S.C. 552a(j)(2). (See 31 CFR 1.36).

Treasury/IRS 46.015

SYSTEM NAME:

Relocated Witnesses—Treasury/IRS.

SYSTEM LOCATION:

Chief, Criminal Investigation. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Relocated witnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to the relocation of witnesses for their protection.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By relocated witness' name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Criminal Investigation. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(j)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(j)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3)–(4), (d)(1)–(4), (e)(1)–(3), (e)(4)(G)–(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act, pursuant to 5 U.S.C. 552a(j)(2). (See 31 CFR 1.36).

Treasury/IRS 46.022

SYSTEM NAME:

Treasury Enforcement Communications System (TECS)—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Fugitives, subjects of open and closed criminal investigations, subjects of potential criminal investigations, subjects with Taxpayer Delinquent Accounts against whom Federal Tax Liens have been filed and other subjects of potential interest to criminal investigation, such as witnesses, associates of subjects of criminal investigations, or individuals otherwise related to a matter under Criminal Investigation jurisdiction.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, Taxpayer Identification Number (TIN) (e.g., social security number (SSN), employer identification number (EIN), or other similar number assigned by the IRS), address, identifying details, other names used, associates, physical descriptions, details and circumstances regarding the subject.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To administer records to identify individuals and their businesses that are suspected of, or involved in, violations of federal laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By individual's name or TIN.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Criminal Investigation. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(j)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(j)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3)–(4), (d)(1)–(4), (e)(1)–(3), (e)(4)(G)–(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act, pursuant to 5 U.S.C. 552a(j)(2). See 31 CFR 1.36.

Treasury/IRS 46.050

SYSTEM NAME:

Automated Information Analysis System—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, campus, and computing center offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers and other individuals involved in financial transactions that require the filing of information reflected in the ''Categories of records'' below.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reported income, tax, and Bank Secrecy Act information maintained in a variety of existing systems that include: Treasury/IRS 22.034, 24.030, 26.019, 26.020, and 42.001.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To maintain records that identify transaction patterns, which are indicative of criminal and/or civil noncompliance with Federal income tax and money laundering laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name, address, and social security number (SSN).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Chief, Criminal Investigation. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(j)(2) and (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(j)(2) and (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1)–(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). Additionally, pursuant to 5 U.S.C. 552a(k)(2), it is exempt from 5 U.S.C. 552a (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act. ((See 31 CFR 1.36)).

Treasury/IRS 48.001

SYSTEM NAME:

Disclosure Records—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, computing center, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Subjects of ex parte orders or written requests for tax information in non-tax criminal matters or with respect to terrorist activities under 26 U.S.C. 6103(i).

(2) Persons who have made requests or demands for IRS information under Treas. Reg. 301.9000–1 through –6 in matters falling under the jurisdiction of Governmental Liaison and Disclosure (GLD).

(3) Requesters of and intended recipients of letter forwarding services.

(4) Persons who have applied for Federal employment or presidential appointments and applicants for Department of Commerce ''E'' Awards, for whom tax checks have been requested.

(5) Requesters for access to records pursuant to 26 U.S.C. 6103, the Freedom of Information Act (FOIA), 5 U.S.C. 552, and initiators of requests for access, amendment or other action pursuant to the Privacy Act (PA) of 1974, 5 U.S.C. 552a.

(6) Individuals identified on Forms 10848, Report of Inadvertent Disclosure of Tax and Privacy Act (PA) Information.

(7) Individuals identified by, or initiating other correspondence or inquiries with, matters falling under the jurisdiction of GLD.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, demands and requests for IRS records, responses to those requests, notes and other background information, copies of records secured, testimony authorizations, tax check documentation, Forms 10848, any documents related to the processing of FOIA, PA or other requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 552, 552a and 26 U.S.C. 7801.

PURPOSE:

To track the processing of requests or demands for agency records under applicable laws and regulations concerning the disclosure of official information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted:

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(3) Disclose debtor information to a Federal payer agency for purposes of salary and administrative offsets, to a consumer reporting agency to obtain commercial credit reports, and to a debt collection agency for debt collection services.

(4) Disclose information to the news media as described in the IRS Policy Statement P–11–8, News Coverage to Advance Deterrent Value of

Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(5) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name or Taxpayer Identification Number (TIN) (e.g., Social Security Number (SSN), employer identification number (EIN), or other similar number assigned by the IRS).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Director, Governmental Liaison & Disclosure (SB/SE). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). ((See 31 CFR 1.36)).

Treasury/IRS 48.008

SYSTEM NAME:

Defunct Special Service Staff File Being Retained Because of Congressional Directive—Treasury/IRS.

SYSTEM LOCATION:

Headquarters (Governmental Liaison & Disclosure). (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals suspected of violating the internal revenue law by the Special Service Staff before its discontinuation on August 23, 1973.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual Master File printouts; returns and field reports; information from other law enforcement government investigative agencies; Congressional Reports, and news media articles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To preserve under Congressional Directive the activities of the Special Services Staff before its discontinuation in order to permit subjects of the former Special Services Staff to view records about themselves. This system is no longer being used by the Internal Revenue Service. The Special Service Staff was abolished on August 13, 1973.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(2) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By subject name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Director, Governmental Liaison & Disclosure (SB/SE). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office 3 (Baltimore) listed in appendix A. The IRS may assert 5 U.S.C. 552a(d)(5) as appropriate.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

News media articles, taxpayers' returns and records, informant and third party information, other Federal agencies and examinations of related or other taxpayers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 49.001

SYSTEM NAME:

Collateral and Information Requests System—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, campus, and computing center offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens, resident aliens, and nonresident aliens whose tax matters come under the jurisdiction of the U.S. competent authority in accordance with pertinent provisions of tax treaties with foreign countries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of interviews with witnesses regarding financial transactions of taxpayers; employment data; bank and brokerage house records; probate records; property valuations; public documents; payments of foreign taxes; inventories of assets; business books and records.

These records relate to tax investigations conducted by the IRS where some aspects on an investigation must be pursued in foreign countries pursuant to the various tax conventions between the United States and foreign governments. The records also include individual case files of taxpayers on whom information (as is pertinent to carrying out the provisions of the convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of this convention) is exchanged with foreign tax officials of treaty countries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To maintain records of correspondence and other documentation with respect to the exchange of information requests by or to foreign governments with which the U.S. maintains tax treaties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Disclosure of tax treaty information may be made only as provided by 26 U.S.C. 6105. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Deputy Commissioner, LMSB (International). See IRS appendix A for address.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). ((See 31 CFR 1.36)).

Treasury/IRS 49.002

SYSTEM NAME:

Tax Treaty Information Management System—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, campus, and computing center offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens, resident aliens, and nonresident aliens whose tax matters come under the jurisdiction of the U.S. competent authority in accordance with pertinent provisions of tax treaties with foreign countries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Management information regarding investigations of, or information exchange requests about taxpayers pursuant to tax treaties between the United States and foreign governments, including information from the Master File, including the taxpayer's DIF Score, and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To track the inventory of individual case files of taxpayers who request

competent authority assistance pursuant to the provisions of income tax treaties, or about whom information exchange requests are made by foreign governments pursuant to applicable tax treaties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Disclosure of tax treaty information may be made only as provided by 26 U.S.C. 6105. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Commissioner, LMSB (International). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). ((See 31 CFR 1.36)).

Treasury/IRS 50.001

SYSTEM NAME:

Tax Exempt & Governmental Entities (TE/GE) Correspondence Control Records—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, campus, and computing center offices (TE/GE). (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Requesters of letter rulings and determination letters, and subjects of field office requests for technical advice and assistance and other correspondence, including correspondence associated with section 527 organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date, nature and subject of an assignment, and work history. Subsystems include case files and section 527 records that contain the correspondence, internal memoranda, digests of issues involved in proposed revenue rulings, and related material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103 and 6104 where applicable. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name of requester or the subject of a letter ruling, determination letter, or other correspondence.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioner, TE/GE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should

be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individuals who request rulings, determination letters, or submit other correspondence, and field offices requesting technical advice or assistance.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 50.003

SYSTEM NAME:

Tax Exempt & Government Entities (TE/GE) Reports of Significant Matters-Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field, and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who submit letter ruling requests or determination letters, or who are the subjects of technical advice requests, where the matter raised has some significance to tax administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Summaries of significant technical matters pertaining to letter rulings or determination letters under the jurisdiction of the Division Commissioner, TEGE.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103 and 6104 where applicable. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name of the requester or the subject of a letter ruling, determination letter, or other correspondence.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Commissioner, TE/GE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Disclosure Office listed in appendix A serving the requester.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individuals who submit determination or letter ruling requests and the employees who process them.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 50.222

SYSTEM NAME:

Tax Exempt/Government Entities (TE/GE) Case Management Records.

SYSTEM LOCATION:

Office of the Commissioner, Tax Exempt/Government Entities Division (TE/GE), National Office, Area Offices, Local Offices, Service Campuses, and Computing Centers. (See the IRS Appendix below for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subject of or are connected to TE/GE examinations and tax determinations, including compliance projects, regarding Federal tax exemption requirements, employee plan requirements, and employment tax requirements.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include case identification, assignment, and status information from TE/GE examination and tax determination files, information about individuals pertaining to TE/GE's methods of investigating exempt organizations, retirement plans, and government entities with regard to their compliance with statutory Federal requirements and/or their tax exempt status. In addition, this system contains identifying information regarding informants who have provided information that is significant and relevant to TE/GE investigations of taxpayers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

PURPOSE:

This system will provide TE/GE records for case management, including employee assignments and file tracking. TE/GE maintains records on businesses, organizations, employee plans, government entities, and Indian Tribal Government entities and individuals, such as principals and officers, connected with these entities. Records in this system are used for law enforcement investigations and may contain identifying information about informants who have provided significant information relevant to investigations of taxpayers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Disclosure of return and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the

disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer name, Taxpayer Identification Number (either Social Security Number or Employer Identification Number), or by IRS employee name or identification number for the employee who is assigned the case, project, or determination.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Commissioner, TE/GE. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual. The records are exempt under 5 U.S.C. 552a(k)(2) from the notification provisions of the Privacy Act.

RECORDS ACCESS PROCEDURES:

This system may not be accessed to inspect or contest the content of records. The records are exempt under 5 U.S.C. 552a(k)(2) from the access provisions of the Privacy Act.

CONTESTING RECORDS PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORDS SOURCE CATEGORIES:

Information is obtained from tax returns, application returns and supporting material, determination files, examination files, compliance review files, compliance programs and projects, and IRS personnel records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36.)

Treasury/IRS 60.000

SYSTEM NAME:

Employee Protection System Records—Treasury/IRS.

SYSTEM LOCATION:

Headquarters, field and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals attempting to interfere with the administration of internal revenue laws through assaults, threats, suicide threats, filing or threats of filing frivolous criminal or civil legal actions against Internal Revenue Service (IRS) employees, or IRS contractors or the employees' or contractors' immediate family members, or through forcible interference against any officer, government contractor or employee while discharging the official duties at his/her position. An individual is designated as a potentially dangerous taxpayer (PDT), based on reliable information, furnished to the IRS or Treasury Inspector General for Tax Administration (TIGTA), that fits any of the criteria (1) through (5) below: (1) Individuals who assault employees or members of the employees' immediate families (2) Individuals who attempt to intimidate or threaten employees or members of the employees' immediate families through specific threats of bodily harm, a show of weapons, the use of animals, or through other specific threatening or intimidating behavior (3) Individuals who are active members of groups that advocate violence against IRS employees specifically, or against Federal employees generally where advocating such violence could reasonably be understood to threaten the safety of IRS employees and impede the performance of their official duties (4) Individuals who have committed the acts set forth in any of the above criteria, but whose acts have been directed against employees or contractors of other governmental agencies at Federal, State, county, or local levels, and (5) Individuals who are not designated as potentially dangerous taxpayers through application of the above criteria, but who have demonstrated a clear propensity toward violence through act(s) of violent behavior within the five-year period immediately preceding the time of referral of the individual to the Employee Protection System (EPS). An individual is designated as a taxpayer who should be approached with caution (CAU), based on reliable information furnished to the IRS or the TIGTA, individuals who have threatened physical harm that is less severe or immediate than necessary to satisfy PDT criteria, suicide threat by the taxpayer, or individuals who have filed or threatened to file a frivolous civil or criminal legal action (including liens, civil complaints in a court, criminal charges) against any IRS employee or contractor, or their immediate families.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents reporting the incident; documentary evidence of the incident (e.g. threatening correspondence, copies of liens and legal actions); documentation of investigation of incident, with report of investigation, statements, affidavits, and related tax information; records of any legal action resulting from the incident; local police records of individual named in the incident, if such records are requested or otherwise provided during investigation of the incident; FBI record of individual named in the incident, if such records are requested or otherwise provided during investigation of the incident; newspaper or periodical items, or information from other sources, provided to the IRS or to TIGTA for investigation of individuals who have demonstrated a clear propensity toward violence; correspondence regarding the reporting of the incident, referrals for investigation, investigation of the incident; and result of investigation (i.e. designation as PDT or CAU).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

PURPOSE:

To maintain reports by IRS employees or contractors of attempts by individuals to obstruct or impede them or other law enforcement personnel in the performance of their official duties,

investigations into the matters reported, and determinations whether the taxpayers should be designated a PDT or CAU.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee, or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(3) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(4) Disclose information to the news media as described in the IRS Policy Statement P–11–8, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(5) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(6) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By name or social security number (SSN) of individual with respect to whom the PDT or CAU designation is being considered and by administrative case control number.

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Employee Protection (SB/SE). (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

SOURCE CATEGORIES:

The system contains material for which sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36.).

Treasury/IRS 70.001

SYSTEM NAME:

Individual Income Tax Returns, Statistics of Income—Treasury/IRS.

SYSTEM LOCATION:

Headquarters and campus offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual taxpayers whose data is selected for compilation into a statistical sample.

CATEGORIES OF RECORDS IN THE SYSTEM:

Sources of income, exemptions, deductions, income tax, and tax credits, as reported on Form 1040 series of U.S. Individual income tax return. The records are used to prepare and publish statistics. The statistics, studies, and compilations are designed so as to prevent disclosure of any particular taxpayer's identity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 6108 and 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103 and 6108. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or

confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By taxpayer identification number (TIN) (e.g., Social Security Number (SSN), employer identification number (EIN), or other similar number assigned by the IRS), or document locator number (DLN).

SAFEGUARDS:

Access controls are not less than those published in IRM 25.10.1, Information Technology (IT) Security Policy and Guidance and IRM 1.16, Physical Security Program.

RETENTION AND DISPOSAL:

Records are maintained in accordance with IRM 1.15, Records Management.

SYSTEM MANAGER AND ADDRESS:

Director, Research Analysis, and Statistics. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(4).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or in order to contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(4).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Form 1040 series of U.S. Individual Income Tax Returns.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(4). See 31 CFR. 1.36.

Treasury/IRS 90.001

SYSTEM NAME:

Chief Counsel Criminal Tax Case Files—Treasury/IRS.

SYSTEM LOCATION:

Office of the Division Counsel/ Associate Chief Counsel (Criminal Tax), National Office, and certain Area Counsel offices, as designated in Appendix A. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers and related individuals with respect to whom tax-related criminal recommendations have been made;

(2) Individuals who have requested advice, and on whom advice has been requested concerning tax-related criminal offenses.

(3) Individuals who have filed petitions for the remission or mitigation of forfeitures or who are otherwise directly involved as parties in judicial or administrative forfeiture matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal advice and written determination files;

(2) Litigation files;

(3) Correspondence files;

(4) Reference copies of selected work product;

(5) Workload management records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7803.

PURPOSE:

To provide legal advice and assistance, and make determinations and render advisory opinions, on the investigation of tax-related crimes and forfeiture matters. To assist in the prosecution of individuals charged with tax-related crimes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which the IRS collected the records and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) the IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the records are both relevant and necessary to the proceeding or advice sought. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency or other public authority responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee; or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(5) Disclose information to foreign governments in accordance with international agreements.

(6) Disclose information to the news media as described in the IRS Policy Statement P–1–183, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(8) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the

security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By the name of the individual to whom they apply. If there are multiple parties to a prosecution or criminal investigation, then the record is generally retrieved only by the name of the first named defendant or investigation target.

SAFEGUARDS:

Access controls are not less than those provided by the Physical Security Standards, IRM 1.16, and the Information Systems guidelines, IRM 2.1.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the records control schedules applicable to the records of the Office of Chief Counsel, I.R.M. 1.15.13 through 1.15.15.

SYSTEM MANAGER(S) AND ADDRESS:

Division Counsel/Associate Chief Counsel (Criminal Tax), National Office. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(j)(2).

RECORD ACCESS PROCEDURES:

This system of records may not be accessed to inspect or contest the content of records; the records are exempt under 5 U.S.C. 552a(j)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, tribal, and foreign governments, and other public authorities; witnesses; informants; parties to disputed matters of fact or law; judicial and administrative proceedings; other persons who communicate with the IRS; public sources, such as telephone books, internet Web sites, court documents, and real estate records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from sections (c)(3)–(4); (d)(1)–(4); (e)(1)–(3); (e)(4)(G)–(I); (e)(5); (e)(8); (f) and (g) of the Privacy Act, pursuant to 5 U.S.C. § 552a(j)(2). (See 31 CFR. 1.36)

Treasury/IRS 90.002

SYSTEM NAME:

Chief Counsel Disclosure & Privacy Law Case Files—Treasury/IRS.

SYSTEM LOCATION:

Office of the Associate Chief Counsel (Procedure & Administration), National Office. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who communicate with the IRS regarding disclosure matters or who are involved with a disclosure issue involving the IRS, where these matters or issues are brought to Counsel's attention;

(2) Individuals who were the subject of unauthorized disclosure investigations under section 7213 of the Internal Revenue Code by the former Inspection Service if that office requested advice or sought criminal referral concerning the investigation (1985–January 19, 1999).

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal advice files and written determination files;

(2) Litigation files;

(3) Correspondence files;

(4) Files pertaining to administrative appeals of Privacy Act requests to amend Chief Counsel records;

(5) Testimony authorization files;

(6) Files pertaining to assertions of executive privilege by the IRS in response to discovery request(s) in litigation;

(7) Reference copies of selected work product;

(8) Workload management records;

(9) Files pertaining to administrative appeals of Freedom of Information Act (FOIA) requests filed with the IRS prior to January 15, 2001;

(10) Files pertaining to FOIA requests seeking access to documents maintained by the Office of Chief Counsel (April 1, 1974–July 1, 2000).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 552, 552a; 26 U.S.C. 7801, 7803.

PURPOSE:

To provide legal advice and assistance, and make determinations and render advisory opinions, on disclosure matters. To assist in the defense of civil litigation under the FOIA, the Privacy Act, and the disclosure provisions of the Internal Revenue Code. To assist in the preparation and issuance of authorizations for testimony of, or document production from, IRS and Chief Counsel employees in tax and non-tax litigation. To assert executive privilege on behalf of the IRS in response to certain discovery requests made during litigation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which the IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the records are both relevant and necessary to the proceeding or advice sought. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to an appropriate Federal, State, local, tribal,

or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face or in combination with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee; or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(5) Disclose information to foreign governments in accordance with international agreements.

(6) Disclose information to the news media as described in the IRS Policy Statement P–1–183, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(8) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Records are retrieved by the name of the individual to whom they apply, cross-referenced third parties, issues, employees assigned, and by workload case number. If there are multiple parties to a litigation, then the record is generally retrieved only by the name of the first named person in the complaint.

SAFEGUARDS:

Access controls are not less than those provided by the Physical Security Standards, IRM 1.16, and the Information Systems guidelines, IRM 2.1.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the records control schedules applicable to the records of the Office of Chief Counsel, IRM 1.15.13 through 1.15.15. Freedom of Information requests and administrative appeals are retained and disposed of in accordance with IRM 1.15.51.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Procedure & Administration), National Office. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed to inspect or contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Persons who communicate with the IRS regarding disclosure matters that are brought to Counsel's attention; Department of Treasury employees; State, local, tribal, and foreign governments, and other public authorities; other Federal agencies; witnesses; informants; parties to disputed matters of fact or law; judicial and administrative proceedings; public sources, such as telephone books, internet websites, court documents, and real estate records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. § 552a(k)(2). (See 31 CFR. 1.36).

Treasury/IRS 90.003

SYSTEM NAME:

Chief Counsel General Administrative Systems—Treasury/IRS.

SYSTEM LOCATION:

All Chief Counsel offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Former and present employees of the Office of Chief Counsel;

(2) Prospective non-attorney employees of the Office of Chief Counsel;

(3) Tax Court witnesses whose expenses are paid by the IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Employee Performance Folders and employee records other than Official Personnel Folders of the Office of Personnel Management and the Merit Systems Protection Board;

(2) Time and attendance (payroll) records;

(3) Financial records such as travel expenses, notary public expenses, moving expenses, expenses of Tax Court witnesses and miscellaneous expenses;

(4) Employee recruiting records for non-attorney Chief Counsel employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801, 7803.

PURPOSE:

To manage personnel, timekeeping, recruitment, expenditures, and other data regarding employee and expert witness activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as

provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which the IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the records are both relevant and necessary to the proceeding or advice sought. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee; or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(5) Disclose information to foreign governments in accordance with international agreements.

(6) Disclose information to the news media as described in the IRS Policy Statement P–1–183, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(8) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(9) Disclose information to the Office of Personnel Management and the Merit Systems Protection Board with respect to personnel matters falling within their respective jurisdictions.

(10) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Records are generally retrieved by the name of the individual to whom they apply. Expense records pertaining to expert witnesses may be retrieved by the name of the litigation in which the witness was retained.

SAFEGUARDS:

Access controls will not be less than those provided by the Physical Security Standards, IRM 1.16, and the Information Systems guidelines, IRM 2.1.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the records control schedules applicable to the records of the Office of Chief Counsel, IRM 1.15.13 through 1.15.15, and to personnel records, IRM 1.15.38 and 1.15.39.

SYSTEM MANAGER(S) AND ADDRESS:

The Chief Counsel and Deputy Chief Counsel are the system managers of records in their respective offices. Each Division Counsel, Associate Chief Counsel, and Area Counsel is the system manager of records in his or her office. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be entitled Chief Counsel Privacy Act Request and addressed to: Chief, Disclosure and Litigation Support Branch, Legal Processing Division, IRS Office of Chief Counsel, CC:PA:LPD:DLS, 1111 Constitution Avenue, NW., Washington, DC 20224. Information leading to the identity of a confidential source is exempt pursuant to 5 U.S.C. 552a(k)(5).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. For non-tax records, See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel; Tax Court witnesses; other Federal agencies; State, local, tribal, and foreign governments, and other public authorities; references provided by the applicant or employee; former employers; public records, such as telephone books, internet websites, court documents, and real estate records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. § 552a(k)(5). (See 31 CFR. 1.36)

Treasury/IRS 90.004

SYSTEM NAME:

Chief Counsel General Legal Services Case Files—Treasury/IRS.

SYSTEM LOCATION:

Office of the Associate Chief Counsel (General Legal Services) (GLS), National Office and certain Area Counsel offices as indicated in Appendix A. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who are or were parties in personnel matters, including discrimination, ethics, labor, and employee relations matters, of the Office of Chief Counsel, or other Treasury Department agencies where GLS has been asked to provide assistance; (2) Individuals who are the subject of an action under the jurisdiction of the Office of Professional Responsibility; (3) Individuals involved in actions under the jurisdiction of the Joint Board for the Enrollment of Actuaries; (4) Individuals involved in procurement matters; (5) Individuals involved in matters under the Federal Claims Collection Act (as amended by the Debt Collection Act); (6) Individuals involved in matters involving (a) alleged violations of the United States Constitution, or claims under the Federal Tort Claims Act or the Military Personnel and Civilian Employee Compensation Act, (b) relief of accountable officers for loss of Government funds, (c) claims for rewards, (d) acts of officers or employees acting within the scope of their employment, or (e) official acts of officers or employees not directly relating to Federal tax issues but relating to the IRS; (7) IRS officials required to file a Financial Disclosure Statement under the Ethics in Government Act of 1978; (8) Individuals who were the subjects of investigations by the former Inspection Service (prior to January 19, 1999) or the Treasury Inspector General for Tax Administration (after January 19, 1999), if the matter was referred to GLS; (9) Individuals who have corresponded regarding a matter under the jurisdiction of GLS; (10) Individuals involved in miscellaneous matters referred to GLS.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal advice files; (2) Litigation files; (3) Correspondence files; (4) Reference copies of selected work product; (5) Workload management records.

Note: Public financial disclosure reports, confidential statements of employment and financial interests, and other ethics program records that are included in the Office of Government Ethics government-wide systems OGE/GOVT–1 and/or OGE/GOVT–2 are not included in this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801, 7803.

PURPOSE:

To provide legal advice and assistance, and make determinations and render advisory opinions, on ethics, labor, personnel, and discrimination matters; on damage suits filed against officials and employees for acts done in their official capacity and removal petitions pertaining to such suits; concerning officials and employees under investigation by Federal, state, or local authorities for official acts; on administrative claims and suits filed under the Federal Tort Claims Act, the Federal Claims Collection Act, the Military and Civilian Employees' Claims Act, and other claims settlement authorities; on conflict of interest statutes, ethical standards, and rules of conduct as to the propriety of acts involving employees and former employees, including practice rules; on all matters concerning contract formation and administration (including the review of solicitation and contract files for legal sufficiency); and with respect to the multitude of non-tax laws, regulations, and decisions governing ''housekeeping'' in the management of Federal agencies, including fiscal matters, garnishments, and intellectual property. To represent the IRS and its officials in bid protest and contract appeal proceedings, and in hearings in representation, unfair labor practice, arbitration, adverse action, discrimination, agency grievance, and other employee appeals; in administrative claims proceedings; and in proceedings under Treasury Circular 230.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which the IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) the IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the records are both relevant and necessary to the proceeding or advice sought. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose pertinent information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee; or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(5) Disclose information to foreign governments in accordance with international agreements.

(6) Disclose information to the news media as described in the IRS Policy Statement P–1–183, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(8) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(9) Disclose information to the Joint Board of Actuaries in enrollment and disciplinary matters.

(10) Disclose information to the Office of Personnel Management, Merit Systems Protection Board, the Office of Special Counsel, and the Equal Employment Opportunity Commission in personnel, discrimination, and labor management matters.

(11) Disclose information to arbitrators, the Federal Labor Relations Authority, including the Office of the General Counsel of that authority, the Federal Service Impasses Board and the Federal Mediation and Conciliation Service in labor management matters.

(12) Disclose information to the General Services Administration in property management matters.

(13) Disclose information regarding financial disclosure statements to the IRS Human Capital Office, which makes the statements available to the public as required by law.

(14) Disclose information to other federal agencies for the purpose of effectuating inter-agency salary offset or inter-agency administrative offset. (15) Disclose information to the Office of Government Ethics in conflict of interest, conduct, financial statement reporting, and other ethics matters.

(15) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic records.

RETRIEVABILITY:

Records are retrieved by the name of the individual to whom they apply. If there are multiple parties to a litigation, then the record is generally retrieved only by the name of the first named person in the complaint.

SAFEGUARDS:

A background investigation is made on personnel. Offices are located in secured areas. Access to keys to these offices is restricted. Access to records storage facilities is limited to authorized personnel or individuals in the company of authorized personnel. Access controls are not less than those provided by the Physical Security Standards, IRM 1.16, and the Information Systems guidelines, IRM 2.1.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the records control schedules applicable to the records of the Office of Chief Counsel, I.R.M. 1.15.13 through 1.15.15.

SYSTEM MANAGER(S) AND ADDRESS:

Each Area Counsel (General Legal Services) is the system manager of the system in his or her office. The Associate Chief Counsel (General Legal Services) is the system manager of the National Office system. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system of records may not be accessed to inspect or contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Taxpayers, practitioners, and their representatives; Department of the Treasury personnel and their representatives; other Federal agencies; State, local, tribal, and foreign governments, and other public authorities; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the IRS; public sources, such as telephone books, Internet Web sites, court documents, and real estate records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR. 1.36)

Treasury/IRS 90.005

SYSTEM NAME:

Chief Counsel General Litigation Case Files —Treasury/IRS.

SYSTEM LOCATION:

Offices of the Associate Chief Counsel (Corporate), (Financial Institutions & Products), (International), (Income Tax & Accounting), (Procedure & Administration) and (Passthroughs & Special Industries), National Office. Office of the Division Counsel/Associate Chief Counsel (Tax Exempt & Government Entities) and Office of the Division Counsel (Large & Mid-Size Business), National Office and Area Counsel offices as indicated in Appendix A. Office of Division Counsel (Small Business/Self Employed), Division Counsel Headquarters and Area Counsel offices as indicated in Appendix A. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have requested advice, and on whom advice has been requested, regarding matters relating to the interests of the IRS as a creditor in bankruptcy and insolvency proceedings, the collection of information by the use of summonses, and the collection of liabilities owed to the United States;

(2) Individuals who have litigated with the IRS about issues involving tax and non-tax debt collection, bankruptcy, and summonses;

(3) Individuals from whom information is being sought through a summons;

(4) Individuals who have or had a potential or actual outstanding tax liability that the IRS is preparing to collect, is currently collecting, or has collected or attempted to collect;

(5) Workload management records.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal advice and written determination files;

(2) Litigation files;

(3) Reference copies of selected work products;

(4) Workload management records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801 and 7803.

PURPOSE:

To provide legal advice and assistance, and to make determinations and render advisory opinions, on matters involving bankruptcy, information gathering and summonses, and the collection of liabilities imposed by the Internal Revenue Code and selected sections of the United States Code (as delegated by the Department of the Treasury).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which the IRS collected the records.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the records are both relevant and necessary to the proceeding or advice sought. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee; or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(5) Disclose information to foreign governments in accordance with international agreements.

(6) Disclose information to the news media as described in the IRS Policy Statement P–1–183, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(8) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(9) Disclose information to other Federal agencies holding funds of a taxpayer for the purpose of collecting a liability owed by the taxpayer.

(10) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By (1) the name of the individual(s) to whom they apply, related individuals, or attorney(s) assigned; (2) subject matter; and (3) certain key administrative dates. If there are multiple parties to a litigation, then the record is generally retrieved only by the name of the first named person in the complaint.

SAFEGUARDS:

Access controls are not less than those provided by the Physical Security Standards, IRM 1.16, and the Information Systems guidelines, IRM 2.1.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the records control schedules applicable to the records of the Office of Chief Counsel, I.R.M. 1.15.13 through 1.15.15.

SYSTEM MANAGER(S) AND ADDRESS:

Each Area Counsel (Large & Mid-Size Business), (Small Business/Self Employed), and (Tax Exempt & Government Entities) is the system manager of the systems in his or her Area. The Associate Chief Counsel (Corporate), (Financial Institutions & Products), (International), (Income Tax & Accounting), (Procedure & Administration) and (Passthroughs & Special Industries); Division Counsel/ Associate Chief Counsel (Tax Exempt & Government Entities); and Division Counsel (Large & Mid-Size Business) and (Small Business/Self Employed) are the system managers of their respective National Office systems. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed to inspect or contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other

records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of the Treasury personnel; other Federal agencies; State, local, tribal, and foreign governments and other public authorities; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the IRS; public records, such as telephone books, Internet Web sites, court documents, and real estate records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. § 552a(k)(2). ((See 31 CFR 1.36))

Treasury/IRS 90.009

SYSTEM NAME:

Chief Counsel Field Service Case Files—Treasury/IRS.

SYSTEM LOCATION:

Offices of the Associate Chief Counsel (Corporate), (Financial Institutions & Products), (International), (Income Tax & Accounting), (Procedure & Administration) and (Passthroughs & Special Industries), National Office. Office of the Division Counsel/Associate Chief Counsel (Tax Exempt & Government Entities) and Office of Division Counsel (Large & Mid-Size Business), National Office and Area Counsel offices as indicated in Appendix A. Office of Division Counsel (Small Business/Self Employed), Division Counsel Headquarters and Area Counsel offices as indicated in Appendix A. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have filed petitions in the United States Tax Court or suits for refund of Federal taxes in Federal district courts or the Court of Federal Claims;

(2) Individuals who are the subject of advice issued by Counsel during the audit or administrative appeal of the case or other administrative processing, and whose case has been referred to the applicable Associate or Division Counsel;

(3) Individuals who have corresponded with the IRS regarding a matter under consideration by these offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal advice and written determination files;

(2) Litigation files;

(3) Correspondence files;

(4) Reference copies of selected work product;

(5) Workload management records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801, 7803.

PURPOSE:

To provide legal advice and assistance, and make determinations and render advisory opinions, to the IRS' operating divisions and business units, including Appeals, and to the Department of Justice on pending tax litigation before the Federal courts. To perform legal analysis and represent the IRS' interests in tax litigations before the United States Tax Court.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which the IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the records are both relevant and necessary to the proceeding or advice sought. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee; or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(5) Disclose information to foreign governments in accordance with international agreements.

(6) Disclose information to the news media as described in the IRS Policy Statement P–1–183, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(8) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or

confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Records are retrieved by the name of the individual to whom they apply. If there are multiple parties to a litigation, then the record is generally retrieved only by the name of the first named person in the complaint.

SAFEGUARDS:

Access controls are not less than those provided by the Physical Security Standards, IRM 1.16, and the Information Systems guidelines, IRM 2.1.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the records control schedules applicable to the records of the Office of Chief Counsel, I.R.M. 1.15.13 through 1.15.15.

SYSTEM MANAGER(S) AND ADDRESS:

Each Area Counsel (Large & Mid-Size Business), (Small Business/Self Employed), and (Tax Exempt & Government Entities) is the system manager of the systems in his or her Area. The Associate Chief Counsel (Corporate), (Financial Institutions & Products), (International), (Income Tax & Accounting), (Procedure & Administration) and (Passthroughs & Special Industries); Division Counsel/ Associate Chief Counsel (Tax Exempt & Government Entities); and Division Counsel (Large & Mid-Size Business) and (Small Business/Self Employed) are the system managers of their respective National Office systems. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed to inspect or contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of the Treasury personnel; other Federal agencies; State, local, tribal, and foreign governments, and other public authorities; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the IRS; public sources, such as telephone books, Internet Web sites, court documents, and real estate records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. § 552a(k)(2). ((See 31 CFR 1.36))

Treasury/IRS 90.010

SYSTEM NAME:

Chief Counsel Library Digest Room Files.

SYSTEM LOCATION:

Office of the Associate Chief Counsel (Finance & Management), National Office. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have sought IRS rulings and/or legal opinions on tax problems; and

(2) individuals with respect to whose issues the Chief Counsel or the Department of Justice has written significant legal analyses or briefs.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Internal control records, used to catalog and cross-reference records for maintenance and location purposes;

(2) Reference work product.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801, 7803.

PURPOSE:

To permit research of the internal revenue laws, including litigation and technical positions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which the IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) the IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the records are both relevant and necessary to the proceeding or advice sought. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee; or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(5) Disclose information to foreign governments in accordance with international agreements.

(6) Disclose information to the news media as described in the IRS Policy Statement P–1–183, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and

necessary to their duties of exclusive representation.

(8) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Records are retrievable by the name of the individual to whom they apply. If there are multiple parties to a litigation, then the record is generally retrieved only by the name of the first named person in the complaint.

SAFEGUARDS:

Access controls are not less than those provided by the Physical Security Standards, IRM 1.16, and the Information Systems guidelines, IRM 2.1.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the records control schedules applicable to the records of the Office of Chief Counsel, I.R.M. 1.15.13 through 1.15.15.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Finance & Management), National Office. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed to inspect or contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel; taxpayers and their representatives; other Federal agencies; witnesses; informants; State, local, tribal, and foreign governments, and other public authorities; parties to disputed matters of fact and law; other persons who communicate with the IRS; public sources, such as telephone books, Internet Web sites, court documents, and real estate records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). ((See 31 CFR 1.36))

Treasury/IRS 90.011

SYSTEM NAME:

Chief Counsel Attorney Recruiting Files—Treasury/IRS.

SYSTEM LOCATION:

Office of the Associate Chief Counsel (Finance & Management), National Office. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for attorney positions with the Office of Chief Counsel.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Application files;
(2) Eligible applicant listings; and
(3) Internal control records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801, 7803.

PURPOSE:

To facilitate the recruitment of attorneys for employment with the Office of Chief Counsel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which the IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the records are both relevant and necessary to the proceeding or advice sought. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee; or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(5) Disclose information to the news media as described in the IRS Policy Statement P–1–183, News Coverage to Advance Deterrent Value of

Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(6) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(7) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(8) Disclose information to the Office of Personnel Management and Merit System Protection Board for appropriate personnel actions.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By the name of the individual to whom they apply.

SAFEGUARDS:

Access controls are not less than those provided by the Physical Security Standards, IRM 1.16, and the Information Systems guidelines, IRM 2.1.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the records control schedule applicable to personnel recruitment records, IRM 1.15.38.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Finance & Management), National Office. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Chief, Disclosure and Litigation Support Branch, Legal Processing Division, IRS Office of Chief Counsel, CC:PA:LPD:DLS, 1111 Constitution Avenue, NW., Washington, DC 20224. Information leading to the identity of a confidential source is exempt pursuant to 5 U.S.C. 552a(k)(5).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. For non-tax records, See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Applicants, Department of Treasury personnel; other Federal agencies; State, local, tribal, and foreign governments, and other public authorities; references provided by the applicant or employee, former employers; public sources, such as telephone books, Internet Web sites, court documents, and real estate records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(5). (See 31 CFR 1.36)

Treasury/IRS 90.013

SYSTEM NAME:

Chief Counsel, Deputy Chief Counsel and Associate Chief Counsel Legal Files.

SYSTEM LOCATION:

National Office. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose cases involve or involved important or novel issues or circumstances that were brought to the attention of the above executives (or their predecessors), or their immediate staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal advice and written determination files;

(2) Litigation files;

(3) Correspondence files;

(4) Reference copies of selected work product;

(5) Workload management records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801, 7803.

PURPOSE:

To provide legal advice and assistance, and make determinations and render advisory opinions, to the IRS, taxpayers, and the Department of Justice on matters involving significant or novel issues or circumstances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which the IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the records are both relevant and necessary to the proceeding or advice sought. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee; or issuing or continuing a contract,

security clearance, license, grant, or other benefit.

(4) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(5) Disclose information to foreign governments in accordance with international agreements.

(6) Disclose information to the news media as described in the IRS Policy Statement P–1–183, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(8) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Records are retrieved by the name of the individual to whom they apply. If there are multiple parties to a litigation, then the record is generally retrieved only by the name of the first named person in the complaint.

SAFEGUARDS:

Access controls are not less than those provided by the Physical Security Standards, IRM 1.16, and the Information Systems guidelines, IRM 2.1.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the records control schedules applicable to the records of the Office of Chief Counsel, IRM 1.15.13 through 1.15.15.

SYSTEM MANAGER(S) AND ADDRESS:

The Chief Counsel; Deputy Chief Counsel; and Division Counsel (Wage & Investment) are the system managers of the records in his or her office in National Office. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual; the records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed to inspect or contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, tribal, and foreign governments, and other public authorities; other persons who communicate with the IRS; public sources, such as telephone books, Internet Web sites, court documents, and real estate records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. § 552a(k)(2). (See 31 CFR 1.36)

Treasury/IRS 90.015

SYSTEM NAME:

Chief Counsel Library Reference Records.

SYSTEM LOCATION:

Office of the Associate Chief Counsel (Finance & Management), National Office. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees who charge out materials from the Library, including the Digest Room, or through inter-library loan. Note: The system of records for materials held in the Digest Room is Treasury/IRS 90.010.

CATEGORIES OF RECORDS IN THE SYSTEM:

Charge cards and inter-library loan forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801, 7803.

PURPOSE:

To track the location of library materials and to obtain new library materials as needed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which the IRS collected the records, and no privilege is asserted.

(1) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(2) Disclose information in a civil or criminal proceeding (including discovery) before a court, adjudicative body, or other administrative body before which the IRS is authorized to appear when (a) the IRS or any component thereof, (b) any IRS employee in his or her official capacity, (c) any IRS employee in his or her personal capacity where the IRS or the Department of Justice (DOJ) has agreed to represent the employee, or (d) the United States, when the IRS is a party to, has an interest in, or is likely to be affected by, such proceeding, and the

IRS or DOJ determines that the information is relevant and necessary to the proceeding or advice sought and not otherwise privileged;

(3) Disclose information to the news media as described in the IRS Policy Statement P–1–183, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(4) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(5) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(6) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

Records are retrieved by the name of the individual to whom they pertain.

SAFEGUARDS:

Access controls are not less than those provided by the Physical Security Standards, IRM 1.16, and the Information Systems guidelines, IRM 2.1.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the records control schedules applicable to the records of the Office of Chief Counsel, IRM 1.15.13 through 1.15.15.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Finance & Management), National Office. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether the system contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to: Chief, Disclosure and Litigation Support Branch, Legal Processing Division, IRS Office of Chief Counsel, CC:PA:LPD:DLS, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

IRS employees; Congress; Libraries to, and from which, inter-library loans are made.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 90.016

SYSTEM NAME:

Chief Counsel Automated System Environment (CASE) Records—Treasury/IRS.

SYSTEM LOCATION:

The system is located in the Detroit Computing Center. The system can be accessed from all Chief Counsel offices. (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who filed suits for refund of taxes in a federal court;

(2) Individuals who have filed petitions with the United States Tax Court;

(3) Individuals who have been involved in litigation concerning the collection of taxes;

(4) Individuals whose requests for rulings from the IRS have been referred to the Office of Chief Counsel;

(5) Individuals whose cases were the subject of technical advice issued by the Office of Chief Counsel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case file identification and status tracking information (including taxpayer name; uniform issue list number; key dates; subject matter; name of employee and office handling the case; and miscellaneous remarks.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801, 7803.

PURPOSE:

To organize and monitor the workload of the Office of Chief Counsel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which the IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the records are both relevant and necessary to the proceeding or advice sought. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee; or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information during a proceeding before a court,

administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(5) Disclose information to foreign governments in accordance with international agreements.

(6) Disclose information to the news media as described in the IRS Policy Statement P–1–183, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(8) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic media.

RETRIEVABILITY:

By court docket or assigned tracking number, the name of the individual to whom they pertain, and by names of the employees to whom the cases are assigned. If there are multiple parties to a litigation, then the record is generally retrieved only by the name of the first named person in the complaint.

SAFEGUARDS:

Access controls will not be less than those provided by the Physical Security Standards, IRM 1.16, and the Information Systems guidelines, IRM 2.1.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the records control schedules applicable to the records of the Office of Chief Counsel, I.R.M. 1.15.13 through 1.15.15. Machine-readable media are regularly updated and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Finance & Management), National Office. (See IRS Address A for address.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether a record pertains to a particular individual; these records are exempt under 5 U.S.C. 552a(k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed to inspect or contest the content of records; the records are exempt under 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. For non-tax records, See ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies, State, local, tribal, and foreign governments, and other public authorities; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the IRS; public sources, such as telephone books, internet Web sites, court documents, and real estate records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). ((See 31 CFR 1.36))

Treasury/IRS 90.017

SYSTEM NAME:

Chief Counsel Correspondence Control and Records, Associate Chief Counsel (Technical and International)—Treasury/IRS.

SYSTEM LOCATION:

National Office (See the IRS Appendix below for address.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual subjects of legal advice, written determinations, and other correspondence from the above offices of the Associate Chief Counsel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incoming taxpayer correspondence and related information, including in some cases the conclusions reached, and legal advice, written determinations, or other correspondence issued by the above offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 7803.

PURPOSE:

To provide legal advice and assistance, and make determinations and render advisory opinions, on issues pertaining to corporations, financial institutions, financial products, income tax accounting, international law or treaties, partnerships and other passthrough entities, special industries such as automobile construction and natural resources procurement, and tax-exempt and government entities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Material covered by rule 6(e) of the Federal Rules of Criminal Procedure may be disclosed only as permitted by that rule. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which the IRS collected the records, and no privilege is asserted.

(1) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the records are both relevant and necessary to the proceeding or advice sought. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its fact, or in conjunction with other records, indicates a potential violation of law or regulation, and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial authority of the receiving agency.

(3) Disclose information to a Federal, State, local, or tribal agency, or other public authority, which has requested information relevant or necessary to hiring or retaining an employee; or issuing or continuing a contract, security clearance, license, grant, or other benefit.

(4) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding; and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(5) Disclose information to foreign governments in accordance with international agreements.

(6) Disclose information to the news media as described in the IRS Policy Statement P–1–183, News Coverage to Advance Deterrent Value of Enforcement Activities Encouraged, IRM 1.2.1.2.41.

(7) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

(8) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic media.

RETRIEVABILITY:

By the name of the individual to whom they apply and by internal control number.

SAFEGUARDS:

Access controls are not less than those provided by the Physical Security Standards, IRM 1.16, and the Information System guidelines, IRM 2.1.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the records control schedules applicable to the records of the Office of Chief Counsel, IRM 1.15.13 through 1.15.15.

SYSTEM MANAGER(S) AND ADDRESS:

Each Associate Chief Counsel is the system manager of the system in his or her office in National Office. (See the IRS Appendix below for address.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in ''Record Access Procedures'' below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be entitled Chief Counsel Privacy Act Request and addressed to: Chief, Disclosure and Litigation Support Branch, Legal Processing Division, IRS Office of Chief Counsel, CC:PA:LPD:DLS, 1111 Constitution Avenue, NW., Washington, DC 20224.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. For non-tax records, see ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Individual subjects of legal advice, written determinations, and other correspondence, Department of Treasury personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

IRS Appendix

This appendix contains the addresses of Treasury/IRS system locations along with the title of the principal system manager(s). Internal Revenue Service (IRS) system locations are geographically dispersed through field offices. Additional information regarding the structure and locations of the IRS is available on the Internet at *www.irs.gov.* Select the ''About the IRS'' tab or contact one of the Disclosure Offices listed below.

Access and amendment requests for records maintained in IRS systems are processed by Disclosure Offices at the locations listed below. Generally, inquiries should be addressed to the office with jurisdiction over the area where the individual resides.

INTERNAL REVENUE SERVICE DISCLOSURE OFFICES FOR PRIVACY ACT REQUESTS

If you live in:	Submit Privacy Act requests to:
Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont.	Disclosure Office 1, MS 41150, 25 New Sudbury Street, Boston, MA 02203.
Delaware, New York, Pennsylvania	Disclosure Office 2, Room 3214, 600 Arch Street, Philadelphia, PA 19106.
District of Columbia, Maryland, West Virginia and Outside the U.S. (International).	Disclosure Office 3, Room 1210, 31 Hopkins Plaza, Baltimore, MD 21201.
Illinois, Indiana, Wisconsin	Disclosure Office 4, MS 7000 CHI Room 2820, 230 S. Dearborn Street, Chicago, IL 60604.

INTERNAL REVENUE SERVICE DISCLOSURE OFFICES FOR PRIVACY ACT REQUESTS—Continued

If you live in:	Submit Privacy Act requests to:
Michigan, Ohio	Disclosure Office 5, Room 7019, 550 Main Street, Cincinnati, OH 45201.
Alabama, Georgia, South Carolina	Disclosure Office 6, MS 602–D Room 1905, 401 West Peachtree Street, Atlanta, GA 30308.
Florida, Kentucky, North Carolina, Virginia	Disclosure Office 7, Room 409, 320 Federal Place, Greensboro, NC 27401.
Arkansas, Louisiana, Mississippi, Tennessee	Disclosure Office 8, MDP 44 Room 480, 801 Broadway, Nashville, TN 37203.
Texas	Disclosure Office 9, MS 7000 AUSC, P.O. Box 2986, Austin, TX 78768.
Iowa, Kansas, Missouri, Oklahoma	Disclosure Office 10, MS 7000 STL, P.O. Box 66781, St. Louis, MO, 63166–6781.
Arizona, Colorado, Minnesota, Montana, Nebraska, New Mexico, North Dakota, South Dakota, Wyoming.	Disclosure Office 11, MS 7000 PHX, 210 E. Earll Dr., Phoenix, AZ 85012.
Alaska, Idaho, Oregon, Utah, Washington	Disclosure Office 12, MS 7000 OC, P.O. Box 9941, Ogden, UT 84201.
Southern California, Hawaii, Nevada	Disclosure Office 13, MS 2201, 24000 Avila Road, Laguna Niguel, CA 92677.
Northern and Central California	Disclosure Office 14, Ste 840s, 1301 Clay Street, Oakland, CA 94612.
If you are requesting IRS Headquarters Office records not available on the electronic FOIA Reading Room cite, mail your request to.	IRS FOIA Request, Disclosure Office 3, Room 1210, 31 Hopkins Plaza, Baltimore, MD 21201.
If you are requesting IRS Personnel Security & Investigations records, mail your request to.	IRS Personnel Security & Investigations, Attn: FOI/PA OS:MA:PSI:P:AD, 5205 Leesburg Pike, Suite 510, Falls Church, VA 22041–3802.

IRS System Locations

The headquarters of the IRS and the address for the following systems managers is: 1111 Constitution Avenue, NW., Washington, DC 20224. The listing below is arranged according to organizational lines. Any exception to the location of an office is indicated accordingly.

Commissioner, Internal Revenue Service,
Chief, Appeals, 1099 14th Street, NW., Washington, DC 20005
Chief of Staff, Office of the Secretariat
Chief, Communications and Liaison
Chief, Equal Employment Opportunity and Diversity
Director, Research, Analysis, Statistics
National Taxpayer Advocate
Chief, Appeals, 1099 14th Street, NW., Washington, DC 20005
Director, Strategy & Finance
Director, Technical Services
Director, Field Operations—East
Director, Field Operations—West, 24000 Avila Road, Laguna Niguel, CA 92677
Deputy Commissioner for Services & Enforcement
Commissioner, Large and Mid-Size Business (LMSB) Division, 9th & H Street, Washington, DC 20005
Commissioner, Small Business/Self-Employed (SBSE) Division
Commissioner, Tax Exempt and Government Entities (TEGE) Division, 1750 Pennsylvania Avenue, Washington, DC 20006
Commissioner, Wage and Investment (W & I) Division, 401 W. Peachtree Street, Atlanta, GA 30308
Chief, Criminal Investigation
Director, Office of Professional Responsibility
Deputy Commissioner Operations Support
Chief Information Officer (Modernization & Information Technology Services)
Chief Financial Officer
Chief Human Capital Officer
Chief, Agency Wide Shared Services
Chief, Mission Assurance & Security Services
Service & Enforcement Office Locations:
Large and Mid-Size Business, 9th & H Street, Washington, DC 20005
Director, International
Director, Management & Finance
Director, Business System Planning
Director, Performance, Quality Assurance and Audit Assistance
Director, Communications & Liaison
Director, EEO & Diversity
Director, Pre-Filing and Technical Guidance
Director, Strategy, Research and Program Planning
LMSB Industry Directors:
Industry Director, Communications, Technology and Media, 1301 Clay Street, Oakland, CA 94612
Industry Director, Financial Services, 290 Broadway, New York, NY 10007
Industry Director, Heavy Manufacturing and Transportation, 111 Wood Avenue South, Iselin, NJ 08830
Industry Director, Natural Resources and Construction, 1919 Smith Street, Houston, TX 77002
Industry Director, Retailers, Food, Pharmaceuticals, and Healthcare, 1901 Butterfield Road, Downers Grove, IL 60515
LMSB Overseas Offices:
Berlin, Germany—Internal Revenue Service, c/o United States Embassy, PSC 120, Box 3000, APO AE 09265
London, England—Internal Revenue Service, E/IRS—U.S. Embassy, PSC—801, Box 44, FPO AE 09498–4044
Plantation, Florida (covers Mexico, Central & South America, Caribbean)—IRS, Plantation, 7850 SW., 6th Court, Plantation, FL 33324
Paris, France—Internal Revenue Service, PSC 116, Box E–414, APO AE 09777
Tokyo, Japan—IRS, American Embassy, Unit 45004, Box 208, APO AP 96337–0001
Small Business/Self-Employed
Director, Communications, Liaison and Disclosure
Director, Collection
Director, Compliance Services, Campus Operations
Director, EEO
Director, Examination
Director, Fraud/BSA
Director, Specialty Programs
SBSE Field Area Offices:
Collection Area Directors:
North Atlantic, 290 Broadway, New York, NY 10008
South Atlantic, 5000 Ellin Road, Lanham, MD, 20706
Central Area, 477 Michigan Avenue, Detroit, MI 48226
Midwest Area, 230 South Dearborn, Chicago, IL 60604
Gulf States Area, 801 Broadway, Nashville, TN 37203
Western Area, 915 Second Avenue, Seattle, WA 98174
California Area, 1301 Clay Street, Oakland, Ca 94612
Examination Area Directors
North Atlantic, 15 New Sudbury Street, Boston, MA 02203
Central Area, 600 Arch Street, Philadelphia, PA 19106
South Atlantic, 400 W. Bay, Jacksonville, FL 32202
Midwest, 316 N. Robert, St. Paul, MN 55101
Gulf States, 4050 Alpha Road, Dallas, TX 75244
Western, 600 17th Street, Denver, CO 80202
California, 300 N, Los Angeles Street, Los Angeles, CA 90012
Tax Exempt & Government Entities, 1750 Pennsylvania Avenue, Washington, DC

20006
Director, Employee Plans
Director, Exempt Organizations
Director, Government Entities
Director, Customer Account Services
Director, Business Systems Planning
Director, Research & Analysis
Director, Communications & Liaison
Director, Finance
Director, Human Resources
Director, Planning
EEOD Program Manager
Wage & Investment, 401 W Peachtree Street, Atlanta, GA 30308
Director, Earned Income Tax Credit and Health Coverage Tax Credit
Director, Customer Account Services Consolidation
Director, Strategy & Finance
Director, EEO & Diversity
Director, Business Systems Planning
Director, Human Capital
Director, Customer Assistance Relationships and Education
Director, Customer Account Services
Director, Compliance
Health Care Tax Credit (HCTC) office locations:
Production System—HCTC Qwest, 22810 International Dr., Sterling, VA 20166
Customer Contact Center—HCTC Affina, 131 Tower Park Drive, Suite 300, Waterloo, IA 50701
HCTC Delivery Center—HCTC Accenture, 15115 Park Row, Houston, TX 77084
HCTC Program Office—HCTC IRS, 1750 Pennsylvania Ave, 2nd Floor, Washington, DC 20006
Criminal Investigation
Director, Operations Policy and Support
Director, Field Operations
Director, Strategy
Director, Refund Crimes
Director, Communications and Education
Director, EEO & Diversity
CI Directors of Field Operations:
North Atlantic, 600 Arch Street, Philadelphia, PA 19106
Mid-Atlantic, 31 Hopkins Plaza, Baltimore, MD 21201
Southeast, 401 West Peachtree Avenue, Atlanta, GA 30308
Central, 2001 Butterfield Road, Downers Grove, IL 60515
Midstates, 4050 Alpha Road, Farmers Branch, TX 75244
Pacific, 24000 Avila Road, Laguna Niguel, CA 92677
Automated Criminal Investigation Office, 7940 Kentucky Drive, Florence, KY 41042
Operations Support Office Locations:
Modernization & Information Technology Services
Director, Stakeholder Management
Director, Information Security
Director, Electronic Tax Administration
Associate CIO, Management
Associate CIO, Business Systems Modernization
Associate CIO, Information Technology Services
Associate CIO, Enterprise Services
Computing Centers:
Martinsburg Computing Center, Martinsburg, WV 25401
Detroit Computing Center, 985 Michigan Ave., Detroit, MI 48226
Finance Office
Associate CFO for Performance Budgeting
Associate CFO for Revenue Financial Management
Associate CFO for Internal Financial Management
Director, Assistance and Review
Human Capital Office
Director, Executive Services
Director, Leadership and Education
Director, Organizational Change Program Office
Director, Field Personnel Services
Director, Personnel Policy
Director, Planning and Measures
Director, Program Management Office
Director, Talent and Technology Management
Director, Workforce Relations
Agency-Wide Shared Services
Director, Real Estate and Facilities Management, 2221 South Clark Street, Arlington, VA 22202
Director, Procurement
Director, EEO & Diversity, Field Services
Director, Competitive Sourcing Program
Director, Employee Support Services, 290 Broadway, New York City, NY 10007
Mission Assurance & Security Services
Director, Assurance Programs
Director, Emergency Management Programs
Director, Certification, Testing, Evaluation and Assessment
Director, Modernization and Systems Security Engineering
National Background Investigations Center, P.O. Box 248, Florence, KY 41022
Personnel Security & Investigations, 5205 Leesburg Pike, Suite 510, Falls Church, VA 22041

Chief Counsel System Locations:

The offices of Chief Counsel for the Internal Revenue Service are located at: 1111 Constitution Avenue, NW., Washington, DC, 20224.

Offices at this address include:
Chief Counsel
Deputy Chief Counsel (Operations)
Deputy Chief Counsel (Technical)
Special Counsel to the National Taxpayer Advocate
Associate Chief Counsel (Corporate), (Financial Institutions & Products), (Finance & Management), (General Legal Services), (International), (Income Tax & Accounting), (Procedure & Administration), and (Passthroughs & Special Industries)
Associate Chief Counsel/Division Counsel (Criminal Tax), and (Tax Exempt & Government Entities)
Division Counsel (Large & Mid-Size Business)
Division Counsel (Wage & Investment)
Division Counsel (Small Business/Self-Employed)

Addresses of Chief Counsel and Area Counsel Offices

National Office: 1111 Constitution Avenue, NW., Washington, DC.

Offices at this address: Office of the Chief Counsel; Offices of the Deputy Chief Counsel, Offices of the Associate Chief Counsel (Corporate), (Financial Institutions & Products), (Finance & Management), (General Legal Services), (International), (Income Tax & Accounting), (Procedure & Administration), and (Passthroughs & Special Industries); Offices of the Division Counsel/Associate Chief Counsel (Criminal Tax), and (Tax Exempt & Government Entities); Offices of the Division Counsel (Large & Mid-Size Business) and (Wage & Investment); Offices of the Assistant Chief Counsel (Administrative Provisions & Judicial Practice), (Collection, Bankruptcy, & Summons), and (Disclosure & Privacy Law).

Division Counsel (Small Business/Self-Employed) Headquarters, 5000 Ellin Road, Lanham, Maryland.

Area Counsel Offices (Alphabetical by State)

Various components of Chief Counsel may have offices at the same Area Counsel office location. The abbreviations following each address indicate the Chief Counsel divisions having offices at that location. The abbreviations represent the following offices:

CT—Office of the Division Counsel/Associate Chief Counsel (Criminal Tax)
GLS—Office of the Associate Chief Counsel (General Legal Services)
LMSB—Office of the Division Counsel (Large & Mid-Size Business)
SBSE—Office of the Division Counsel (Small Business/Self-Employed)
TEGE—Office of the Division Counsel/Associate Chief Counsel (Tax Exempt & Government Entities)

Note: Matters involving taxpayers falling under the expertise of the Office of Division Counsel (Wage & Investment) are coordinated by area SBSE offices.

801 Tom Martin Drive, Birmingham, Alabama. (SBSE)
605 West 4th Avenue, Anchorage, Alaska. (SBSE)
210 East Earll Drive, Phoenix, Arizona. (CT, LMSB, SBSE)
Chet Holifield Building, 24000 Avila Road, Laguna Niguel, California. (CT, LMSB, SBSE)
Federal Building, 300 N. Los Angeles Street, Los Angeles, California. (CT, LMSB, SBSE, TEGE)
1301 Clay Street, Oakland, California. (LMSB)
4330 Watt Avenue, Sacramento, California. (SBSE)
701 B Street, San Diego, California. (CT, LMSB, SBSE)
160 Spear Street, San Francisco, California. (CT, LMSB, SBSE, TEGE)
333 Market Street, San Francisco, California. (GLS)
55 South Market Street, San Jose, California. (LMSB, SBSE)
950 Hampshire Road, East Pavilion, Thousand Oaks, California. (SBSE, TEGE)
333 East River Drive, Commerce Center One, Hartford, Connecticut. (CT, LMSB, SBSE)
1244 Speer Boulevard, Denver, Colorado. (CT, LMSB, SBSE, TEGE)
950 L'Enfant Plaza, S.W., Washington, D.C. (GLS, LMSB, SBSE)
Federal Office Building, 400 West Bay Street, Jacksonville, Florida. (CT, LMSB, SBSE)
1000 South Pine Island Road, Plantation, Florida. (CT, LMSB, SBSE)

Federal Office Building, 51 SW. First Avenue, Miami, Florida. (CT, LMSB, SBSE)
401 West Peachtree Street, NW., Atlanta, Georgia. (CT, GLS, LMSB, SBSE)
PJKK Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii. (SBSE)
200 West Adams Street, Chicago, Illinois. (CT, GLS, LMSB, SBSE, TEGE)
1901 Butterfield Road, Downers Grove, Illinois. (LMSB)
Minton-Capehart Federal Building, 575 North Pennsylvania Street, Indianapolis, Indiana. (CT, SBSE)
Heyburn Building, 332 West Broadway, Louisville, Kentucky. (CT, SBSE)
F. Edward Hebert Federal Building, 600 South Maestri Place, New Orleans, Louisiana. (CT, SBSE)
31 Hopkins Plaza, Baltimore, Maryland. (CT, SBSE, TEGE)
10 Causeway Street, Room 401, Boston, Massachusetts. (CT, LMSB, SBSE)
Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan. (CT, LMSB, SBSE)
Galtier Plaza, 175 East Fifth Street, St. Paul, Minnesota. (CT, LMSB, SBSE)
2345 Grand Boulevard, Kansas City, Missouri. (LMSB, SBSE)
1222 Spruce Street, St. Louis, Missouri. (CT, LMSB, SBSE)
The Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska. (SBSE)
4750 West Oakey Boulevard, Las Vegas, Nevada. (CT, SBSE)
Metro Park Office Complex, 111 Wood Avenue, South, Iselin, New Jersey. (LMSB)
One Newark Center, Newark, New Jersey. (CT, LMSB, SBSE)
Guaranty Building, 28 Church Street, Buffalo, New York. (CT, LMSB, SBSE)
33 Maiden Lane, New York, New York. (GLS, LMSB, SBSE)
1600 Stewart Avenue, Westbury, New York. (CT, LMSB, SBSE, TEGE)
320 Federal Place, Greensboro, North Carolina. (CT, LMSB, SBSE)
312 Elm Street, Cincinnati, Ohio. (CT, LMSB, SBSE)
One Cleveland Center, 1375 East Ninth Street, Cleveland, Ohio. (CT, SBSE)
55 North Robinson Street, Oklahoma City, Oklahoma. (CT, LMSB, SBSE)
620 S.W. Main Street, Portland, Oregon. (CT, LMSB, SBSE)
701 Market Street, Philadelphia, Pennsylvania. (CT, LMSB, SBSE)
Liberty Center, 1001 Liberty Avenue, Pittsburgh, Pennsylvania. (CT, LMSB, SBSE)
801 Broadway, Nashville, Tennessee. (CT, LMSB, SBSE)
300 East Eighth Street, Austin, Texas. (CT, SBSE)
4050 Alpha Road, Dallas, Texas. (CT, GLS, LMSB, SBSE, TEGE)
8701 South Gessner Street, Houston, Texas. (CT, LMSB, SBSE)
1919 Smith Street, Houston, Texas. (LMSB)
150 Social Hall Avenue, Salt Lake City, Utah. (SBSE)
Main Street Centre, 600 East Main Street, Richmond, Virginia. (CT, LMSB, SBSE)
Federal Building, 915 Second Avenue, Seattle, Washington. (CT, LMSB, SBSE)
Henry Reuss Federal Plaza, 310 West Wisconsin Avenue, Milwaukee, Wisconsin. (CT, LMSB, SBSE).

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Federal Register

Wednesday,
March 12, 2008

Part III

Department of Transportation

Federal Highway Administration
Federal Transit Administration

23 CFR Parts 771 and 774

49 CFR Part 622

Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Transit Administration

23 CFR Parts 771 and 774

49 CFR Part 622

[Docket No. FHWA–2005–22884]

RIN 2125–AF14 and 2132–AA83

Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites

AGENCY: Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), DOT.

ACTION: Final rule.

SUMMARY: This final rule modifies the procedures for granting Section 4(f) approvals in several ways. First, the final rule clarifies the factors to be considered and the standards to be applied when determining if an alternative for avoiding the use of Section 4(f) property is feasible and prudent. Second, the final rule clarifies the factors to be considered when selecting a project alternative in situations where all alternatives would use some Section 4(f) property. Third, the final rule establishes procedures for determining that the use of a Section 4(f) property has a *de minimis* impact on the property. Fourth, the final rule updates the regulation to recognize statutory and common-sense exceptions for uses that advance Section 4(f)'s preservation purpose, as well as the option of applying a programmatic Section 4(f) evaluation. Fifth, the final rule moves the Section 4(f) regulation out of the agencies' National Environmental Policy Act regulation, ''Environmental Impact and Related Procedures,'' into its own part with a reorganized structure that is easier to use.

DATES: *Effective Date:* April 11, 2008.

FOR FURTHER INFORMATION CONTACT: For FHWA: Diane Mobley, Office of the Chief Counsel, 202–366–1366, or Lamar Smith, Office of Project Development and Environmental Review, 202–366–8994. For FTA: Joseph Ossi, Office of Planning and Environment, 202–366–1613, or Christopher VanWyk, Office of Chief Counsel, 202–366–1733. Both agencies are located at 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., for FHWA, and 9 a.m. to 5:30 p.m., e.t., for FTA, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

This document, the notice of proposed rulemaking (NPRM) of July 27, 2006, at 71 FR 42611, and all comments received by the U.S. DOT Docket Facility may be viewed through the Federal Docket Management System (FDMS) at *http://www.regulations.gov.* The FDMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of this Web site.

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Statutory Authority

The principal statutory authority for this rulemaking action is Section 6009 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, Aug. 10, 2005, 118 Stat. 1144).

Background

Section 4(f) of the Department of Transportation Act of 1966 (Pub. L. 89–670, 80 Stat. 931) [1] prohibits the use of land of significant publicly owned public parks, recreation areas, wildlife and waterfowl refuges, and land of a historic site for transportation projects unless the Administration (as defined in section 774.17 of this part) [2] determines that there is no feasible and prudent avoidance alternative and that all possible planning to minimize harm has occurred. Early case law strictly interpreted Section 4(f), beginning with the Supreme Court's decision in *Citizens to Preserve Overton Park* v. *Volpe,* 401 U.S. 402 (1971) (*Overton Park*). In *Overton Park*, the Court articulated a very high standard for compliance with Section 4(f), stating that Congress intended the protection of parkland to be of paramount importance. The Court also made clear that an avoidance alternative must be selected unless it would present ''uniquely difficult problems'' or require ''costs or community disruption of extraordinary magnitude.'' *Id.* at 411–21, 416.

Courts around the country have applied the *Overton Park* decision, reaching different conclusions as to how various factors may be considered and what weight may be attached to the factors an agency uses to determine whether an avoidance alternative is or is not feasible and prudent. Some courts have interpreted *Overton Park* to mandate the avoidance of Section 4(f) properties at the expense of other important environmental and social resources. Congress amended Section 4(f) in 2005 to address the uncertainty surrounding its application. Section 6009(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, Aug. 10, 2005, 119 Stat. 1144) directed the Secretary of Transportation to promulgate regulations clarifying ''the factors to be considered and the standards to be applied'' in determining the prudence and feasibility of alternatives that avoid the use of Section 4(f) property by transportation projects. The FHWA and FTA published a NPRM on July 27, 2006, at 71 FR 42611. The NPRM requested comments on the factors proposed to be considered and standards proposed to be applied when determining whether an avoidance alternative is feasible and prudent. The NPRM also solicited comments on a new, alternative method of compliance created by SAFETEA–LU section 6009(a) for uses that result in a *de minimis* impact to a Section 4(f) property and on other proposed changes to the Section 4(f) regulation. The comment period remained open until September 25, 2006. All comments, including several comments submitted late, have been fully considered in this final rule.

Profile of Respondents

The docket received a total of 37 responses to the NPRM. Out of the 37 responses, 17 were submitted by 20 State and regional transportation agencies; 6 responses were submitted by trade associations; 9 responses were submitted by 11 national and local

[1] Section 4(f) of the Department of Transportation Act of 1966 was technically repealed in 1983 when it was codified without substantive change at 49 U.S.C. 303. A provision with the same meaning is found at 23 U.S.C. 138 and applies only to FHWA actions. This regulation continues to refer to Section 4(f) as such because it would create needless confusion to do otherwise; the policies Section 4(f) engendered are widely referred to as ''Section 4(f)'' matters.

[2] Section 774.14 of this final rule defines ''Administration'' as ''The FHWA or FTA, whichever is making the approval for the transportation program or project at issue. A reference herein to the Administration means the State when the State is functioning as the FHWA or FTA in carrying out responsibilities delegated or assigned to the State in accordance with 23 U.S.C. 325, 326, 327, or other applicable law.'' All references to the ''Administration'' in the preamble to this final rule are consistent with this definition.

environmental advocacy groups; 2 responses were from Federal agencies; 1 response was from a State Historic Preservation Officer; and 2 responses were from private individuals. The trade associations submitting comments were: The American Association of State Highway and Transportation Officials, the American Council of Engineering Companies, the American Cultural Resources Association, the American Highway Users Alliance, the American Public Transportation Association, and the American Road and Transportation Builders Association. The Federal agencies submitting comments were the United States Department of the Interior and the Advisory Council on Historic Preservation. The national environmental advocacy organizations submitting comments included the National Recreation and Park Association, The Nature Conservancy, and the National Trust for Historic Preservation, the Rails to Trails Conservancy, the Surface Transportation Policy Project, the Natural Resources Defense Council, and Environmental Defense.

Overall Position of Respondents

The majority of comments received in response to the NPRM were generally supportive of the proposed changes. Most comments agreed with the decision to clarify the feasible and prudent test in a manner that will continue a high level of protection of Section 4(f) properties from the impacts of transportation projects. Respondents from all across the board, including State Departments of Transportation (SDOTs) and the private sector, commented positively on the rule's specificity and the flexibility allowed in dealing with various aspects of Section 4(f). Moreover, there was substantial support for the idea that implementation of the proposed regulations would improve transportation decisionmaking and expedite environmental reviews, while continuing to protect Section 4(f) properties.

On the other hand, several respondents had a generally negative reaction to the proposed regulation. Concerns included that the proposed regulations do not track the actual process the Administration and applicant would follow in writing a Section 4(f) evaluation; that the rule exceeds the requirements of SAFETEA–LU by addressing *de minimis* requirements; that the proposed rule's writing, structure, and organization are very confusing and will cause more litigation; and that the proposed rule will not streamline environmental analysis or adequately protect Section 4(f) properties.

General Comments

A general comment noted that the regulation often refers simply to ''refuges'' while the statute refers to ''wildlife and waterfowl refuges.'' For consistency, we have replaced ''refuges'' with the statutory terminology throughout the final rule.

Another general comment expressed concern that the final decisionmaking responsibility under the proposed rule rests with the U.S. DOT. We considered this view but concluded that the statute entrusts final decisionmaking responsibility for approving the use of Section 4(f) property with the Secretary of Transportation, who has delegated that responsibility to the modal Administrations within the U.S. DOT.

Another comment asked if this rule would apply to the Federal Aviation Administration (FAA) and the Federal Railroad Administration (FRA). The final rule will apply only to the FHWA and FTA. However, section 6009 of SAFETEA–LU amended 49 U.S.C. 303, which applies to all U.S. DOT agencies including FAA and FRA. The FAA and FRA may choose to adopt or use this rule and other FHWA and FTA guidance on Section 4(f).

Finally, one commenter suggested that ''inside metropolitan areas, any 4(f) related activities, analysis, and decisions should be carried out in the context of the region-wide environmental mitigation element of the metropolitan transportation plan.'' Reference is made to the transportation planning regulation (23 CFR part 450) published in February 2007. The FHWA and FTA do not agree with this comment. The environmental mitigation discussed in the metropolitan plan generally would not delve into the site-specific impacts of individual projects and the mitigation thereof. That impact assessment will continue to be performed at the project level generally as part of the documentation prepared under the National Environmental Policy Act (NEPA). The discussion in the transportation plan would identify broader environmental mitigation needs and opportunities that individual transportation projects might later take advantage of. For example, as a result of consultation with resource agencies, the plan might identify an expanse of degraded wetlands associated with a troubled body of water that represents a good candidate for establishing a wetlands bank or habitat bank for wildlife and waterfowl. The plan might identify locations where the purchase of development rights would assist in preserving a historic battlefield or historic farmstead. Assessments of each individual project would still be needed to determine the appropriateness of devoting project funds to one of the mitigation activities identified in the plan, to a mitigation bank discussed in the plan, or to new mitigation developed during the NEPA/Section 4(f) process and not mentioned in the plan. We therefore did not make changes in response to this comment.

Section-by-Section Analysis of NPRM Comments and the Administration's Response

For ease of reference, the following table is provided which maps the former sections of the rule into the corresponding new sections:

Former section in part 771	New section in part 774
None	774.1 Purpose.
771.135(a)(1)	774.3 Section 4(f) approvals.
771.135(i) [in part]	774.5 Coordination.
771.135(a)(2), (i) [in part], (j), (k), and (o)	774.7 Documentation.
771.135(b) [in part], (g)(1) [in part], (l), (m) [in part] and (n)	774.9 Timing.
771.135(b) [in part], (c), (d), (e), (g)(1) [in part], (m)(4) and (p) (5)(v)	774.11 Applicability.
771.135(f), (g)(2), (h), (p)(5) [in part], and (p)(7)	774.13 Exceptions.
771.135(p)(3), (p)(4), (p)(5) [in part] and (p)(6)	774.15 Constructive use determinations.
771.107(d) and 771.135(p)(1) and (p)(2)	774.17 Definitions.

In this preamble, all references to provisions of 23 CFR part 774 refer to the final rule as presented herein. Several provisions proposed in the NPRM were moved to new sections in response to comments on the NPRM. A reference to an NPRM section will be explicitly labeled as such.

Section 771.127 Record of Decision

One comment objected to the provision for signing a Record of Decision ''no sooner than 30 days after publication of the final environmental impact statement (EIS) notice in the **Federal Register** or 90 days after publication of a notice for the draft EIS, whichever is later.'' This sentence was incorporated verbatim from the FHWA and FTA's existing regulation implementing the National Environmental Policy Act (NEPA), and it is consistent with the NEPA regulations of the Council on Environmental Quality (CEQ), 40 CFR 1506.10(b). Substantive modifications to the FHWA and FTA joint NEPA regulation are outside the scope of this rulemaking. Thus, we have retained the language as proposed in the NPRM.

Section 774.1 Purpose

This section clarifies the purpose of the regulations, which is to implement 49 U.S.C. 303 and 23 U.S.C. 138 (Section 4(f)). There were no major comments in response to this section. Therefore, we have retained the language as proposed in the NPRM.

Section 774.3 Section 4(f) Approvals

This section sets forth the determination required by the Administration prior to approving a project that uses Section 4(f) property. Paragraph 774.3(a) is the traditional Section 4(f) approval, similar to the previous rule at paragraph 771.135(a)(1). Paragraph 774.3(b) implements the new provision in section 6009(a) of SAFETEA–LU for making *de minimis* impact determinations in lieu of the traditional analysis. Section 774.3 includes cross-references to the definitions for ''use,'' ''feasible and prudent avoidance alternative,'' ''de minimis impact,'' and ''all possible planning,'' which are located in the definitions section, 774.17.

Paragraph 774.3(c) provides new regulatory direction for how to analyze and select an alternative when it has been determined that no feasible and prudent avoidance alternatives exist and all viable alternatives use some Section 4(f) property. The paragraph provides a list of factors that should be considered in the analysis and selection of an alternative. The factors were drawn from case law experience and the FHWA ''Section 4(f) Policy Paper.'' [3] It should be noted that the weight given each factor would necessarily depend on the facts in each particular case, and not every factor would be relevant to every decision. Our intent is to provide the tools that will allow wise transportation decisions that minimize overall harm in these situations, while still providing the special protection afforded by Section 4(f) by requiring the other weighed factors to be severe and not easily mitigated.

Paragraph 774.3(d) provides a clear regulatory basis for programmatic Section 4(f) evaluations, and it distinguishes between the promulgation of new programmatic Section 4(f) evaluations and the application of an existing programmatic Section 4(f) evaluation to a particular project. Paragraph 774.3(e) provides cross-references to the sections of the regulation governing the coordination, documentation, and timing of approvals as a road map for the practitioner.

Many comments were received in response to this section. The majority of comments were generally supportive of the approach proposed in the NPRM, although many offered minor re-wording for clarity. Those suggestions are discussed below for each paragraph. Several comments were strongly opposed to the proposed procedural structure. The NPRM proposed different processes for approving uses with *de minimis* and non-*de minimis* impacts to Section 4(f) property, and the proposed rule requires an additional step when approving projects for which all alternatives use some Section 4(f) property. A use with more than *de minimis* impacts would be processed with the traditional two-step inquiry pursuant to paragraph 774.3(a) (a determination that there is no feasible and prudent avoidance alternative, followed by a determination that the action includes all possible planning to minimize harm to the property). A use with *de minimis* impacts would be processed in a single step pursuant to paragraph 774.3(b) (without the need for the development and analysis of avoidance alternatives, and with the planning to minimize harm folded into the development of measures needed to reduce the impacts of the Section 4(f) use to a *de minimis* level). Projects for which all viable alternatives use some Section 4(f) property would be processed in two steps pursuant to paragraph 774.3(c) (a determination that there is no feasible and prudent avoidance alternative, followed by the selection of an alternative by weighing the factors in paragraph 774.3(c) and a determination, with documentation, that the action includes all possible planning to minimize harm).

The commenters opposed to the structure proposed in the NPRM indicated that the regulation in all situations should first require a determination of which alternative minimizes harm to the Section 4(f) resource(s), followed by a determination of whether that alternative is feasible and prudent and may therefore be selected. Comments stated that in *Overton Park*, the Supreme Court required such a structure for Section 4(f) decisionmaking. We disagree. We have re-read *Overton Park* and considered this concern very carefully, but we do not agree that *Overton Park* stands for the process favored by these commenters or that the process proposed in the NPRM should be restructured. First, the NPRM structure follows the order of the requirements as they appear in the statute. Second, the statute does not require a determination of which alternative minimizes harm, it requires ''all possible planning'' to minimize harm. It is much more efficient to conduct all possible planning to minimize harm as the last step for the selected alternative than to undertake all possible planning repeatedly for each alternative, including those that are not feasible and prudent, and for a variety of reasons, cannot be selected. Such a process would be very inefficient. Finally, the structure and processes in the final rule are consistent with longstanding FHWA and FTA procedures, with the exception of the procedures for approving the new concept of *de minimis* impacts. For these reasons, we retained the structure proposed in the NPRM.

Another comment strongly recommended the separation of the analysis, coordination, documentation, and timing requirements for *de minimis* impacts and the traditional Section 4(f) evaluation into discrete sections of the regulation. We decided not to make this proposed change because we do not agree that re-structuring the regulation in this manner would make it easier to use. In addition, for those who prefer the suggested structure, the existing joint FHWA/FTA ''Guidance for Determining *De Minimis* Impacts to Section 4(f) Resources,'' December 13, 2005,[4] already provides a complete

[3] The FHWA ''Section 4(f) Policy Paper,'' issued March 1, 2005, is available for review online at *http://environment.fhwa.dot.gov/projdev/4fpolicy.htm.* A copy was also placed in the docket for this rulemaking.

[4] *http://www.fhwa.dot.gov/hep/guidedeminimus.htm.*

discussion of the process for determining *de minimis* impacts, separate from any discussion of the requirements for traditional Section 4(f) approvals.

Another comment requested definitions of numerous phrases used in section 774.3; for example, ''relative severity of the harm,'' ''relative significance,'' and ''the ability to mitigate.'' We did not include the requested definitions in the final rule because these words are all used with their common English meanings. The provisions of section 774.3 will be applied to an extensive variety of fact situations, and regulatory definitions would unduly limit the applicability of the provisions to the particular fact situations anticipated in those definitions.

• Section 774.3—One comment suggested that section 774.3, which prohibits the use of Section 4(f) property unless certain determinations are made, should simply refer to ''section 4(f) property'' instead of ''public park, recreation area, or wildlife and waterfowl refuge, or any significant historic site.'' We agree that this suggested change improves the readability of the regulation, so we substituted the phrase ''Section 4(f) property'' and moved the terminology proposed in the NPRM into a new definition of ''Section 4(f) property'' in section 774.17. The defined term is now used throughout the regulation.

• Paragraph 774.3(a)(1)—Another comment asked that we confirm ''that an alternative with a net benefit 4(f) use can be chosen over an alternative with no Section 4(f) use.'' If avoidance alternatives are determined not to be feasible and prudent then the use may be approved, whether or not it is a ''net benefit.'' For FHWA projects, the ''Nationwide Programmatic Section 4(f) Evaluation and Determination for Federal-Aid Transportation Projects That Have a Net Benefit to a Section 4(f) Property,'' 70 FR 20618, April 20, 2005, would generally apply to situations envisioned by the commenter. This programmatic Section 4(f) evaluation remains in effect. In cases where application of this programmatic evaluation is appropriate, the criteria for evaluating the existence of a feasible and prudent avoidance alternative is specified in the Findings section of the programmatic evaluation. If, through the application of this programmatic Section 4(f) evaluation, the FHWA determines that there are no feasible and prudent avoidance alternatives, then the alternative with a net benefit to Section 4(f) property can be selected. This programmatic Section 4(f) evaluation is applicable only to FHWA actions.

• Paragraph 774.3(b)—One comment requested clarification whether an analysis of avoidance alternatives must be conducted when determining that a *de minimis* impact occurs to a Section 4(f) property. An analysis of avoidance alternatives is not necessary for a *de minimis* impact determination, and the NPRM did not propose to require one. Using words taken directly from section 6009(a) of SAFETEA–LU, the NPRM would have allowed a Section 4(f) *de minimis* impact approval when ''the use of the property, including any avoidance, minimization, mitigation, or enhancement measures committed to by the applicant, will have a *de minimis* impact * * *.'' We agree with the commenter that the term ''avoidance'' as used in this sentence could cause confusion. The final rule was reworded to clarify that the term ''avoidance,'' along with other mitigation or enhancement measures, is used in the context of project features or designs that minimize harm to the individual Section 4(f) property and not meant to imply that the applicant must search for alternatives avoiding the Section 4(f) property altogether. In this context, the term ''avoidance'' could mean a partial change to the alignment to avoid a portion of the Section 4(f) property. The sentence now reads ''* * * the use of the property, including any measure(s) to minimize harm (such as any avoidance, minimization, mitigation, or enhancement measures) committed to by the applicant, will have a *de minimis* impact, as defined in § 774.17, on the property.'' The development and evaluation of alternatives that completely avoid the use of the Section 4(f) property is not required when the Administration intends to make a finding of *de minimis* impact determination. Indeed, to require such an analysis would defeat the purpose of the *de minimis* provision in the statute. However, if the Administration's intention of making a *de minimis* impact finding is not realized, then a traditional Section 4(f) evaluation, including the development and evaluation of alternatives that completely avoid the use of Section 4(f) property, would be necessary.

• Paragraph 774.3(c)—Two comments criticized the choice of the word ''may'' referencing the portion of the rule which allows the Administration to approve an alternative that ''minimizes overall harm'' in light of the enumerated factors. They explain that this articulation leaves the FHWA and FTA with too much discretion. We are concerned that if the words ''may select'' were replaced with the suggested ''shall select'' or ''must select,'' the provision would require the agencies to actually fund the project, which is not an obligation imposed by Section 4(f). In response to the comments, after ''may approve'' we added the word ''only.'' This change clarifies our intent that the FHWA and FTA may only select the alternative that causes the least overall harm.

When there is no feasible and prudent avoidance alternative, many comments suggested various replacements for the phrase ''most prudent'' as a criterion for choosing among several project alternatives and determining which would cause the least overall harm. After considering the range of proposals and their rationales, we have decided to remove the words ''most prudent'' from the analysis of overall harm. It appears to cause confusion and it detracts from the purpose of this portion of the rule, which is to provide clear criteria for choosing a course of action when all available alternatives use Section 4(f) property. Deleting the modifier ''most prudent'' appropriately shifts the focus of the multi-factor inquiry to the requirement of minimizing overall harm.

Several commenters suggested that the proposed weighing of factors in determining the alternative with the least overall harm would not place a ''thumb on the scale'' in favor of the preservation of the Section 4(f) properties, as required by the statute. The FHWA and FTA agree that a reminder about the preservation purpose of the statute in the balancing of various factors is appropriate. Accordingly, paragraph 774.3(c)(1) now states that the Administration may approve the alternative that causes the least overall harm ''in light of the statute's preservation purpose.'' The preservation purpose of Section 4(f) is described in 49 U.S.C. 303(a), which states: ''It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.'' Virtually identical language appears in 23 U.S.C. 138. This addition does not change the settled principle that where there is no feasible and prudent avoidance alternative, Section 4(f) does not preclude the Administration from selecting any alternative from among those with substantially equal harm. In such instances, the selection will be based primarily on the relative performance of those alternatives with respect to factors (v) ''the degree to which each alternative meets the

purpose and need for the project,'' (vi) ''after reasonable mitigation, the magnitude of any adverse impacts to resources not protected by Section 4(f),'' and (vii) ''substantial differences in costs among the alternatives.''

Two comments proposed incorporating by reference the NPRM definition of ''feasible and prudent alternative'' into paragraph 774.3(c), explaining that this change would ensure consistency in the use of the term, especially in the meaning of ''prudent.'' We decline to adopt this proposal because the term ''feasible and prudent alternative'' as used in the definitions and paragraph 774.3(a) signifies an alternative to the use of Section 4(f) property, whereas in paragraph 774.3(c) all alternatives under consideration use some Section 4(f) property and use of the term in this context would be confusing.

Several comments proposed substituting the word ''balancing'' for the term ''considering,'' as a more precise way to describe the analytical process described in the NPRM. We have adopted the suggestion to replace the term ''considering'' with the term ''balancing'' as a better way to articulate the intent of paragraph 774.3(c). We agree that such an inquiry will necessarily involve a balancing of competing and conflicting considerations given that some of the factors may weigh in favor of one alternative, yet other factors may weigh against it. Mere ''consideration'' of the factors does not capture this idea—the factors must be weighed against each other. How the various factors listed in paragraph 774.3(c)(1) are balanced and weighed in a given instance is within the discretion of FHWA and FTA, and is subject to the facts and circumstances of the particular project and Section 4(f) properties involved. As previously noted, the FHWA and FTA have inserted a reminder that the preservation purpose of the statute in the balancing of the various factors must be given its proper weight.

Several comments interpreted the balancing test of paragraph 774.3(b) as satisfying the statutory requirement to undertake ''all possible planning to minimize harm'' to the Section 4(f) property. One comment proposed that we add a statement that performing the analysis pursuant to paragraph 774.3(c) satisfies FHWA's obligation to undertake all possible planning to minimize harm to Section 4(f) properties. Other comments suggested that paragraph 774.3(c) should expressly state that any alternative selected based on the enumerated factors should include all possible planning to minimize harm to Section 4(f) property resulting from the use.

Contrary to the interpretation suggested in some comments, we did not intend that engaging in the balancing test alone would fulfill the requirement to undertake ''all possible planning to minimize harm'' to the Section 4(f) property. The selection of an alternative pursuant to paragraph 774.3(c) is not in itself a Section 4(f) approval and does not complete the evaluation process. After the alternative is selected, the additional step of identifying, adopting, and committing to measures that will minimize the harm to the Section 4(f) property must be documented before Section 4(f) approval can be granted. The extent of effort needed to satisfy the requirement to undertake all possible planning to minimize harm is included in the definitions section, 774.17. When the characteristics of a Section 4(f) property lend themselves to mitigation, and with mitigation the alternative that uses that property would have a lower net impact, the balancing test would weigh these facts and may result in the alternative being selected. We addressed the confusion on this topic by dividing the NPRM paragraphs 774.3(a)(1) and 774.3(b) each into two paragraphs and stating separately in each the requirement to undertake all possible planning to minimize harm. We also slightly reworded the paragraph for additional clarity.

We received a variety of comments regarding the list of factors in paragraph 774.3(c)(1) which the Administration would balance in making the decision on which alternative causes the least overall harm. It is important to keep in mind the situations in which the factors will apply—these factors will only apply after a determination has already been made that there is no feasible and prudent alternative to avoid the use of Section 4(f) property. The point of the analysis is a comprehensive inquiry that balances the net harm to Section 4(f) properties caused by each alternative with all other relevant concerns. One comment provided examples of how the balancing of factors in paragraph 774.3(c) will help transportation agencies arrive at better overall decisions.

We reiterate here the point made above and in the NPRM that this balancing must be done with a ''thumb on the scale'' in favor of protecting Section 4(f) properties. A scale that takes into account the preservation purpose of the statute must be used to compare the net harm to Section 4(f) properties (factors in paragraphs 774.3(c)(1)(i)–(iv)) with other relevant concerns (the remaining factors). One commenter asked if this means ''an alternative with somewhat more harm to Section 4(f) properties could be selected over one with somewhat lesser harm if the one with lesser harm to Section 4(f) properties would result in more adverse effects to non-Section 4(f) properties/higher costs/lesser ability to satisfy needs, or some combination thereof?'' The answer is yes, so long as the difference in overall harm is substantial. Where the factors favoring the selection of the alternative with greater harm to Section 4(f) property do not clearly and substantially outweigh the factors favoring the alternative with less harm to Section 4(f) property, the alternative with less harm to Section 4(f) property must be selected. As the significance of the Section 4(f) property or the degree of harm to the Section 4(f) property increases, another alternative must entail correspondingly greater harm to non-Section 4(f) properties to outweigh the harm to the Section 4(f) property and be selected. Because there is necessarily a degree of judgment involved in these decisions, the Administration must be mindful to carefully document its reasoning.

With respect to the factors in paragraphs 774.3(c)(1)(ii) and (iii), one comment suggested that the determinations of the relative severity of the harm and relative significance of the Section 4(f) properties should be made solely by the officials with jurisdiction over the resource. We did not adopt this suggestion because, in practice, competing views are often expressed when multiple Section 4(f) properties are being evaluated. The park may seem more important to the park official than the historic building beside the park, whereas the SHPO may feel just the opposite. The Administration, after listening to these competing points of view, must ultimately decide. In the statute, Congress chose to entrust the Secretary of Transportation with the final decision.

With respect to the factor in paragraph 774.3(c)(1)(i), ''The ability to mitigate adverse impacts to each Section 4(f) property (including any measures that result in benefits to the property),'' one comment suggested that only ''legally binding'' mitigation (i.e., mitigation committed to in the ROD) should be considered. We do not agree because the purpose of the balancing test is to select an alternative, so there is no legally binding mitigation at that point in the process. However, we expect that mitigation used to offset harm would be a matter of record and the appropriate commitments should be included in the project decision.

Another comment stated that nothing in the regulation requires the adoption of any mitigation relied upon in this factor. This is not true. The new definition of ''all possible planning'' to minimize harm sets forth specific criteria which will govern whether the identified mitigation must be adopted. Where the availability of adequate mitigation measures is a factor that is relied upon in selecting an alternative, the measures that were identified in the analysis must be incorporated into the project through the CE determination, ROD or FONSI, or by other means. There is additional discussion of this issue in the analysis of section 774.17 below.

Several commenters felt that the only consideration in alternative selection should be minimizing harm to the Section 4(f) properties. Consequently, in their view, the factors in NPRM subparagraphs 774.3(b)(5) through (8), which introduce non-Section 4(f)-related concerns into the selection process, should be eliminated. We have carefully reviewed those comments but decided to keep the first three of these factors, now numbered 774.3(c)(1)(v)–(vii) for the reasons discussed below. The final factor in the NPRM, concerning joint planning, was dropped for other reasons, as discussed below following the discussion of the factors retained.

The factors in 774.3(c)(1)(v)–(vii) were retained in the final rule for several reasons. First, the selection of an alternative in instances where all viable alternatives use some Section 4(f) property must be distinguished from the selection process where there is a viable alternative that avoids using Section 4(f) property. While the caselaw is not entirely consistent, there is ample support for the FHWA and FTA's approach in the courts. The Supreme Court's *Overton Park* decision did not consider this aspect of Section 4(f), as that case turned on the FHWA's failure to document any consideration of feasible and prudent alternatives to the use of the park. Second, since Section 4(f) was enacted in 1966, Congress has identified many other types of environmental resources for protection under Federal law besides Section 4(f) properties; for example, threatened and endangered species, prime farmland, and wetlands of national importance. There is nothing in SAFETEA–LU to suggest that Section 4(f) protection should trump all other concerns when there is no feasible and prudent avoidance alternative. The FHWA and FTA's approach interprets Section 4(f), as amended by SAFETEA–LU, in a way that gives appropriate weight to all of the resources impacted by a proposed transportation project. Third, 23 U.S.C. 109(h) directs FHWA to make final project decisions ''in the best overall public interest, taking into account the need for fast, safe and efficient transportation, public services, and the costs of eliminating such adverse effects and the following: (1) Air, noise, and water pollution; (2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services; (3) adverse employment effects, and tax and property value losses; (4) injurious displacement of people, businesses and farms; and (5) disruption of desirable community and regional growth.'' FTA law similarly requires that ''the preservation and enhancement of the environment and the interest of the community in which the project is located'' be considered. (49 U.S.C. 5324(b)(3)(A)(ii)). These statutes support the FHWA and FTA's interpretation of Section 4(f) as allowing the consideration of other significant impacts when it is not possible to avoid using Section 4(f) property. As described in the NPRM preamble, the balancing approach adopted in this rule enables the Administration to take all of these concerns into account by allowing serious problems to outweigh relatively minor Section 4(f) impacts, as well as Section 4(f) impacts that can be satisfactorily mitigated.

One comment pointed out that the list of factors in paragraph 774.3(c)(1) is inconsistent with the lists in the proposed definitions of ''all possible planning'' and ''feasible and prudent alternative'' in 774.17, which includes some similar and some additional factors. This disparity, in the commenter's opinion, confused the application of the factors in the overall Section 4(f) analysis. This comment proposed that we combine the multi-factor lists. We considered this comment, but decided not to adopt it. The three lists of factors included in the NPRM apply to three distinct situations. The factors enumerated in the proposed definition of ''feasible and prudent alternative'' are used to determine whether an alternative that avoids using Section 4(f) property exists. If the analysis concludes that no such avoidance alternative exists, then a different set of factors, those in paragraph 774.3(c), comes into play to guide the Administration in selecting from among the alternatives all of which use some Section 4(f) property. Once an alternative is chosen, if it uses Section 4(f) property, then the Administration has a further obligation to undertake all possible planning to minimize harm to that property. The third set of factors in the definition of this term is used to determine the appropriate extent of the planning to minimize harm.

With respect to the factor in paragraph 774.3(c)(1)(vii), ''[e]xtraordinary differences in costs among the alternatives,'' some comments suggested that the word ''extraordinary'' should be deleted, thus allowing any difference in costs to be considered and balanced with all other factors in determining which of the alternatives minimizes overall harm. Since this factor is a comparison of the costs of alternatives under consideration, all of which use Section 4(f) property, the FHWA and FTA agree that the difference in cost would not have to be ''extraordinary,'' but that the magnitude of the difference would determine its appropriate weight when balancing it with the other factors. Consideration of a minor difference in the cost among alternatives in the balancing test would be inappropriate in that there must be a measurable and significant degree of difference. For this reason we are substituting the word ''substantial'' in place of the word ''extraordinary'' in this factor. Requiring a substantial cost difference between alternatives emphasizes the importance of devoting funds to minimizing harm to the Section 4(f) property and other important resources more so than if any difference in cost were allowed to influence the choice of alternatives. When deciding whether to consider a cost difference ''substantial,'' in addition to considering the cost as a number in isolation, the FHWA and FTA may consider factors such as the percentage difference in the cost of the alternatives; how the cost difference relates to the total cost of similar transportation projects in the applicant's annual budget; and the extent to which the increased cost for the subject project would adversely impact the applicant's ability to fund other transportation projects.

Several comments expressed confusion regarding the factor in NPRM paragraph 773.4(b)(8), ''[A]ny history of concurrent planning or development of the proposed transportation project and the Section 4(f) property.'' Some commenters were concerned about how this factor was related to, and would apply in, the balancing of factors and the ultimate determination of overall harm. Others suggested that the scope of concurrent planning in this context was unclear and others thought the term should be defined in section 774.17. In response to these comments, we have decided to eliminate concurrent

planning as a factor in determining overall harm. Concurrent planning, in which the ''concurrent or joint planning or development of the transportation facility and the Section 4(f) resource occurs,'' more appropriately relates to the applicability of Section 4(f) requirements to a specific property. Concurrent planning in this context is addressed in paragraph 774.11(i).

Another comment pointed out the lack of reference to the no-action alternative in this paragraph, and asked whether that means it need not be discussed in the evaluation. The no-action alternative should always be considered in a Section 4(f) evaluation and the reasons for not selecting it must be identified.

• Paragraph 774.3(d)—Several comments on the NPRM indicated that programmatic Section 4(f) evaluations are misunderstood by some. In response, we have clarified what is meant by a programmatic Section 4(f) evaluation in paragraph 774.3(d), and have specified the process for the development of a programmatic evaluation as well as the application of an existing programmatic evaluation. The paragraph makes clear that a programmatic Section 4(f) evaluation does not automatically satisfy Section 4(f) for an entire class of projects—rather it establishes a simpler approach to compliance that is tailored to that class of projects. They are not exemptions and individual projects must still be reviewed in accordance with the process established in the programmatic Section 4(f) evaluation.

• Paragraph 774.3(e)—No substantive comments were received on this subsection. We have retained the language as proposed in the NPRM.

Section 774.5 Coordination

One general comment recommended the separation of the analysis, coordination, format, and timing requirements for *de minimis* impacts into discrete sections of the regulation. We decided not to make this proposed change because we believe that grouping all of the requirements for coordination, all of the requirements for timing, and all of the requirements for documentation together is a reasonable structure for the regulation and is more consistent with the familiar, former regulation. For practitioners who need more guidance on the *de minimis* impact requirements, the joint FHWA/FTA ''Guidance for Determining *De Minimis* Impacts,'' December 13, 2005, discusses all of the *de minimis* impact requirements together in one document.

Another general comment suggested that this section should be revised to explain the coordination of reviews performed under NEPA, Section 4(f), and Section 106 of the National Historic Preservation Act. We did not adopt this suggestion because it is already stated in 23 CFR 771.105(a), which explains that it is the policy of the FHWA and FTA that ''[t]o the fullest extent possible, all environmental investigations, reviews, and consultations be coordinated as a single process, and compliance with all applicable environmental requirements be reflected in the environmental document required by this regulation.'' A similar statement with regard to the content of environmental documents is found at 23 CFR 771.133.

We received a general comment that clear guidance is needed on the coordination process for Section 4(f) uses with impacts greater than *de minimis*, to ensure that the officials with jurisdiction are fully engaged in the development of avoidance alternatives and the determination of appropriate measures to minimize harm. We agree that coordination with the officials with jurisdiction is important and integral to Section 4(f) compliance, and note that the regulation already includes explicit coordination requirements in paragraph 774.5(a). Additional guidance is included in the FHWA ''Section 4(f) Policy Paper,'' March 2, 2005, so we did not make any changes in response to this comment.

One general comment requested that we clarify in the preamble to this regulation that the existing Section 4(f) *de minimis* impact guidance, issued on December 13, 2005, remains in effect and is not superseded by these regulations. We agree that the inclusion of requirements for *de minimis* impacts in these regulations was not intended to supersede or replace the existing guidance, but to ensure that the current Section 4(f) regulation is consistent with the Section 4(f) statute, as amended by SAFETEA–LU. The joint FHWA/FTA ''Guidance for Determining *De Minimis* Impacts to Section 4(f) Resources,'' December 13, 2005, remains in effect, but the Administration may review it and make clarifying revisions some time in the future. The FHWA ''Section 4(f) Policy Paper,'' March 2, 2005, which was written prior to enactment of the SAFETEA–LU amendment to the Section 4(f) statute, remains in effect except where it could be interpreted to conflict with this regulation, in which case the regulation takes precedence. The FHWA plans to update the ''Section 4(f) Policy Paper'' to reflect SAFETEA–LU and this final rule.

One comment requested that the regulation address the additional coordination that is needed when the impacted Section 4(f) property was created or was improved with funds from various programs administered by the U.S. Department of the Interior. Guidance for such coordination is already addressed in the FHWA ''Section 4(f) Policy Paper'' and in the ''Guidance for Determining *De Minimis* Impacts to Section 4(f) Resources.'' However, because we agree that this coordination is important, we addressed the comment by adding a new paragraph (d) to section 774.5: ''When Federal encumbrances on Section 4(f) property are identified, coordination with the appropriate Federal agency is required to ascertain the agency's position on the proposed impact, as well as to determine if any other Federal requirements may apply to converting the Section 4(f) land to a different function. Any such requirements must be satisfied, independent of the Section 4(f) approval.''

• Paragraph 774.5(a)—A number of comments focused on the length of the notice and comment period. The NPRM proposed to continue the current 45-day comment period. The comments urged a period ranging from as short as 15 days, up to a maximum of 60 days. Specifically, one comment urged a maximum of 60 days with presumed concurrence if no comment was received within 15 days after the deadline. One comment urged a period of 60 days, but suggested that comments be open to the public and other Federal agencies, and not just to those with jurisdiction over the Section 4(f) property. One comment urged a period of at least 45 days, not to exceed 60 days.

Several commenters reasoned that a period with a maximum of 60 days would be harmonious with the streamlining provisions of section 6002 of SAFETEA–LU and the comment period provided by Section 106 of the National Historic Preservation Act for consultation with State Historic Preservation Officers and the Advisory Council on Historic Preservation. Those urging a provision for presuming concurrence if the comments are not received by various deadlines stated that such a provision is needed because, in the experience of many applicants, comments are routinely submitted many months late. Another commenter thought the requirement for the U.S. Department of the Interior (DOI) to review Section 4(f) evaluations added minimal value to the process and suggested that DOI's role should be eliminated altogether.

After considering all of the views submitted, we decided to keep the 45-day comment period in the final rule.

This period appears to be a reasonable length of time, in light of the current practice with which all are familiar. We did not eliminate the requirement for a comment period because the statute itself requires coordination with certain agencies, including DOI. However, we decided to adopt a deadline for the receipt of comments by adding the following at the end of paragraph 774.5(a): ''If comments are not received within 15 days after the comment deadline, the Administration may assume a lack of objection and proceed with the action.'' This change addresses the concern that comments are routinely sent late, but it allows flexibility for the Administration to extend the comment period in individual cases upon request.

• Paragraph 774.5(b)—Several comments requested additional requirements for public notice, review, and comment related to *de minimis* impacts to historic properties. In response, the FHWA and FTA decided to accept the wording suggested by one of the commenters. Paragraph 774.5(b)(1)(iii) now says: ''Public notice and comment, beyond that required by 36 CFR Part 800, is not required.'' The regulation is consistent with the provisions of SAFETEA–LU that allow the *de minimis* impact determination to be made based on the process required under section 106 of the National Historic Preservation Act.

Other comments requested additional guidance on public notice, review, and comment related to *de minimis* impacts to parks, recreation areas, and wildlife/waterfowl refuges. One commenter believes that public notice, review, and comment are adequately covered by NEPA and its implementing regulations, and any additional opportunities are unnecessary. We decided to retain the proposed regulatory text on public notice and comment, but to add: ''This requirement can be satisfied in conjunction with other public involvement procedures, such as a comment period provided on a NEPA document.'' SAFETEA–LU requires public notice and the opportunity for public review and comment before the Administration can make a *de minimis* impact determination. Where the NEPA process already provides opportunities for public notice, review, and comment [i.e., for environmental assessments (EAs) and EISs], the same opportunities can be used for projects where the Administration is considering a *de minimis* impact determination. For those actions that do not routinely require public review and comment under NEPA [e.g., categorical exclusions (CEs) and certain reevaluations] a separate public notice and opportunity for review and comment will be necessary for a *de minimis* impact determination. In these situations, the public notice and opportunity for review and comment should be based on the specifics of the situation and commensurate with the type and location of the Section 4(f) property, impacts, and public interest.

• Paragraph 774.5(b)(1)—Several comments suggested that the concurrence of the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) in a proposed *de minimis* impact determination should be assumed if 30 days pass without written concurrence. We did not adopt this change because the statute explicitly requires written concurrence in the Section 106 determination to support a *de minimis* impact determination. The joint FHWA/FTA ''Guidance for Determining *De Minimis* Impacts to Section 4(f) Resources,'' December 13, 2005, explains the use of Section 106 programmatic agreements (PA) in making *de minimis* impact determinations. It says that when a Section 106 PA explicitly states that an individual Section 106 determination of ''no historic property affected'' or ''no adverse effect,'' is made in accordance with the PA, it may be relied upon as the basis for *de minimis* impact determination. If the PA specifies that the SHPO or THPO's concurrence in such a determination may be assumed after a specified timeframe, then the SHPO or THPO's signature on the PA itself constitutes the required written concurrence in the Section 106 determination that is necessary for a *de minimis* impact determination. With such a PA, a SHPO or THPO is within its rights asking for a side agreement that would specify conditions under which a nonresponse would not be used as the basis for a *de minimis* impact determination. In any case it is expected that the SHPO or THPO will be apprised of the agency's intention to make a *de minimis* determination under the PA approach and afforded an opportunity to engage in the process on a project-by-project basis, if desirable by either party.

Several comments stated that paragraph 774.5(b)(1) should spell out the written concurrences necessary to support a *de minimis* impact determination for a historic property in order to clarify which concurrences are required. We agree, and the final rule explicitly states which parties must concur, consistent with 49 U.S.C. 303(d)(2)(B) and 23 U.S.C. 138(b)(2)(B).

A number of comments objected to the statement in paragraph 774.5(b)(1) that public notice and comment other than the Section 106 consultation is not required. These commenters pointed out that the Section 106 regulation (36 CFR part 800) has its own public involvement requirements, which may apply in a particular case. One commenter suggested alternative language to recognize that pertinent requirements of the Section 106 regulation must be met. We adopted the suggested language, and the sentence now says that ''public notice and comment, beyond that required by 36 CFR part 800, is not required.''

• Paragraph 774.5(b)(2)—Several commenters requested clarification of the sequence of events for coordinating with the official(s) with jurisdiction over parks, recreation areas, and refuges prior to making *de minimis* impact determinations. These commenters proposed revising the regulation to enable the Administration to notify the official(s) with jurisdiction of its intent to make a *de minimis* impact determination at any time during the coordination process, instead of postponing notification until the conclusion of the public review and comment period. The FHWA and FTA decided to adopt this proposed change by moving the clause ''following an opportunity for public review and comment'' from the beginning of the second sentence and inserting it directly before the concurrence requirement: ''Following an opportunity for public review and comment as described in paragraph (b)(2)(i) of this section, the official(s) with jurisdiction over the property must concur in writing * * *.'' The regulation would still require the Administration to wait until after the public comment process before making a formal request for concurrence, but no specific timeframe is provided for notifying the officials with jurisdiction. The revised paragraph will begin with ''The Administration shall inform the official(s) with jurisdiction of its intent * * *.'' The FHWA and FTA reasoned that it would be beneficial to have the flexibility to notify the official(s) with jurisdiction early in the coordination process to ascertain the position of the officials and so that the preliminary views of such official(s), if available, can be included in the notice provided to the public.

One commenter suggested eliminating the provision that requires the Administration to inform the official(s) with jurisdiction of the intent to make a *de minimis* impact determination based on those officials' concurrence that the project will not adversely affect the Section 4(f) property. The FHWA and FTA decided not to make this

change. The sequence of events leading to the Administration's finding is important and will ensure that the official(s) with jurisdiction understand that their written concurrence is required for the Administration's *de minimis* impact determination and that they agree with any proposed mitigation necessary to the *de minimis* impact determination.

One commenter suggested that the FHWA and FTA add a further provision to the coordination process in paragraph 774.5(b)(2) that would expressly allow the concurrence in the *de minimis* impact determination to be combined with other comments provided by the official(s) on the project. The FHWA and FTA decided to follow this recommendation and incorporated the proposed language: ''This concurrence may be combined with other comments on the project provided by the official(s).'' Another comment asked for clarification whether the coordination can be accomplished in conjunction with other public involvement procedures, such as a comment period provided on a NEPA document. The FHWA and FTA's NEPA regulation provides for integrated procedures in 23 CFR 771.105 and 771.133, so this point was clarified as suggested. With the clarifications described above, the new provision will help streamline the environmental review process because it will allow the official(s) with jurisdiction to combine comments on the *de minimis* impact proposal with comments submitted on other environmental issues related to the project.

• Paragraph 774.5(c)—One commenter believed that the coordination requirements discussed in section 774.5 did not differentiate between individual and programmatic Section 4(f) evaluations and requested clarification. Programmatic evaluations are differentiated by virtue of being addressed in a separate paragraph, 774.5(c). We have now clarified what is meant by a programmatic evaluation in paragraph 774.3(d), as previously discussed.

Another comment suggested a 60-day comment period be required when there is a use of land from a Section 4(f) property that is covered by a programmatic Section 4(f) evaluation. The comment also suggested that the coordination during the use of a programmatic Section 4(f) evaluation should ''be open to the public and not just the official(s) with jurisdiction.'' Programmatic Section 4(f) evaluations provide procedural options for demonstrating compliance with the statutory requirements of Section 4(f). The FHWA has issued five nationwide programmatic Section 4(f) evaluations. (FTA has not issued any, but has plans to do so.) Before being adopted, all of the FHWA programmatic evaluations were published in draft form in the **Federal Register** for public review and comment. They were also provided to appropriate Federal agencies for review. Each programmatic evaluation contains specific criteria, consultation requirements, and findings that must be met before the programmatic evaluation may be applied on any given project. A primary benefit to using this prescribed step-by-step approach is a reduction of the time it takes to achieve Section 4(f) approval.

The NPRM did not stipulate any specific comment period or coordination process when programmatic Section 4(f) evaluations are used. When applied to individual projects each of the five approved programmatic evaluations has coordination requirements, but none of them requires a specific comment period.[5] We did not make the changes proposed by the commenter because we believe the imposition of additional comment periods, coordination periods, or public involvement at the time a programmatic evaluation is applied to an individual project would severely limit the effectiveness of this approach.

One commenter expressed concern about the potential lack of public notice or opportunity to comment on the evaluation of certain historic resources, such as bridges, under the relevant programmatic Section 4(f) evaluation, when the project is processed with a NEPA categorical exclusion (CE). It was suggested that, at a minimum, a CE project processed under a programmatic Section 4(f) evaluation should be posted on the applicant's Web site. The public involvement requirements related to categorical exclusions, as well as other classes of actions, are addressed in 23 CFR 771.111. The public involvement requirements for application of a particular programmatic Section 4(f) evaluation are specified in the programmatic evaluation itself. Hence, the FHWA and FTA concluded that the issue has been adequately addressed and additional requirements are not necessary.

Section 774.7 Documentation

This section contains the requirements related to the documentation of the various Section 4(f) analyses and approvals. In the NPRM this section was titled ''Format.'' The title was changed to ''Documentation'' to more accurately reflect the content of this section.

In response to a general comment that it was difficult to locate the requirements for *de minimis* impact determinations, the section was re-ordered so that it now tracks the order of section 774.3, ''Section 4(f) approvals.'' Thus, paragraph 774.7(a) now addresses the documentation of Section 4(f) evaluations prepared to comply with approvals under 774.3(a); paragraph 774.7(b) contains the format requirements for *de minimis* impact determinations under paragraph 774.3(b); and paragraph 774.7(c) contains the requirements for determinations of the least overall harm under paragraph 774.3(c) when there is no feasible and prudent avoidance alternative. Paragraphs (d)–(f) are additional documentation requirements for particular situations that have no corresponding paragraphs within section 774.3.

Several comments demonstrated confusion over NPRM paragraph 774.7(g) which contained the documentation requirements for programmatic Section 4(f) evaluations. This material was moved to paragraph 774.3(d) in the final rule so that the discussion of approvals using programmatic Section 4(f) evaluations and the documentation requirements are now grouped together. We felt this restructuring was needed to clarify the difference between promulgating a programmatic Section 4(f) evaluation and the subsequent application of the programmatic evaluation to an individual project decision.

Paragraph 774.7(e) in both the NPRM and this final rule contains the requirements for making Section 4(f) approvals for tiered environmental documents. This paragraph received the most comments of any part of section 774.7; substantial parts of the paragraph were re-worded for clarity in response to the comments, as described below.

• Paragraph 774.7(a)—One comment suggested that the last part of the sentence be revised to repeat the exact language from the statute. This section, though, does not set forth the standard

[5] Three of the programmatic Section 4(f) evaluations have public involvement requirements. The ''Final Nationwide Programmatic Section 4(f) Evaluation and Determination for Federal-Aid Transportation Projects That Have a Net Benefit to a Section 4(f) Property'' requires project-level public involvement activities consistent with 23 CFR 771.111. The ''Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites'' and the final ''Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges'' both require coordination with various parties in accordance with 36 CFR part 800, which may include members of the public identified as interested persons, or consulting parties.

for Section 4(f) approvals, but rather provides the format of the documentation for Section 4(f) approvals. Thus, the language need not exactly duplicate the statutory standard for approvals, which is implemented by section 774.3. We believe that the language used is consistent with the statute but provides direction for project applicants preparing Section 4(f) documents.

Another comment suggested adding the language ''or reduce its use significantly'' after ''that would avoid using the Section 4(f) property.'' We did not adopt this change because the language at the end of the paragraph requires a summary of ''the results of all possible planning to minimize harm to the Section 4(f) property.'' The documentation of ''all possible planning to minimize harm'' would show, among other things, how any reductions in the use of Section 4(f) property would be accomplished. In addition, the Section 4(f) caselaw is fairly uniform in holding that an alternative that uses Section 4(f) property is not properly considered an ''avoidance alternative'' under the statute. Incidentally, the words ''that would avoid using the Section 4(f) property'' which delimited ''avoidance alternative'' in the NPRM, have now been deleted as redundant.

• Paragraph 774.7(b)—Regarding paragraph 774.7(b), one commenter requested clarification that the mitigation measures suggested in the proposed regulation should be considered only if an applicant has committed to incorporate the measures into the project. The commenter suggested changing the provision to refer to ''any avoidance, minimization, mitigation, or enhancement measures committed to by the applicant.'' The FHWA and FTA decided not to make this proposed change because the statute requires any measures that are required to be implemented as a condition of approval of a *de minimis* impact determination to be part of the project. An applicant does not have a choice regarding whether to incorporate the measures into a project if the measures were mentioned when the impacts were classified as *de minimis*. Accordingly, the FHWA and FTA determined that the suggested language would be redundant since, as the regulation currently states, the applicant will automatically be required to incorporate these measures.

Another commenter suggested that the determination whether the project impacts are *de minimis* for Section 4(f) purposes should be made before mitigation is applied, not after. This commenter claimed that this regulation would allow an applicant to illegally characterize the impacts of a project that are greater than *de minimis* impacts as *de minimis* to avoid having the project analyzed, assessed, and evaluated. The FHWA and FTA did not accept this proposal because it violates the governing statute. As amended by section 6009(a) of SAFETEA–LU, Section 4(f) plainly requires that ''[t]he Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.'' 49 U.S.C. 303(d)(1)(C). Mitigation measures must be applied up front, with the determination made after taking such mitigation into account. The proposed language has been retained.

For consistency with paragraph 774.3(b) and the statute, the word ''determination'' was substituted for ''finding'' in this paragraph.

• Paragraph 774.7(c)—One commenter pointed out that framing the regulatory provision in terms of what an ''applicant'' must do is misleading as it implies that, contrary to statute, the applicant has a decision-making role in the Section 4(f) approval process. This commenter proposed rewriting paragraph (c) to reflect the decision-making role of the Administration in the Section 4(f) approval process: ''the Administration, in consultation with the applicant, must select. . . .'' Section 4(f) assigns the responsibility for evaluating and approving transportation projects to the Secretary of Transportation (who, in turn, has delegated it to the modal administrations within the U.S. DOT). The FHWA and FTA agree with the comment that the Administration, and not the applicant, has the statutory authority to approve an alternative under Section 4(f), but declines to adopt the commenter's proposed text. Instead, the FHWA and FTA have decided to convey the same idea by using language consistent with paragraph 774.3(c), to which the requirements in paragraph 774.7(c) pertain. The relevant portion of the provision now reads as follows: ''the Administration may approve only the alternative that causes the least overall harm in accordance with § 774.3(c).'' This language relies heavily on the revised text of paragraph 774.3(c) and appropriately reserves the decision-making role to the Administration.

In a slight variation on the comment discussed above, one commenter objected to the use of the word ''applicant'' because it fails to recognize the role of most applicants and the Administration as joint lead agencies in preparing the NEPA review of the project, in accordance with SAFETEA–LU section 6002. The commenter suggested changing the provision to read ''the applicant, with approval from the NEPA Lead Agency, must select. * * *'' The FHWA and FTA did not follow this recommendation because, whereas the responsibility for document preparation, review, and approval under NEPA is now shared between the Administration and the recipient of Federal funds, the Administration has the exclusive statutory authority to grant Section 4(f) approvals. An applicant's role under NEPA does not authorize it to make Section 4(f) approvals unless the applicant is a State that has assumed Section 4(f) responsibilities as part of an assumption of environmental responsibility under applicable law, such as 23 U.S.C. 325, 326, or 327.

• Paragraph 774.7(d)—This paragraph requires a legal sufficiency review for certain Section 4(f) approvals. One commenter questioned its need. The Administration has legal responsibility to ensure compliance with applicable environmental laws, regulations, and Executive Orders. Section 4(f) has been extensively interpreted by the Courts, and the application of the law to a specific approval may involve the application of complex legal principles. The Administration's application of Section 4(f) benefits from the legal sufficiency review. Moreover, Administration attorneys familiar with the judicial interpretations of Section 4(f) law in the Federal Circuit where the project is located perform the legal sufficiency review. Thus, the legal sufficiency review enhances the likelihood that the Administration's Section 4(f) decisions will be appropriate and will be sustained in Federal court if litigation ensues. Finally, the legal sufficiency review is required by a Department-wide order implementing Section 4(f). See DOT Order 5610.1C. The requirement for a legal sufficiency review is retained.

Paragraph 774.7(d) says: ''The Administration shall review all Section 4(f) approvals under §§ 774.3(a) and 774.3(c) for legal sufficiency.'' A commenter suggested that the meaning of ''legal sufficiency'' in the context of a Section 4(f) approval be defined. We decline to define ''legal sufficiency'' as there are too many variable factors considered in a legal sufficiency review. These include, but are not limited to, the type of Section 4(f) approval under consideration, the law of the Federal Circuit where the project is located, and, most importantly, the facts and circumstances of the particular project. Legal sufficiency reviews assess the Section 4(f) documentation from the

perspective of legal standards, as well as technical adequacy. Because of the inherent differences among document writers and reviewers, the projects, court decisions in the relevant circuit, and other factors, the comments on legal sufficiency for one project may differ in content and format from those for another project with similar issues. This variability makes defining a standard for the review of legal sufficiency impractical.

• Paragraph 774.7(e)—Numerous comments were received about this section, which concerns Section 4(f) approvals of projects developed using tiered environmental impact statements. Most commenters thought it was helpful to clarify the different levels of detail necessary at the different stages, although several negatively commented on the proposal to consider the preliminary first-tier Section 4(f) approval final. Nearly all commenters were confused by some aspect of what the FHWA and FTA intended by authorizing a ''preliminary'' Section 4(f) approval to be made at the conclusion of the first tier stage and a final Section 4(f) approval at the conclusion of the second-tier stage. One commenter thought we intended to ''immunize'' the first-tier Section 4(f) approval from reconsideration, even in the event it should subsequently be determined no longer valid during the second tier review. This was not our intent. A variety of revisions were suggested to clarify the intent of this section. All of these suggestions were considered in revising the provision to clarify what is required.

The intent behind this section is that the relationship between the preliminary and final Section 4(f) approval should be analogous to the relationship between a first-tier EIS and a second-tier NEPA document. In the same manner that a second-tier NEPA document can rely on the conclusions of the first-tier EIS (thereby avoiding duplication), the final Section 4(f) approval may rely upon the conclusions reached in the preliminary Section 4(f) approval. However, both the second-tier NEPA document and the final Section 4(f) approval must still take into account any significant new information or relevant details that become known during the second-level review.

If the second-tier NEPA document identifies a new or additional use of Section 4(f) property with greater than *de minimis* impacts, then additional consideration of feasible and prudent avoidance alternatives and of potential measures to minimize harm to Section 4(f) property will be necessary. If the second-tier NEPA document does not identify any new or greater than expected use of Section 4(f) property, or if there is a new or additional use of Section 4(f) property but its impacts are determined to be *de minimis* under paragraph 774.3(b) of this regulation, then the final Section 4(f) approval shall document the determination that the new or additional use is *de minimis* and may incorporate by reference the documentation developed for the first-tier preliminary approval since the first-tier information remains valid. In this situation, the applicant must consider whether all possible planning to minimize harm (which is defined in section 774.17) has occurred. Additional planning to minimize harm to a Section 4(f) property will often be needed during the second-tier study and can be undertaken without reopening the first-tier decision. Re-evaluation of the preliminary Section 4(f) approval is only needed to the extent that new or more detailed information available at the second-tier stage raises new Section 4(f) concerns not already considered. The final regulation clarifies the requirements for tiered Section 4(f) approvals, consistent with the above discussion.

• Paragraph 774.7(f)—One comment suggested that paragraph 774.7(f) be revised to clarify that including a required Section 4(f) evaluation in the NEPA document is normal practice but is not mandatory. Another comment suggested that such inclusion in the NEPA document should be mandatory. We re-worded this paragraph to clarify our intent, but we do not agree that including the Section 4(f) evaluation in the NEPA document should be mandatory. There are many instances where the timing is off due to late discoveries or other circumstances beyond the control of the applicant. In such cases, processing a stand-alone Section 4(f) evaluation is permissible. Thus, applicants should endeavor to include any required Section 4(f) evaluation within the relevant NEPA document, to the extent possible.

Another comment suggested that paragraph 774.7(b) should explicitly state that the Section 4(f) evaluation may be included in an appendix to the NEPA document, with a summary of the evaluation in the main body of the document. FHWA will allow the Section 4(f) evaluation to be included in an appendix to the NEPA document, so long as the appendices accompany the NEPA document and the distribution and commenting requirements of Section 4(f) will be met. The FHWA and FTA decline to include this provision in the final rule as we believe that guidance, not regulation, is the appropriate method for addressing the issue. The FHWA and FTA will address it in a future update of the Section 4(f) Policy Paper or the Technical Advisory on preparing and processing environmental documents.

Section 774.9 Timing

This section addresses the timing of Section 4(f) approvals within the NEPA process, and after project approval or during construction, where necessary. There were no generally applicable comments on this section. Comments on specific paragraphs are discussed in turn below.

• Paragraph 774.9(a)—One comment asked for clarification that the analysis of possible Section 4(f) uses during project development is really only an evaluation of ''potential'' uses (i.e., a proposed project does not actually use Section 4(f) property at the time of project development). We agree, and have clarified this point by changing the beginning of the first sentence from ''Any use of lands'' to ''The potential use of lands.'' The same comment also suggested changing ''shall be evaluated early in the development'' within the same sentence to ''shall be evaluated as early as practicable in the development,'' because potential uses of Section 4(f) property can only be evaluated after a certain minimum level of information about the proposed action and alternatives has been developed. We agree, and we have adopted these proposed edits in this final rule.

• Paragraph 774.9(b)—One comment sought clarification that Section 4(f) approval can be made ''in a separate Section 4(f) evaluation'' in certain circumstances. We agree, and accordingly added at the beginning of this paragraph ''Except as provided in paragraph (c), for * * *.'' Paragraph 774.9(c) covers the circumstances where a separate Section 4(f) approval is appropriate.

Another comment sought clarification that an EIS, EA, or CE must always include the actual Section 4(f) approval. Section 4(f) approvals are incorporated and coordinated with the NEPA process, and to the extent practicable, the NEPA document should include all documentation and analysis supporting the Section 4(f) approval. However, the actual approval may be made in the subsequent decision document in order to consider public and interagency comment submitted in response to the NEPA document. The Section 4(f) approval and the supporting information are always available to the public for review upon request. As such,

we have retained the proposed language in the final rule.

• Paragraph 774.9(c)—Two comments pointed out that the introductory clause in NPRM paragraph 774.9(c), ''If the Administration determines that Section 4(f) is applicable'' repeats one of the numbered subparagraphs—''(2) The Administration determines that Section 4(f) applies to the use of a property.'' The redundant language has been deleted.

One comment suggested replacing ''final EIS'' with ''ROD'' to ensure consistency with references to a FONSI and a CE in paragraph 774.9(c). Both the FONSI and CE are decision documents, as is the ROD. The FHWA and FTA decided to follow this recommendation. The change helps clarify the timing of the separate Section 4(f) approval required by section 774.9. Paragraph (c) applies only after the NEPA process has been completed and the Administration has already made a Section 4(f) determination in a decision document.

One comment recommended explicitly stating in paragraph 774.9(c)(2) that the identification of a new property subject to Section 4(f) does not require a separate Section 4(f) approval if the ''late designation'' exception in paragraph 774.13(c) applies. The FHWA and FTA agree with the substance of this comment, though not with the suggested language. Instead, the FHWA and FTA included the phrase ''except as provided in § 774.13 of this title'' at the end of the introductory sentence of paragraph (c): ''a separate Section 4(f) approval will be required, except as provided in § 774.13, if * * *.'' The FHWA and FTA believe that the exceptions listed in section 774.13 pertain to all three situations addressed in paragraph (c), not exclusively to the scenario in paragraph (c)(2). Furthermore, exceptions other than paragraph 774.13(c) dealing with ''late designation'' could potentially apply to the circumstances described in paragraph (c). Consequently, a more general statement concerning exceptions is appropriate.

Another comment asked for clarification in paragraph 774.9(c)(2) that the provision requires a separate Section 4(f) approval when the Administration determines after project approval that Section 4(f) applies to a new use of Section 4(f) property. That was our intent, so we modified paragraph 774.9(c)(2) to state that ''Section 4(f) applies to 'the use of' a property.''

One comment proposed a slight revision to the provision by substituting ''if'' instead of ''when'' before enumerating situations necessitating a separate Section 4(f) evaluation. In the context of the introductory sentence, the choice of the word ''if'' better articulates the conditional nature of the applicability of paragraph (c) and is less likely to be misconstrued. We have therefore adopted this suggested change.

One commenter asked for definitions of the phrases ''substantial increase in the amount of Section 4(f) property used,'' ''substantial increase in the adverse impacts to Section 4(f) property,'' and ''substantial reduction in mitigation measures.'' These words were used with their plain English meanings. We think that the meanings of these phrases are self-evident, and they rely upon the context of each particular factual situation to which this paragraph of the regulation is being applied. Therefore, we did not provide definitions of these phrases.

• Paragraph 774.9(d)—Two comments expressed the opinion that new or supplemental environmental documents should always be required if a separate Section 4(f) approval is required after the original environmental document has been processed. The proposed regulation stated that a new or supplemental environmental document ''will not necessarily'' be required in such instances and that project activities not directly affected by the separate Section 4(f) approval may proceed. Paragraph 774.9(d) of this Section 4(f) regulation deals strictly with Section 4(f) requirements and is not intended to explain when supplementation under NEPA is required. A provision in the joint FHWA/FTA NEPA regulation, located at 23 CFR 771.130, governs when supplementation is required under NEPA. It requires a supplemental EIS ''whenever the Administration determines that: (1) Changes to the proposed action would result in significant environmental impacts that were not evaluated in the EIS; or (2) New information or circumstances relevant to environmental concerns and bearing on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.'' The circumstances that necessitate a separate Section 4(f) approval under paragraph 774.9(c) may or may not rise to the level of significance described in 23 CFR 771.130(a). It should also be noted that 23 CFR 771.130(c) provides for the preparation of environmental studies or, if appropriate, an EA to assess the impacts of the changes, new information, or new circumstances and determine whether a supplemental EIS is necessary. The NEPA question must be answered in the context of the particular new or changed impacts at issue, while the Section 4(f) question depends on the new or changed use of Section 4(f) property at issue. The FHWA and FTA recognize that the changes, new information, or new circumstance requiring a separate Section 4(f) evaluation may also require additional NEPA documentation. Paragraph 774.9(d) now states that when, in accordance with paragraph (c), a separate Section 4(f) approval is required and, in accordance with 23 CFR 771.130, additional NEPA documentation is needed, these documents should be combined for efficiency and comprehensiveness. Further, 23 CFR 771.130(f) provides for a supplemental EIS of ''limited scope'' when issues of concern affect only a limited portion of the project, and it states that any project activity not directly affected by the supplemental review may proceed. The FHWA and FTA believe that the last sentence in paragraph 774.9(d) is consistent with 23 CFR 771.130(f) and that no change is warranted.

• Paragraph 774.9(e)—Several comments expressed support for the proposal in paragraph 774.9(e) that, when Section 4(f) applies to archeological sites discovered during construction, the Section 4(f) process may be expedited and the evaluation of alternatives may take into account the level of investment already made. One commenter objected to the expedited process and consideration of prior investment. Another stated that this provision is too vague. However, no substantive change was made to the language because this paragraph continues existing policy that has worked well in past applications. Because archeological resources are underground and can occur in unexpected locations, it is not always possible to anticipate their presence prior to construction. Thus, when such resources are uncovered during construction, it is appropriate to take the scientific and historical value of the resource into account in deciding how to expedite the Section 4(f) process. Further elaboration in the regulation would hamper the deliberation necessary when this circumstance arises.

One commenter asked whether a particular applicant can enter into a programmatic agreement with their SHPO setting forth more detailed procedures to comply with Section 4(f) and the National Historic Preservation Act when archeological resources are discovered during construction. We believe that this would be appropriate and desirable as long as the proposed

agreement is reviewed by the Administration through the appropriate field office for consistency with this regulation. Another approach that is encouraged is the inclusion of procedures for identifying and dealing with archaeological resources in the project-level Section 106 Memorandum of Agreement under the National Historic Preservation Act. Another comment sought clarification whether the exception in paragraph 774.13(b) for archeological resources lacking value for preservation in place applies when the archeological resource is discovered during construction. It does, and this has been clarified in the final rule.

Section 774.11 Applicability

This section is intended to answer many common questions about when Section 4(f) is applicable. There were no generally applicable comments on this section. Comments on specific paragraphs are discussed in turn below.

• Paragraph 774.11(a)—There were no major comments in response to this paragraph. Therefore, we have retained the language as proposed in the NPRM.

• Paragraph 774.11(b)—Several comments requested clarification on the roles of the various agencies involved in the Section 4(f) evaluation in relation to the provisions of 23 U.S.C. 139, which was created by SAFETEA–LU section 6002, regarding joint lead agencies. Section 4(f) only applies to U.S. DOT agencies, but there are transportation projects for which a non-U.S. DOT agency is the Federal lead agency and a U.S. DOT agency is a cooperating or participating agency. In these cases, only the U.S. DOT agency can make the Section 4(f) approval. For example, a hospital expansion project was proposed in the midwest, utilizing funds from the U.S. Army Corps of Engineers, a non-U.S. DOT agency that was the lead agency under NEPA, and the U.S. Department of Housing and Urban Development, another non-U.S. DOT agency. The FHWA had funding involvement for the relocation of roads within the project area and was a cooperating agency. FHWA was, however, the Federal lead agency for Section 4(f) approvals. To further clarify this point, the word ''Federal'' was inserted in the first sentence of this paragraph: ''When another 'Federal' agency is the Federal lead agency for the NEPA process * * *.''

• Paragraphs 774.11(c) and (d)—These paragraphs were proposed to remain substantively unchanged from the previous regulation. Three comments objected to paragraph (c), which presumes that parks, refuges, and recreation areas are significant unless the official(s) with jurisdiction determine that the entire property is not significant. The FHWA and FTA proposed in paragraph (d) to retain the right to review such determinations of non-significance for reasonableness. One commenter objected to the presumption of significance, stating ''if the official with jurisdiction over the property chooses to not make a ruling on significance, we should assume the property is not significant as opposed to assuming it is.'' The same commenter felt that the Administration should not be permitted to overturn a non-significance determination. Another commenter proposed adding a public hearing requirement to this paragraph, and the third comment proposed deleting the paragraph (c) on significance altogether because it ''guts the statutory standard'' to allow the official(s) with jurisdiction over a property to declare it non-significant. After considering these comments, we decided to retain the language as proposed. The statute is limited by its own terms to significant properties ''as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site.'' 49 U.S.C. 303(c). Therefore, these paragraphs implement a provision of the statute itself and are part of the current Section 4(f) regulations at 23 CFR 771.135(c) and (d). With respect to the presumption of significance in paragraph (c), the FHWA and FTA decided to keep the presumption since it continues to provide the benefit of a doubt in favor of protecting the Section 4(f) property, which has been the FHWA and FTA's policy on this issue for several decades.

• Paragraph 774.11(e)—Several comments were received on this paragraph, which specifies standards and procedures for determining the applicability of Section 4(f) to historic sites. Two comments asked for a definition of ''historic site.'' A definition was added to section 774.17, which defines the term as ''any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register.'' The term ''includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that are included in, or are eligible for inclusion in, the National Register.'' This definition is consistent with the definition of ''historic property'' used in the regulation implementing Section 106 of the National Historic Preservation Act (36 CFR part 800).

Another comment on this paragraph stated that we should not limit historic sites to those that are eligible for the National Register of Historic Places, but also consider other sites that may be important for historic purposes. We agree with the commenter that it is important to allow for the possibility of protecting sites that are historic but not eligible for the National Register. The proposed text of paragraph 774.11(e)(1) provides for this situation by stating that Section 4(f) applies ''only to historic sites on or eligible for the National Register unless the Administration determines that that the application of Section 4(f) is otherwise appropriate.'' This provision allows the Administration to consider sites that are historically important for protection but are not eligible for the National Register.

Other comments stated that the section did not adequately address ''negligible'' impacts to large historic districts. We think that changes to the proposed language to address this issue are not warranted. For example, in the case of historic districts, the assessment of effects under Section 106 of the National Historic Preservation Act would be based on the effect to the district as a whole, as opposed to individual impacts on each contributing property. Accordingly, when an assessment of effects on the overall historic district is performed, if the effects on the historic district are truly negligible, then the result of the assessment of effects would be a ''no adverse effect'' on the historic district. With appropriate concurrences, such finding would qualify the project as having *de minimis* impact and therefore not subject to further consideration under Section 4(f). On the other hand, where contributing elements of a historic district are individually eligible for the National Register, an assessment of the effects on the individual properties that are eligible would also be required. This assessment of effects would be independent of the assessment for the overall historic district and may or may not result in ''no adverse effect'' and *de minimis* impact determinations.

Paragraph 774.11(e)(2), concerning the application of Section 4(f) to the Interstate Highway System, was moved to this location in the final rule (from paragraph 774.13(j) in the NPRM) so that all provisions governing the applicability to historic sites are in one location. One comment was received on the exemption of the Interstate Highway System. The comment expressed concern over the inclusion of this exemption in the proposed regulation. This exception was included in the NPRM in response to section 6007 of SAFETEA–LU (codified at 23 U.S.C. 103(c)(5)), which states, in pertinent

part, that the Interstate Highway System is not considered to be a historic site subject to Section 4(f), with the exception of those individual elements of the Interstate Highway System formally designated by FHWA for Section 4(f) protection on the basis of national or exceptional historic significance. FHWA implemented this directive through a formal process that designated 132 significant elements of the Interstate Highway System for Section 4(f) protection after considering input from relevant agencies and the public. See 71 FR 76019. While Section 4(f) does not apply to all other segments and features of the Interstate Highway System, Section 4(f) continues to apply to any historic sites located in proximity to an Interstate Highway that are unrelated to the Interstate Highway System. As an example, a highway project will widen and reconfigure an interchange on the Interstate System constructed 50 years ago that has some historic value but is not designated on the list of 132 significant elements. Section 4(f) does not apply to the use of this interchange. However, a historic farm, circa 1850 and on the National Register, also abuts the project. Section 4(f) would apply to the project's use of the historic farm because the farm is not part of the Interstate Highway System and its historic significance is unrelated to the Interstate Highway System.

• Paragraph 774.11(f)—One commenter requested specific procedures to be used for the identification of archaeological resources. The FHWA and FTA decided not to include procedures for identifying archaeological resources in this regulation because it is beyond the scope of this rulemaking. The FHWA and FTA believe that a good faith effort must be made to identify archaeological resources, but specifying procedures to be used in each situation is not appropriate in this regulation.

• Paragraph 774.11(g)—This paragraph of the final rule was added to clarify the applicability of Section 4(f) to Wild and Scenic Rivers. The provision is consistent with longstanding FHWA and FTA policy as set forth in FHWA's Section 4(f) Policy Paper. It was inserted in response to the comments of the U.S. Department of the Interior. The provision limits the applicability of Section 4(f), in accordance with the statutory language, to those portions of Wild and Scenic Rivers that are publicly owned and serve a function protected by Section 4(f). The paragraph states ''Section 4(f) applies to those portions of federally designated Wild and Scenic Rivers that are otherwise eligible as historic sites, or that are publicly owned and function as, or are designated in a management plan as a significant park, recreation area, or wildlife and waterfowl refuge. All other applicable requirements of the National Wild and Scenic Rivers Act must be satisfied, independent of the Section 4(f) approval.''

• Paragraphs 774.11(h) and (i)—These paragraphs of section 774.11 concern the applicability of Section 4(f) to properties formally reserved for future transportation projects but temporarily serving a Section 4(f) purpose. One commenter noted that the NPRM had addressed interim Section 4(f) activity on property reserved for transportation use and the concurrent or joint development of parks, recreation areas, or refuges with transportation facilities in the same paragraph. That commenter suggested that these two topics should be separated because the NPRM was confusing. As these issues have been traditionally treated separately, the FHWA and FTA agree with this suggestion, and the topics of interim Section 4(f) activities and joint planning are now addressed in paragraphs 774.11(g) and (h), respectively.

Another commenter was concerned with the term ''temporary recreational activity'' in the first sentence of this paragraph of the proposed rule, explaining that the word ''temporary'' could be construed to refer only to uses of relatively short duration. The FHWA and FTA have never imposed any time limit on how long a future transportation corridor can be made available for recreation while it is not yet needed for transportation, and there is no public purpose in limiting the time during which interim recreational activities may be permitted on the future transportation corridor.

The commenter was also concerned that the proposed language did not consider other non-recreational temporary uses of a future transportation corridor, for example as a wildlife or waterfowl refuge. The FHWA and FTA decided to address these comments by clarifying the wording of the section. The language in the final rule says: ''[w]hen a property formally reserved for a future transportation facility temporarily functions for park, recreation, or wildlife and waterfowl refuge purposes in the interim, the interim activity, regardless of duration, will not subject that property to Section 4(f).'' The temporary activity is not protected under Section 4(f) in this case, regardless of whether the property owner has authorized the interim use of the transportation land or has simply not fenced the property off or taken other measures to prevent trespassing.

Another comment suggested that allowing temporary recreational activity on a reserved transportation corridor is an exception to Section 4(f) and therefore should be moved from section 774.11, ''Applicability,'' to section 774.13, ''Exceptions.'' We think that the proposed paragraph does not set forth an exception to Section 4(f), but rather explains the applicability of Section 4(f) in certain situations. Therefore, this provision was retained in the ''Applicability'' section.

Another comment addressed the second example of joint planning between two or more agencies with jurisdiction over the transportation project and Section 4(f) property. The comment suggested that a broader range of scenarios of joint planning be addressed in the rule, and suggested the example be revised to indicate that such planning could be done concurrently or in consultation between the agencies. It appears the concern involved the need for formal coordination, though the word ''formal'' did not appear in the NPRM. Since this paragraph of the rule deals with joint planning of transportation projects and Section 4(f) properties, any instance of concurrent planning would qualify for consideration of whether Section 4(f) applied. The basis for determining the compatibility of jointly-planned transportation projects and Section 4(f) properties, however, depends heavily upon the degree to which the multiple agencies involved have consulted on various aspects of the proposals. The purpose of this provision had been accurately described as:

> Section 4(f) is not meant to force upon a community, wishing to establish a less than pristine park affected by a road, the choice between a pristine park and a road. A community faced with this choice might well choose not to establish any park, thus frustrating Section 4(f)'s goal of preserving the natural beauty of the countryside.

See *Sierra Club* v. *Dept. of Transp.*, 948 F.2d 568, 574–575 (9th Cir. 1991). The consultation that occurs, formal or otherwise, will be examined on a case-by-case basis in light of this purpose to determine if a constructive use occurs when the jointly-planned transportation project is eventually proposed for construction. We have retained the proposed language in the final rule.

Section 774.13 Exceptions

This section sets forth various exceptions to the otherwise applicable Section 4(f) requirements. The exceptions either are founded in statute or reflect longstanding FHWA and FTA policies governing when to apply Section 4(f). The exceptions are limited

in number and scope and do not compromise the preservation purpose of the statute, which is to ''preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.''

One comment asked for clarification whether an exception for a project under this regulation would also provide an exemption for the project from compliance with the NEPA and the National Historic Preservation Act. The answer is no. The exceptions in Section 774.13 relate solely to the applicability of, and requirements for, Section 4(f) approval. All other applicable environmental laws must still be addressed.

Several comments favored additional exceptions beyond those proposed by the FHWA and FTA. One such comment suggested that an exception be added for active historic railroads and transit systems, along the lines of the exemption for the Interstate Highway System that was included in section 6007 of SAFETEA–LU. The FHWA and FTA decided not to pursue the suggested exception for several reasons. First and foremost, the FHWA and FTA do not have statutory authority for such an exception, as it was not included in section 6007. Second, there is already an exception in paragraph 774.13(a) for the restoration, rehabilitation, or maintenance of historic transportation facilities when there is no adverse effect on the historic qualities of the facility that caused it to be on or eligible for the National Register. For many FTA-funded maintenance or rehabilitation projects on historic transit systems, such as those in New York, Chicago, and Boston, system-specific programmatic agreements with the relevant SHPO under Section 106 have specified the conditions for a ''no adverse effect'' determination and, as a logical consequence, the conditions for the Section 4(f) exception noted above. Finally, when the project does result in an adverse effect and the traditional Section 4(f) evaluation process applies, the demonstration that there is no feasible and prudent avoidance alternative that would accomplish the project purpose of keeping the historic transportation facility in operation is usually straightforward. Therefore, the applicant in such a case can focus on how to minimize the harm to historic features of the transportation facility and still accomplish the project's purpose. Accordingly, the FHWA and FTA do not agree that the creation of a new exception for active, historic railroads and transit systems is necessary or permissible.

Another comment suggested adding an exception for all ''local or state transportation projects that have not or will not receive U.S. Department of Transportation funds for construction of the project.'' In support of this proposal, the commenter cited a number of court cases holding that Section 4(f) requirements are triggered when a U.S. DOT agency approves a transportation project receiving Federal construction funds but not when the project is locally funded. The FHWA and FTA decided not to incorporate the proposed exception because Federal funding is not the sole determinant of Section 4(f) applicability. Section 4(f) may be implicated in other Administration approval actions not involving the disbursement of U.S. DOT funds when there is sufficient control over the project. For example, the U.S. DOT approval of a new interchange on the Interstate Highway System requiring the use of adjacent parkland may trigger Section 4(f) even if Federal funding is not involved. The overwhelming majority of projects not receiving U.S. DOT funding, including those in the court cases cited by the commenter, do not require any Administration approval at all and therefore would not trigger Section 4(f).

Comments on specific paragraphs within Section 774.13 are discussed in order below.

• Paragraph 774.13(a)—Paragraph 774.13(a) is an exception from the Section 4(f) process for projects involving work on a transportation facility that is itself historic. The FHWA and FTA's policy for several decades has been that when a project involves a historic facility that is already dedicated to a transportation purpose, and does not adversely affect the historic qualities of that facility, then the project does not ''use'' the facility within the meaning of Section 4(f). If there is no use under Section 4(f), then its requirements do not apply. This interpretation is consistent with the preservation purpose of Section 4(f) and with caselaw on this issue.

Two comments recommended revising this section to clarify that the exception for restoration, rehabilitation, or maintenance of transportation facilities applies only if the Administration makes a finding of ''no adverse effect'' in accordance with the consultation process required under Section 106. One comment pointed out that other interested parties besides the official(s) with jurisdiction may be participating in the Section 106 consultation. We agree and revised the paragraph to clarify these points.

• Paragraph 774.13(b)—Paragraph 774.13(b) is an exception from the Section 4(f) process for those archeological sites whose significance lies primarily in the historical or scientific information or data they contain. The exception does not apply when the Administration determines that a site is primarily important for preservation in place (*e.g.*, to preserve a major portion of the resource in place for the purpose of public interpretation), or that the site has value beyond what may be learned by data recovery (*e.g.*, as a result of considerations that may arise when human remains are present). This distinction between the primary values for what can be learned by data recovery versus the primary value for preservation in place has been central to the Administration's implementation of the statute for archeological sites for several decades.

The intent of the exception is not to narrow unnecessarily the application of Section 4(f) when dealing with archeological sites, but, rather, to apply the protections of Section 4(f) only in situations where the preservation purpose of the statute would be sustained. Frequently, the primary information value of an archeological resource can only be realized through data recovery. In those cases, the primary mandate of Section 4(f)—to investigate every feasible and prudent alternative to avoid the site—would serve no useful purpose. Conversely, where the artifacts would lose essential aspects of the information they might yield if removed from the setting, or if the site is complex and it is not reasonable to expect to be able to recover much of the data resident there, or where technology does not exist to preserve the artifacts once removed from the ground, requiring the applicant to search for a feasible and prudent avoidance alternative is consistent with the statute.

One commenter expressed the view that in light of the 1999 and 2000 amendments to the Section 106 regulations concerning archeological resources, ''the outdated approach to archeology reflected in the Section 4(f) regulations is inconsistent with the National Historic Preservation Act (NHPA).'' Transportation projects subject to Section 4(f) must also comply with the NHPA, an entirely different statute that also affords certain protection to historic sites. The NHPA has its own very detailed regulations that must be followed. An ''adverse effect'' to an archeological site under the NHPA is not the same as a ''use'' of an archeological site under Section 4(f).

The comment did not propose specific revisions to the proposed regulation, but generally recommended that consideration be given to whether an archeological site may have ''broader religious or cultural significance to any Indian tribe(s),'' and that the Administration should be required to ''defer to the SHPO's or THPO's views regarding significance.'' We carefully considered these suggestions and decided to revise the wording in the final rule in response to the concerns raised. We agree that deference to the expertise of SHPOs and THPOs is warranted in determining whether an archeological site is worthy of preservation in place or is important chiefly for what could be learned through data recovery. Accordingly, the final rule requires that ''[t]he official(s) with jurisdiction over the Section 4(f) resource have been consulted and have not objected to the Administration finding * * *'' regarding the relative importance of data recovery versus preservation in place.

• Paragraph 774.13(c)—This paragraph is an exception to the requirement for Section 4(f) approval for parks, recreational areas, wildlife and waterfowl refuges, and historic sites that are designated or determined to be significant late in the development of a transportation project. Late designation is not the same thing as a late discovery of a Section 4(f) property. This exception, which has been FHWA and FTA policy for several decades, applies only if a good faith effort was made during the NEPA process to identify all properties eligible for Section 4(f) protection. The purpose of the exception is to provide reasonable finality to the environmental review phase of project development.

Many comments were received on the late-designation exception. One comment asserted that no exception is warranted until construction has begun in order to provide maximum protection to Section 4(f) properties. Another comment objected to the exception in the case of projects ''languishing'' in project development for long periods of time during which time a resource on the project site might be legitimately designated as a new or significant Section 4(f) property. In this commenter's view, such projects should not be allowed to proceed without a new Section 4(f) evaluation, even if the property in question was acquired by a transportation agency for transportation purposes prior to the new designation. The commenter suggested limiting the exception by including a ''staleness'' provision mandating that if a planned transportation project is not constructed within a specified period of time (three years was suggested) the exception would not apply and a new evaluation under Section 4(f) would be required. At the opposite end of the spectrum, we received comments asserting that project opponents frequently wait until late in project development to assert that properties are eligible for Section 4(f) protection, solely for the purpose of delaying the project. Several modifications were suggested to guard against that possibility. One such proposal suggested broadening this exception so that an applicant would only need to establish the project's location and complete the NEPA process in order to benefit from the late-designation exception. The comment proposed that the applicant not be required to take the additional step of acquiring the right-of-way for this exception to apply.

The FHWA and FTA decided not to adopt any of the suggested changes to the proposed regulation. The exception is intended to balance competing interests—protecting Section 4(f) properties while facilitating timely project delivery. The exception provides that ''the Administration may permit a project to proceed without consideration under Section 4(f) if the property interest in the Section 4(f) land was acquired for transportation purposes prior to the designation or change in the determination of significance and if an adequate effort was made to identify properties protected by Section 4(f) prior to acquisition.'' These conditions will ensure that the initial Section 4(f) approval was proper and that the project has progressed far enough to warrant special treatment. The acquisition of right-of-way typically is the last step of project development prior to construction. Conversely, if the right-of-way has not yet been acquired prior to the redesignation or change in significance, then the exception does not apply. Recognizing the variability in development schedules among different transportation projects, we did not include any arbitrary time limits. A ''staleness'' provision would often delay project implementation unnecessarily and may compromise project plans after considerable investment in engineering design and land acquisition. The regulatory language draws the line at purchase of the property to ensure that, prior to the redesignation or change in significance, the applicant has completed the NEPA process, has made a good faith effort to address Section 4(f) concerns, and has advanced the project beyond preliminary engineering into actual implementation activities. We also note that if, after the completion of the NEPA process and Section 4(f) approval, the project has to be modified in a way that would use newly designated Section 4(f) property, the applicant would be obligated to conduct a separate Section 4(f) evaluation in accordance with paragraph 774.9(c).

Lastly, a comment suggested that the FHWA and FTA should ''ensure internal consistency'' between this provision and Paragraph 774.15(f)(4), which provides that there is no constructive use if the Section 4(f) designation occurs after either a right-of-way acquisition or adoption of project location through the approval of a final environmental document. We do not agree. The ''late designation'' exception in paragraph 774.13(c), which applies generally to both actual and constructive use, is distinct from the narrower exception in paragraph 774.15(f)(4), which addresses proximity impacts of a transportation project and applies only to constructive use.

Several comments suggested removing or modifying the sentence at the end of paragraph 774.13(c) that, as worded in the NRPM, would preclude the use of the late-designation exception where a historic property is close to, but less than, 50 years of age. One commenter pointed out that the sentence would perpetuate the false assumption that properties over 50 years old are automatically eligible for the National Register. Another commenter stated that the provision is confusing because there is no parallel in Section 106 of the National Historic Preservation Act, and the sentence could be read to effectively extend Section 4(f) protections to properties that are not necessarily historically significant under Section 106. The commenter also pointed out the potential confusion caused by having an exception to the exception. The FHWA and FTA agree that this sentence was confusing and has modified it to say: ''if it is reasonably foreseeable that a property would qualify as eligible for the National Register prior to the start of construction, then the property should be treated as a historic site for the purposes of this section.'' The determination whether it is reasonably foreseeable should take into account the possibility that changes in the property beyond the Administration's control might reduce its eligibility, as well as the sometimes unpredictable nature of construction schedules.

• Paragraph 774.13(d)—Paragraph 774.13(d) is an exception to the requirement for Section 4(f) approval for temporary occupancies of Section 4(f)

property. This exception is limited to situations where the official with jurisdiction over the resource agrees that a minor, temporary occupancy of Section 4(f) property will not result in any permanent adverse impacts and will not interfere with the protected activities, features, or attributes of the property, the property will be fully restored, and the ownership of the property will not change. This exception, which has been part of the Section 4(f) regulation since 1991, is founded on the FHWA and FTA's belief that the statute's preservation purpose is met when the Section 4(f) land, though temporarily occupied, is not permanently incorporated into a transportation facility and is returned to the same or better condition than it was found, with the consent of the official with jurisdiction over the Section 4(f) resource. Some construction-related activities taking place on Section 4(f) property may be so minor in scope and duration that its continued preservation is in no way impeded. Using publicly owned land for construction easements can result in less disruption to the surrounding community and often may result in an enhancement of the protected resource, such as landscaping, installation of new play equipment, or other improvement following construction.

A commenter asked whether a temporary occupancy not falling within this exception could be treated as a use with *de minimis* impact if the Section 4(f) land would be fully restored after construction. The answer is yes, a temporary occupancy that is determined to be a Section 4(f) use may qualify for a *de minimis* impact determination by the Administration if the requirements for such determination are met. This circumstance would arise when one or more of the criteria for the temporary-occupancy exception are not met, but the requirements for a *de minimis* impact determination are met. *De minimis* impact determinations related to temporary occupancies are addressed in more detail in the joint FHWA/FTA ''Guidance for Determining *De Minimis* Impacts to Section 4(f) Resources,'' December 13, 2005.

One comment asserted that excepting ''temporary'' occupancies of land from the provisions of Section 4(f) would be problematic for ''megaprojects'' (usually defined as projects with a total estimated cost of more than $500 million) whose construction period might stretch over a decade or more. Another commenter expressed the opinion that occupation of Section 4(f) properties during such projects should not be considered ''temporary'' even if the occupancy period is less than the total time needed for construction. We agree that in some circumstances a very long-term occupancy of Section 4(f) properties, even if shorter in duration than the total time it takes to construct a particular project, could be contrary to the preservation purpose of Section 4(f) and, therefore, constitute a use. However, we did not change the relevant text (''[d]uration must be temporary, *i.e.*, less than the time needed for construction of the project'') because the regulation imposes several other stringent conditions that would be difficult to satisfy in the case of a long-term occupancy. These other stringent conditions include the requirement that the occupancy not interfere with the activities, features, and attributes that qualify the property for Section 4(f) protection, and that the official with jurisdiction over the Section 4(f) property concur in its being occupied for this period of time.

Another commenter recommended elimination of the conditions for the ''temporary occupancy'' of land. These conditions, the commenter argues, create a major burden for determining whether the temporary-occupancy exception applies. Another comment recommended changing the wording in paragraph 774.13(d)(1) from ''less than the time needed for construction'' to ''no greater than the time needed for construction.'' This change would allow the temporary occupancy of land to continue for the entire duration of construction. After carefully considering all of the comments, we decided that no change to the proposed language of paragraph 774.13(d) was warranted. If an applicant finds the exception burdensome, a traditional Section 4(f) evaluation, programmatic evaluation, or a *de minimis* impact determination are potentially available options. The paragraph is unchanged from the provision that has been in effect since 1991 and has not been controversial, and it strikes a reasonable balance between protecting Section 4(f) resources and advancing transportation projects.

Other comments recommended revising paragraph 774.13(d)(3). One proposed adding the word ''significant'' to modify the word ''interference,'' and another suggested deleting the words ''either a temporary or'' so that only permanent interference would be a concern. We considered these comments, but decided not to make any changes. The appropriate question is not whether an interference with the protected activities, features, or attributes of a Section 4(f) property is significant, but whether the interference, taken together with the requirements of the other criteria in this exception, constitutes a use of Section 4(f) property. The duration of the interference is but one of several criteria that must be satisfied in order for the exception to apply. The criteria must be addressed in consultation with the official(s) with jurisdiction to determine if the temporary-occupancy exception is appropriate. The official with jurisdiction over the property is in the best position to determine whether the temporary occupancy would interfere inappropriately with any of the protected activities, features, or attributes of the property.

Several comments asked for clarification as to whether the condition of a Section 4(f) property after the temporary occupancy must be identical to the condition prior to the temporary occupancy, and one comment proposed an addition to the regulatory text to address the issue. One comment further requested that the regulation state that the restoration after a temporary occupancy must focus on the ''protected features, activities, or attributes'' of the site. We believe that the proposed text, which states that the land must be ''returned to a condition at least as good as that which existed prior to the project'' already provides the flexibility requested by these comments. The regulation does not require that the property be restored to a condition identical to its pre-occupancy condition. Often the official(s) with jurisdiction have plans to improve the property in some way and prefer to have the property restored in a manner that is consistent with those plans rather than returning to its pre-occupancy condition. Further, in light of the preservation purpose of Section 4(f), the focus of the restoration should certainly be on the protected features, activities, and attributes that make the property eligible for Section 4(f) protection. Because the proposed regulatory text already covers the issues raised by the comments, we did not make the requested changes.

• Paragraph 774.13(e)—Paragraph 774.13(e) is an exception for park roads and parkway projects under FHWA's Federal Lands Highway Program, 23 U.S.C. 204. Projects under this program are expressly excepted from Section 4(f) requirements within the Section 4(f) statute itself. Several comments were received on this exception. One comment recommended deleting ''in accordance with'' and substituting the statutory term ''under.'' We agree, and modified the final rule accordingly. Another comment, repeated by several commenters, urged that the exception be

deleted, because parkways should be designed and routed so as to minimize damage to parks, and applying Section 4(f) would ensure that such planning occurs. We agree that park roads and parkways should be carefully designed and routed, and note that the FHWA's program funding these roads is jointly administered with the National Park Service pursuant to an interagency agreement that protects park values. However, by its own terms, the statutory language of Section 4(f) explicitly states that it does not apply to projects ''for a park road or a parkway under section 204'' of Title 23, United States Code. 49 U.S.C. 303(c); 23 U.S.C. 138(a). Therefore, the Administration is not required to apply Section 4(f) to these projects.

• Paragraph 774.13(f)—Paragraph 774.13(f) is an exception for certain trails, paths, sidewalks, bikeways, and other recreational facilities designed primarily for non-motorized vehicles [all of which are referred to collectively as ''trails'' in the remainder of the discussion of paragraph 774.13(f)]. Such trails generally serve recreational purposes and therefore represent the kind of resource that Section 4(f) was enacted to protect. When the Administration funds the construction or maintenance of trails, the application of Section 4(f), including the consideration of avoiding the Section 4(f) property, would not advance the preservation purpose of the statute.

One comment was received specifically concerning the construction of Recreational Trail projects. The Recreational Trails Program is an FHWA program that benefits recreation by making funds available to the States to develop and maintain recreational trails and trail-related facilities for both non-motorized and motorized recreational trail uses. The statute authorizing the Recreational Trails program (23 U.S.C. 206) limits the circumstances under which trails for motorized vehicles can be constructed and requires that States give consideration to project proposals that benefit the natural environment or that mitigate and minimize the impact to the natural environment. In addition, these projects must comply with NEPA. The comment notes that recreational trails for all-terrain-vehicles (ATVs) and motorcycles can cause significant damage to park properties. The FHWA and FTA acknowledge the validity of this comment, but the authorizing statute at 23 U.S.C. 206(h)(2) specifically excepts Recreational Trail projects from Section 4(f) because they are intended to enhance recreational opportunities. Thus, the FHWA and FTA have no discretion to apply Section 4(f) to these projects.

Several comments sought other types of clarification concerning trails. The FHWA and FTA have several longstanding, common-sense policies regarding trails which are articulated in the FHWA's Section 4(f) Policy Paper.[6] First, Section 4(f) does not apply to trails that are designated as part of the local transportation system. The reason for this policy is that such trails are not primarily recreational in nature, even though, like most transportation facilities, they may occasionally be used by the public for recreational purposes. A related long-standing FHWA and FTA policy from FHWA's Section 4(f) Policy Paper is that Section 4(f) does not apply to a permanent trail within a transportation corridor if the trail is not limited to a specific location within the right-of-way and the continuity of the trail is maintained following a change to the highway or transit guideway.[7] For example, an FHWA-funded project would widen a 5-mile stretch of roadway that has a parallel sidewalk within its right-of-way. The sidewalk, which is used primarily for recreation, is not tied to any specific location within the right-of-way through an easement, permit, memorandum of agreement, or other legal document. As part of the widening project, the sidewalk would be relocated several hundred feet from its current location, for the length of the project. All existing connections with intersecting sidewalks and paths would be maintained in the new location. The trail exception in paragraph 774.13(f) would apply to this sidewalk. In this example, the preservation purpose of Section 4(f) would not be advanced by requiring a search for alternatives that avoid moving the sidewalk. A third long-standing FHWA and FTA policy on trails concerns Section 7 of the National Trail Systems Act, 16 U.S.C. 1246(g). The National Trail Systems Act includes an exception to Section 4(f) compliance for any segment of a National Scenic Trails and National Historic Trails that is not on or eligible for the National Register. In order to clarify the application of Section 4(f) to trails, the three FHWA and FTA policies described above were incorporated into the final rule in paragraph 774.13(f).

One commenter asked that the trails exception specify that Section 4(f) does not apply to trails that are located within a transportation corridor by permission of the transportation agency, regardless whether the trail is permanent or temporary. We see no basis for incorporating this suggestion into the final rule. Permanent trails within the transportation right-of-way would be covered by the exception in paragraph 774.13(f)(3) if the trail is not limited to a specific location with the right-of-way, and if the continuity of the trail is maintained after the project. Temporary trails within transportation corridors are already adequately covered by paragraph 774.11(h).

• Paragraph 774.13(g)—Paragraph 774.13(g) is the exception for transportation enhancement projects and mitigation activities. The transportation enhancement activities (TEAs) listed in 23 U.S.C. 101(a)(35) that are eligible for certain FHWA funds include several activities that are intended to enhance Section 4(f) properties. Such TEAs must therefore use the Section 4(f) property, and avoidance of the property would be inconsistent with the authorizing statute in this case. Also, this exception is consistent with past FHWA and FTA practice and caselaw. A use of Section 4(f) property under the statute has long been considered to include only adverse uses—uses that harm or diminish the resource that the statute seeks to protect. Accordingly, this exception is limited to situations in which the official with jurisdiction over the Section 4(f) property agrees that the use will either preserve or enhance an activity, feature, or attribute of the property that qualifies it for protection under Section 4(f).

Two comments were received on the exception for transportation enhancement projects and mitigation activities. One comment suggested that recreational facilities that have previously been improved with transportation enhancement funds should not be subject to Section 4(f). We see no legal basis for incorporating this suggestion into the final rule. The purpose of Section 4(f) is the preservation of Section 4(f) property without regard to the past history of the property. A transportation enhancement project may create, add to, or enhance the Section 4(f) activities, features, or attributes of a Section 4(f) property. The result would be an improved Section 4(f) resource more deserving of Section 4(f) protection not less deserving. That Section 4(f) property would have to be afforded Section 4(f) protection in any subsequent transportation project that might use it.

The other commenter believed this paragraph contradicts a statement in FHWA's ''Section 4(f) Policy Paper''

[6] ''Section 4(f) Policy Paper,'' March 1, 2005, Question 14. See *http://environment.fhwa.dot.gov/projdev/4fpolicy.htm.*

[7] ''Section 4(f) Policy Paper,'' March 1, 2005, Question 14. See *http://environment.fhwa.dot.gov/projdev/4fpolicy.htm.*

involving a TEA that does not incorporate land from the Section 4(f) property into a transportation facility. The statement from the ''Section 4(f) Policy Paper'' cited by the commenter is from Question and Answer (Q&A) 24A. That Q&A illustrates two possible scenarios in which transportation enhancement funds are used for the construction of a walkway or bike path, one scenario resulting in a Section 4(f) use and one not resulting in a Section 4(f) use. The commenter suggested that the written concurrence of the officials with jurisdiction should not be needed for the latter scenario, since no Section 4(f) use would occur. The comment does not appear to suggest that coordination with the officials with jurisdiction would not be necessary at all, but rather it suggests that the required written concurrence of those officials in the second scenario would be unnecessary. Certainly, thorough coordination with the officials with jurisdiction over any Section 4(f) property involved in a project has been a fundamental principle in complying with Section 4(f). When a TEA or mitigation activity is proposed on a Section 4(f) property, the Administration must ensure that the resultant effect on the property is, in the view of the officials with jurisdiction over the property, acceptable and consistent with the officials' existing and planned use of that property. Such coordination and assurances are needed even in situations where no transfer of property to a transportation use is anticipated. While the ultimate decision on whether a Section 4(f) use occurs always rests with the Administration, documentation of the views of the officials with jurisdiction over the Section 4(f) property is needed in the administrative record. Accordingly, the requirement for the written concurrence of the officials with jurisdiction was not removed from the final rule, though the text was revised for greater clarity.

• NPRM Paragraph 774.13(i)—The FHWA and FTA proposed a Section 4(f) exception for the new FTA program that funds ''Alternative Transportation in Parks and Public Lands'' (49 U.S.C. 5320). Avoidance of parks and public lands seems inconsistent with a program authorized by Congress specifically to provide transportation facilities in parks and public lands. Nevertheless, several comments were strongly opposed to this exception, and none favored it. Considering the lack of support for the proposed exception and the lack of an explicit statutory basis for the exception, we removed it from the final rule.

Section 774.15 Constructive Use

This section addresses the concept of the constructive use of Section 4(f) property, which can only occur where there is no actual physical taking of the property. One comment asserted that the proposed constructive use regulation is ''much more extensive than what exists now.'' Aside from reorganizing the content, the NPRM only proposed adding to two of the existing examples of when a constructive use occurs, a minor change from the current regulation. Many other comments were received suggesting additional examples, deletions, modifications, and clarifications regarding constructive use. One general comment was that, to improve the readability of the regulation, the definition of constructive use and the list of examples of circumstances not constituting constructive use should be consolidated in Section 774.15, which already contained the bulk of the provisions related to constructive use. We agree and have accordingly moved the definition of constructive use to paragraph 774.15(a) and the list of examples to paragraph 774.15(f). Another comment suggested breaking the several different but related provisions of NPRM paragraph 774.15(a) into separate paragraphs. Briefly, these provisions are: that a traditional Section 4(f) evaluation process is appropriate when there is a constructive use; that the Administration's determination that there is no constructive use need not be documented; and that a constructive use determination will be based on certain specified analyses. We agree that separating these provisions would improve the clarity and readability of the rule, so the final rule addresses these issues in three paragraphs designated (b), (c) and (d), respectively.

Several comments asked that various terms be defined, including ''not substantial enough to constitute a constructive use,'' ''substantially impair the activities, features, and attributes,'' and ''substantially diminish.'' We did not define these terms in the final rule because the words are all used with their common English meanings. The terms will be applied to a variety of fact situations, and narrowing the meaning of any of the terms would limit its applicability to particular fact situations that cannot be anticipated now. In addition, these terms are not new—the same terminology is used in the current regulation, and it has not been controversial or problematic. Additional guidance on the meaning of these terms can be found in FHWA's ''Section 4(f) Policy Paper.''

Another general comment proposed adding a paragraph to the final rule to clarify that a finding of ''adverse effect'' under Section 106 of the National Historic Preservation Act (NHPA) does not automatically equate to constructive use under Section 4(f), nor does an adverse effect create a presumption of a constructive use. We agree that the threshold for constructive use under Section 4(f) has generally been higher than the threshold for finding an adverse effect under Section 106 of the NHPA. However, we believe that making this distinction in the Section 4(f) regulation would be inappropriate because the NHPA is an entirely separate statute with its own implementing regulation promulgated by another Federal agency.

Comments on specific paragraphs within Section 774.15 are discussed in order below.

• Paragraph 774.15(a)—Paragraph 774.15(a) contains the definition of ''constructive use.'' The definition was moved here from NPRM Section 774.17 as discussed above.

One comment asked for the word ''permanently'' to be added to the definition, so that a constructive use could not occur if the substantial impairment is only temporary. We did not adopt this proposal because some ''temporary'' impacts (for example, the construction impacts of a major, complex project) may last for many years. In addition, we think that the duration of the impacts can already be considered under the existing definition. A constructive use occurs when the proximity impacts are so severe as to substantially diminish the activities, features, or attributes that qualify the property for protection. The duration of a proximity impact is one factor that should be considered in determining if the protected activities, features, or attributes would be substantially diminished.

Another commenter asked that the last sentence of the definition be deleted, as it purportedly discourages findings of constructive use. The sentence says ''substantial impairment occurs only when the protected activities, features, or attributes of the property are substantially diminished.'' An identical sentence appears in the current regulation. We carefully considered this comment, but decided to keep the sentence. It helps to explain what is meant by ''substantial impairment.'' In addition, we believe that the concept of constructive use has been correctly applied since the promulgation of the constructive-use provision in 1991. Findings that a project constructively uses a Section 4(f)

property have been appropriately rare, because, by definition, there is no physical taking of property in these situations, and because the FHWA and FTA support the mitigation of proximity impacts on Section 4(f) properties to the point that a substantial impairment of the protected activities, features or attributes does not often occur.

• Paragraphs 774.15(b), (c), and (d)—A number of comments were received on the constructive-use requirements in paragraphs 774.15(b), (c), and (d), which are separated into distinct paragraphs in the final rule, as previously discussed. Each comment proposed an alternative re-wording purported to explain more clearly how a constructive use should be evaluated or to clarify that a constructive use determination is not required for each nearby Section 4(f) property. These provisions have been in place since 1991 and we think that they are clear and are being applied consistently. Therefore, we decided to adopt only one proposed re-wording and that is in paragraph 774.15(c). The provision was clarified to convey our intent to avoid excessive documentation regarding determinations of no constructive use, and not to avoid determining whether or not a constructive use exists. Paragraph (c) now reads: ''The Administration shall determine when there is a constructive use, but the Administration is not required to document each determination that a project would not result in a constructive use of a nearby Section 4(f) property. However, such documentation may be prepared at the discretion of the Administration.'' The same commenter also requested a change to require ''substantial evidence'' as the basis for a constructive use finding. We considered the comment but decided not to make the change because it would introduce a new term that provides little added value. The Administration may decide that a constructive use determination is inappropriate if the evidence of substantial impairment is inadequate.

Another comment expressed concern with the inclusion of the phrase ''to the extent it reasonably can'' in paragraph 774.15(d), related to basing a determination of constructive use on consultation with the official(s) with jurisdiction over the Section 4(f) property. The FHWA and FTA agree that a determination of constructive use should always be based upon the factors identified, so the phrase ''to the extent it reasonably can'' was removed from the final rule.

Two comments expressed an opinion that paragraph 774.15(d)(2) would invite a great deal of inappropriate and irrelevant speculation about what might or could occur to Section 4(f) properties in the future if a project were not built. One suggested that we strike the last sentence, which states ''The analysis should also describe and consider the impacts which could reasonably be expected if the proposed project were not implemented, since such impacts should not be attributed to the proposed project.'' We disagree and have decided not to make the suggested change. First, the language proposed in the NPRM is not new, and we have not proposed any substantive change from current regulation or practice. We have no reason to believe, based on our experience with Section 4(f) and constructive use, that this consideration, taken together with other considerations, is an invitation to ''speculate'' about an owner's future plans regarding a Section 4(f) property. To the contrary, the provision requires an appropriate and relevant consideration that must be grounded in facts. Examples of the basis for reasonable expectations of future impacts include, in appropriate situations: discussions with the property owner, zoning applications, analysis of local development trends, and the existence of conservation easements or other legal protections to preserve the protected features, activities, and attributes of the property. The consideration of reasonably foreseeable non-project impacts is both appropriate and relevant to the decision of whether or not the proximity impacts of the project will cause a substantial impairment of the protected features, activities, or attributes of a Section 4(f) property. Also, including this information in the analysis could be beneficial to the resource by highlighting reasonably foreseeable impacts not caused by the transportation project because it would inform the State or local governmental authorities who are the best position to consider protective actions that are not within the power of the Administration.

• Paragraph 774.15(e)—Comments were received on the list of examples of situations in which a constructive use is presumed to occur. One comment asked for definitions of, and a method to measure, many phrases in the paragraph such as ''substantially interferes with use and enjoyment of a noise-sensitive facility,'' ''substantially diminish the utility of the building,'' and ''substantially reduces the wildlife use.'' These words are all used with their plain English meanings, and they generally describe situations that require judgment and are not conducive to standardized quantitative analysis. The relevant phrase must be applied to a particular set of facts to provide context. For example, one would need to know how a particular noise-sensitive facility is used by the public and what the layout and design of the facility is in order to make a reasonable judgment whether a proposed transportation project would ''substantially interfere with use and enjoyment'' of that noise-sensitive facility. We did not make any changes to the regulation in response to this comment.

Another comment suggested removing the examples from the regulation in favor of including or expanding the examples in the FHWA's ''Section 4(f) Policy Paper.'' This comment expressed the view that the examples have the potential to lead to more frequent findings that proximity impacts constitute constructive uses. The FHWA and FTA considered this comment but have decided to retain the examples in the Section 4(f) regulation, where they have been codified since 1991 and have not resulted in the problems envisioned by the commenter. Illustrating the concept of constructive use through practical examples has facilitated the application of the concept in fact situations not represented in the examples.

Another comment asked for a clarification that the list of examples in which a noise impact would be considered a constructive use is not an exhaustive list. We agree and restructured the paragraph in the final rule to clarify that these are simply illustrative examples of constructive use and not an exhaustive list. The reorganization of the paragraph also makes the examples easier to follow by separating them into subparagraphs.

Two additional comments specifically focused on the examples of constructive use due to noise. One comment suggested that campgrounds should not be considered Section 4(f) properties because they are essentially multiple use areas. We disagree with this conclusion and therefore reject the suggestion. The FHWA and FTA have always considered publicly owned campgrounds to be recreational areas covered by Section 4(f), and this position is supported by case law. Another commenter suggested that an example be added to clarify that the provision applies not only to man-made facilities such as campgrounds, but also to natural areas where the protection of natural sounds is important. We agree that some Section 4(f) properties may include natural features emitting sounds that are enjoyed by humans, such as the enjoyment of listening to a babbling

brook. When such features are a significant and officially recognized attribute of a park, then the Administration should consider whether the noise increase attributable to the highway or transit project would substantially diminish the continued enjoyment of the natural feature. However, we did not add this example to the regulation because the regulation is necessarily applied on a case-by-case basis and there are already four examples of a constructive use due to noise increases. Another substantially similar example is not desirable, as this narrow distinction can be adequately covered in future FHWA and FTA Section 4(f) guidance.

Another comment suggested rewording the example in paragraph 774.15(e)(2) as follows: ''the location of a proposed transportation facility in such proximity that it substantially obstructs or completely eliminates the primary view * * *'' The FHWA and FTA decided not to make the proposed change. In some circumstances a substantial impairment could result from a partial obstruction or partial elimination of the primary view of a historic building, depending on the criteria that makes the property eligible for the National Register.

Another comment on this paragraph referred to the noise abatement criteria in FHWA's noise regulation (23 CFR part 772), and expressed the opinion that, for certain types of properties there may be more appropriate measures of noise and unwanted sounds than those used in the noise regulation. The comment suggested that the FHWA and FTA consult with the National Park Service office working on ''Soundscapes'' for further information. This comment and suggestion were discussed with FHWA highway noise experts, and the FHWA and FTA considered the views of the National Park Service office, as suggested. However, we have concluded that the suggestion is beyond the scope of this rulemaking because it concerns an entirely separate part of Title 23, Code of Federal Regulations, which was not proposed for revision in the NPRM.

Another commenter suggested that the noise threshold for constructive use should be specified as 57 dBA (Category A, Table 1 in 23 CFR part 772). We disagree that a single threshold can be specified due to the varied purposes and functions of different types of Section 4(f) property. The appropriate noise abatement criteria will depend on the activity category of the particular Section 4(f) property. When a Section 4(f) property is determined to be covered under Activity Category A in Table 1 of 23 CFR part 772, then the applicable noise abatement criteria would include the 57 dBA threshold. Examples of Section 4(f) resources covered under Category A are those for which a quiet setting is essential to their continued function, such as an amphitheater or the gardens of an historic monastery. The vast majority of Section 4(f) properties will not fall under Category A. Regardless of which Category the Administration deems applicable to the Section 4(f) property, a constructive use occurs when the relevant noise criteria cannot be met, if the resulting noise substantially impairs the protected activities, features, and attributes of the Section 4(f) property.

Several comments focused on the example of constructive use due to substantial impairment of aesthetic features. One comment asked that the final rule clarify that for visual and aesthetic effects to constitute a constructive use of an architecturally significant historic property, the site would have to derive its value in substantial part due to its setting. We did not adopt this comment. Historic buildings that are significant due to their architecture, do not as a rule, rely upon their setting. The language proposed (''[locating] a proposed transportation facility in such proximity that it obstructs or eliminates the primary views of an architecturally significant historical building'') captures the more important criteria—the views of such a building available to the public.

Another comment suggested adding ''qualifying wild and scenic rivers'' to this paragraph. The Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287, sets forth those rivers in the United States designated as part of the Wild and Scenic River System. Within the System there are wild, scenic, and recreational designations. In determining whether Section 4(f) is applicable to a particular river within the System, one must look at the ownership of the river, how the river is designated, how the river is being used, and the management plan for the relevant portion of the river. Only if the river is publicly owned and is designated as a recreational river under the Wild and Scenic Rivers Act or is designated in the management plan for the river as serving a Section 4(f) purpose would it be considered a Section 4(f) property. A single river may be divided into segments that are separately classified as wild, scenic, or recreational. Only those segments that are classified as serving a purpose protected by Section 4(f), such as recreation, would be subject to Section 4(f). The designation of a river under the Wild and Scenic Rivers Act does not, by itself, impart the protections of Section 4(f). Section 4(f) protections are imparted only if the section of the river used by the proposed project fits one or more of the categories of properties protected by Section 4(f). For example, if a river is included in the System and is designated as ''wild,'' but is not being used as, or is not designated under a management plan as, a park, recreation area, wildlife or waterfowl refuge and is not an historic site, then Section 4(f) would not apply. In light of these complexities, we believe that simply adding the phrase ''qualifying wild and scenic river'' could cause confusion and create the potential for the misapplication of Section 4(f). Accordingly, the FHWA and FTA decline to adopt the proposed language. However, we have clarified the applicability of Section 4(f) to Wild and Scenic Rivers by adding paragraph (g) to Section 774.11, which states: ''Section 4(f) applies to those portions of federally designated Wild and Scenic Rivers that are otherwise eligible as historic sites, or that are publicly owned and function as or are designated in a management plan as a significant park, recreation area, or wildlife and waterfowl refuge. All other applicable requirements of the Wild and Scenic Rivers Act must be satisfied, independent of the Section 4(f) approval.'' This language is consistent with long standing FHWA and FTA policy presented in the FHWA's ''Section 4(f) Policy Paper.''

Several comments were received on the example of a constructive use due to vibration impacts. One commenter noted with approval that the proposed language apparently only considered the vibration impacts of operating a transportation project and not the construction impacts. Another commenter had the opposite view, and proposed that construction impacts be added to the regulation, along with other edits for clarity. We agree that severe construction vibration can substantially impair the use of a Section 4(f) property in the same way as severe operational vibrations. The final rule clarifies that vibration due to construction should be considered, and that vibration should be considered for any mode of transportation project to which this rule applies. Also in the same sentence, we replaced ''affect the structural integrity of'' with the simpler and clearer ''physically damage.'' Another comment on this section suggested that repair of damage should be mandatory, and that irreparable vibration damage should be considered a use. The comment proposed adding at

the end of the sentence, ''unless the damage is repaired and fully restored consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, i.e., the site must be returned to a condition which is at least as good as that which existed prior to the project.'' We clarified the intent of this paragraph with language similar to what was proposed.

• Paragraph 774.15(f)—Many comments were received on paragraph 774.15(f), which provides examples of proximity impacts that are not severe enough to constitute a constructive use. Several comments asserted that the regulation would be easier to use if this list were moved to Section 774.15, Constructive Use, so that all examples regarding possible constructive uses are in one place. We agree, and moved NPRM paragraph 774.13(e) into paragraph 774.15(f) in this final rule. One general comment was that the list should be deleted for fear that the Administration will apply the paragraph as if it were an inclusive list of all possible proximity impacts that are not constructive uses. This fear is unfounded because the language, ''examples include,'' makes it clear that the list is not all-inclusive. Another comment asked that the examples indicate the requirement that an EA or EIS be prepared. The issue of which NEPA document to prepare depends on whether there are significant impacts expected and is addressed in 23 CFR Part 771. The issue is outside the scope of this regulation. Several comments on this paragraph requested clarification that an adverse effect under Section 106 is not automatically a Section 4(f) constructive use. We agree with this comment. The FHWA ''Section 4(f) Policy Paper,'' Question 3B, explains that if a project does not physically take (permanently incorporate) historic property but the project causes an adverse effect under Section 106, then one should consider whether the proximity impacts of the project constitute a constructive use. We did not, however, feel that this nuance needed clarification within the regulation itself.

Several comments suggested modifying or deleting the last sentence in paragraph 774.15(f)(4), which disallows the use of a late-designation exception where a historic property is close to, but less than, 50 years of age. In the case of a constructive use, the late-designation exception says that a constructive use does not occur if a property has been acquired for transportation purposes after adequate effort to identify Section 4(f) resources or if the project location has been established in a final environmental document, and the property is subsequently designated as a Section 4(f) property or is determined to be significant. One commenter points out that the sentence proposed for modification or deletion perpetuates the false assumption that properties over 50 years old are automatically eligible for the National Register. Another commenter states that the provision is confusing because there is no parallel in Section 106, and the sentence could be read to effectively extend Section 4(f) protections to properties that are not necessarily historically significant under Section 106. The FHWA and FTA agree that this sentence could be confusing and have modified the sentence in question to clarify that if it is reasonably foreseeable that a property would qualify as eligible for the National Register prior to the start of construction, then the property should be treated as a historic site for the purposes of this section.

One comment suggested that in paragraph 774.15(f)(6) we include consultation on the appropriateness of any mitigation proposed for proximity impacts in order to ensure that the views of the officials with jurisdiction over the Section 4(f) property regarding the appropriateness of the mitigation and the resulting condition of the Section 4(f) property are considered. We agree, and have made this change. The provision now reads: ''Proximity impacts will be mitigated to a condition equivalent to, or better than, that which would occur if the project were not built, as determined after consultation with the official(s) with jurisdiction.''

Another comment requested that we revise this paragraph so that the analysis must include consideration of the condition of the Section 4(f) resource as it existed prior to construction of the transportation project, rather than the condition that would exist if the project were not built. We did not make this change because it is more appropriate to consider the true future no-action scenario than to invent a highly unlikely, hypothetical future in which current conditions are frozen in time. This approach is consistent with NEPA practice, in which the Administration compares the impacts expected under the future build alternatives to the expected future no-action scenario.

We received one comment on the example of a vibration impact not rising to the level of a constructive use of a Section 4(f) property. The comment suggested that the regulatory text should contain detailed, measurable limits for vibration levels based on guidance issued by FTA and guidance issued by the U.S. Bureau of Mines. (The FHWA does not have equivalent guidance on vibration.) The impact thresholds for vibration are presented in voluminous guidance that provides background on the complex science involved in their development and application. There are different vibration metrics whose appropriateness in a particular situation must be determined by acoustical experts. The background information that would be needed would be highly technical, voluminous, and difficult to properly present in the regulation. The FHWA and FTA does not agree with the notion that a single vibration threshold applicable in all situations could be specified in regulation and has therefore declined to do so.

Section 774.17 Definitions

A few comments stated that the definitions should be moved to the beginning of the regulation because the beginning is the more common location. The NPRM explained that the definitions were placed at the end because some of them are lengthy and complex. The final rule includes cross-references to the definitions at key points within the regulatory text. Therefore, we did not adopt the suggestion to move the definitions. Other comments proposed definitions for various words that appear only once in this regulation. Where we felt it was appropriate to add clarification in those instances, it was done where the term appears and not in the definitions section. For example, an explanation of ''concurrent planning'' was integrated into paragraph 774.11(i). One comment suggested combining the definitions of ''all possible planning,'' ''*de minimis* impact,'' and ''feasible and prudent alternative'' in a separate section of the regulation. We did not adopt this suggestion because it would not have improved a reader's understanding of these terms.

One commenter felt that including a definition of ''transportation facility'' would obviate the need for the exception for transportation enhancement activities. The idea likely behind this is that, with most transportation enhancement projects, there is no use of the Section 4(f) property by a transportation facility. The FHWA and FTA decided not to follow this suggestion because an explicit exception for transportation enhancement activities is more definitive and covers a broader range of possible transportation enhancement activities.

Many comments proposed additional definitions of various terms. These proposals were all carefully considered,

but in most cases were not adopted. Many of the proposed definitions are dependent on the context in which they are applied, and therefore do not lend themselves easily to definition. In other cases, the meaning of the term is obvious or the proposed definition is beyond the scope of this rulemaking. For example, we declined to include the definition for the NEPA term ''significant impact on the environment,'' which is addressed in the NEPA regulations of the Council on Environmental Quality (CEQ). One comment recommended the addition of definitions for all of the following words and phrases: ''Relative value,'' ''matter of sound engineering judgment,'' ''unreasonable to proceed,'' ''severe safety or operation problems,'' ''reasonable mitigation,'' ''severe social, economic, or environmental impacts,'' ''severe disruption to established communities,'' ''severe disproportionate impacts to minority or low income populations,'' ''severe impacts to environmental resources protected under other Federal statutes,'' ''operational cost of an extraordinary magnitude,'' ''unique problems,'' and ''cumulatively cause unique problems or impacts of extraordinary magnitude.'' The FHWA and FTA decided that including definitions for these terms in this final rule was inappropriate or unnecessary as the terms are used in their plain English meaning and likely involve judgments that depend on the context of the specific project, location, and Section 4(f) property.

Comments on specific definitions within Section 774.17 are discussed in order below.

• ''Administration''—One comment noted that SAFETEA–LU amended Sections 325, 326, and 327 of Title 23, United States Code to allow the FHWA (and in the case of Section 326, the FTA also) to assign certain specified environmental responsibilities to a State through a written memorandum of understanding (MOU) or agreement. Section 4(f) is one of the assignable responsibilities. When the FHWA or FTA enters into such MOU or agreement, the State will act in lieu of the FHWA or FTA for those responsibilities that are specified in this regulation as Administration responsibilities and that have been assigned to the State through the MOU or agreement. Therefore, the definition of ''Administration'' was extended to include a State that has been assigned responsibility for certain environmental requirements in accordance with 23 U.S.C. 325, 326, or 327, or other applicable law, to the extent that the required agreement between the State and FHWA or FTA allows the State to act in place of the FHWA or FTA on Section 4(f) matters.

• ''All Possible Planning''—The NPRM proposed a definition of the statutory phrase ''all possible planning'' to minimize harm when a transportation project uses Section 4(f) property. A number of comments were received proposing various revisions to the regulatory language addressing ''all possible planning'' in the context of *de minimis* impact determinations. One commenter objected to the use of the word ''obviates'' because, in the commenter's opinion, it would imply that the Administration is not required to reduce impacts to the minimum level possible in the approval of a *de minimis* impact determination. Another commenter expressed a concern that paragraph (5) of this definition would relieve the Administration from any ''independent obligation'' to comply with the ''all possible planning to minimize harm'' requirement of Section 4(f) when the Administration makes a *de minimis* impact determination. According to this comment, the proposed regulatory text is inconsistent with SAFETEA–LU section 6009 which ''explicitly retained'' the ''all possible planning'' requirement with respect to projects with *de minimis* impact on non-historic Section 4(f) properties. Other comments suggested replacing the phrase ''subsumes and obviates'' with ''eliminates'' or ''is presumed to satisfy'' the requirement for all possible planning to minimize harm, in order to convey more clearly the idea that if a *de minimis* impact determination is made, then no separate minimization-of-harm finding is required.

The FHWA and FTA carefully considered these objections and alternative language proposals and has deleted the word ''obviates,'' and has retained the word ''subsumes'' in response. The intent of the provision is not to eliminate the Administration's obligation to minimize harm to affected Section 4(f) properties, but rather to explain that, in a *de minimis* impact situation, the effort to reduce the impacts to *de minimis* levels and ''all possible planning'' to minimize harm are folded together into a single step. In other words, when a *de minimis* impact determination is approved, either the project already includes measure(s) to minimize harm to which the applicant is committed or the project will have such minor impacts on the Section 4(f) property that the harm to it is negligible without additional measures. The FHWA and FTA believe that the word ''subsumes'' articulates this intended meaning better than ''presumed to satisfy.''

Lastly, in the FHWA and FTA's view, paragraph (5) as revised is entirely consistent with the *de minimis* impact provision in SAFETEA–LU section 6009. Contrary to the commenter's interpretation, 49 U.S.C. 303(d)(1)(B), as amended by SAFETEA–LU, does not impose on the Administration an ''independent obligation'' to comply with the minimization of harm requirement of Section 4(f). Rather, the purpose of the provision is to ensure that the applicant anticipating a *de minimis* impact determination conducts ''all possible planning'' to minimize harm when developing and committing to ''any avoidance, minimization, mitigation, or enhancement measures'' necessary to reduce impacts to *de minimis* levels. Furthermore, paragraph (5) of this definition must be read in conjunction with paragraph 774.3(a)(2) which precisely tracks the statutory language regarding the inclusion of measures to minimize harm, and the definition of ''*De Minimis* Impact'' in Section 774.17, which is an impact that ''will not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f).''

• ''Applicant''—One comment was received on the definition of applicant. The comment notes that while the definition provides for the applicant to work with the Administration to conduct environmental studies and prepare environmental documents, the definition does not provide for the applicant to help prepare decision documents and determinations. While an applicant may in some cases be asked to help prepare decision documents and determinations, the definition was not changed because the applicant does not always do so. In any case, all decisions and determinations required under Section 4(f) are ultimately the responsibility of the Administration, unless the applicant is a State that has been specifically assigned Section 4(f) authority under the aforementioned statutes providing for such assignment.

• ''CE''—The proposed rule included definitions for the NEPA terms ''EIS'' and ''EA,'' including cross-references to the FHWA and FTA's NEPA regulations. A definition and cross-reference for the NEPA term ''CE'' was added for consistency. The definition states: ''*CE.* Refers to a Categorical Exclusion, which denotes an action with no individual or cumulative significant environmental effect pursuant to 40 CFR § 1508.4 and § 771.117 of this title.'' When deciding whether to issue a CE from NEPA under

the FHWA and FTA NEPA regulations, FHWA and FTA take into account whether there are unusual circumstances.

• ''*De Minimis Impact*''—Several comments asked that the proposed definition of *de minimis* impact be expanded not only to describe what a *de minimis* impact is, but also to prescribe the process for making a *de minimis* impact determination. The FHWA and FTA have considered these comments and decided that the definition of *de minimis* impact will not include the procedures for making *de minimis* impact determinations because the regulation describes the process and documentation in paragraphs 774.5(b) and 774.7(b), which are the more appropriate locations.

One comment requested that the definition address the transfer of lands in which there are Federal encumbrances under other statutes. The FHWA and FTA did not make this change because it is an issue unrelated to the definition and is addressed in paragraph 774.5(d). In addition, the joint FHWA/FTA ''Guidance for Determining *De Minimis* Impacts to Section 4(f) Resources,'' December 13, 2005, explains that Section 4(f) lands with other Federal encumbrances must address and comply with the requirements of the laws associated with those encumbrances.

One comment recommended the elimination of *de minimis* impact determinations from the final rule. The FHWA and FTA retained the option to grant Section 4(f) approvals via a *de minimis* impact determination because Congress amended Section 4(f) in 2005 to allow *de minimis* impact determinations. (SAFETEA–LU, Pub. L. 109–59, sec. 6009(a), 119 Stat. 1144 (2005)).

One comment recommended a change to the proposed language that would allow a temporary adverse effect to be treated as a *de minimis* impact. The FHWA and FTA decided not to include this change because temporary occupancy of Section 4(f) property is already dealt with under paragraph 774.13(d). The final rule provides the flexibility to appropriately address temporary adverse impacts, which may or may not be *de minimis*.

Several comments recommended changes to the definition of a *de minimis* impact for historic sites. One comment stated that the proposed definition of *de minimis* impact for historic sites did not adequately emphasize that the determination of ''no adverse effect'' or ''no historic property affected'' must be made in accordance with the requirements of the Section 106 regulation, including consultation. The FHWA and FTA agree and have reworded the definition to emphasize that the Administration must determine, in accordance with the Section 106 regulation, that there is no adverse effect or that no historic property is affected. Another comment recommended language that would allow adverse effects to contributing elements of a historic district to be considered a *de minimis* impact if the historic district, as a whole, is not adversely affected. The FHWA and FTA did not adopt this suggestion because Section 106 policy and regulations define how adverse effects to historic districts are to be considered.

• ''EA''—One comment recommended deleting this definition from the regulation because it is defined in the CEQ's NEPA regulations. The proposed definition is consistent with the CEQ NEPA regulations and is necessary to provide consistency between the FHWA and FTA's Section 4(f) and NEPA regulations.

• ''EIS''—One comment recommended deleting this definition from the regulation because it is defined in the CEQ's NEPA regulations. The proposed definition is consistent with NEPA and the CEQ NEPA regulations and is necessary to provide consistency between the FHWA and FTA's Section 4(f) and NEPA regulations. Another comment asked that this definition define the phrase ''significant impacts on the environment.'' The concept of significant impacts is addressed by CEQ in its NEPA regulations and by various Federal courts in caselaw, and its definition is outside the scope of this rulemaking. The definition of EIS cross-references the NEPA regulations.

• ''Feasible and Prudent Avoidance Alternative''—This definition was the primary impetus for this rulemaking. In section 6009(b) of SAFETEA–LU, Congress directed the U.S. DOT to ''promulgate regulations that clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives'' to using Section 4(f) properties for transportation projects. Because these are fact-specific determinations, the NPRM proposed a definition that requires consideration of the totality of the circumstances and the relative significance of the Section 4(f) property. The definition proposed six factors that could support a determination that there is ''no feasible and prudent avoidance alternative.'' A seventh factor is the accumulation of the other factors, and whether in combination the overall impact is severe.

This definition was the subject of the most comments of any proposed section of the NPRM. The views expressed varied drastically, and a wide variety of revisions were proposed. In general, comments opposed to the proposed definition feared that it was not stringent enough to protect Section 4(f) properties because it involves a balancing test. The definition provided in this final rule addresses this concern by adding the word ''substantially'' to clarify that the balancing test is weighted in favor of avoiding the use of Section 4(f) properties: ''A feasible and prudent avoidance alternative avoids using Section 4(f) property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the Section 4(f) property.'' Another general concern was that the U.S. Supreme Court rejected any type of balancing test in *Overton Park.* After careful consideration, the FHWA and FTA do not agree with this view. In *Overton Park*, the Court instructed that cost, directness of route, and community disruption should not be considered ''on an equal footing with the preservation of parkland.'' 401 U.S. 402 at 412. The NPRM proposed to define a feasible and prudent avoidance alternative as one that ''avoids using Section 4(f) property and does not cause other severe problems of a magnitude that outweighs the importance of protecting the Section 4(f) property. In assessing the importance of protecting the Section 4(f) property, it is appropriate to consider the relative value of the resource to the preservation goals of the statute.'' This definition is consistent with the decision in *Overton Park* because it requires the Administration to take into consideration the importance of protecting the Section 4(f) property. Avoiding the Section 4(f) property is not on equal footing with other concerns but, as the NPRM noted, the consideration of avoidance alternatives must begin with a ''thumb on the scale'' on the side of avoiding the Section 4(f) property. 71 FR 42611, 42613 (2006). Therefore, the definition in this final rule is unchanged from that proposed in the NPRM except for the aforementioned addition of ''substantial'' and a change in reference to ''preservation goals'' to refer to the ''preservation purpose'' in order to emphasize that the statute itself in 49 U.S.C. 303(a) establishes as its purpose ''that special effort should be made to preserve the natural beauty of the countryside and public parks and

recreation lands, wildlife and waterfowl refuges, and historic sites.''

More specific comments and changes are addressed below. One comment opposed the requirement that balancing be performed with a ''thumb on the scale'' in favor of the Section 4(f) property. This comment also opposed the requirement that problems with an avoidance alternative be severe and not easily mitigated before that alternative may be rejected as one that is not prudent and feasible. The requirement that balancing be done with a thumb on the scale is at the very heart of *Overton Park*, the only U.S. Supreme Court case interpreting the application of Section 4(f) at this time. Further, in the conference report accompanying SAFETEA–LU, Congress made clear that the U.S. DOT must set forth factors to be considered and the standards to be applied when determining whether an avoidance alternative is prudent and feasible, and that the factors must adhere to the legal standard set forth in *Overton Park*. H.R. Rep. No. 109–203, at 1057–58 (Conf. Rep.).

The precise term that the NPRM proposed to define was ''feasible and prudent alternative.'' In this final rule, the defined term was changed to ''feasible and prudent avoidance alternative.'' This change was necessary to clarify that Section 4(f) directs the Administration to search for alternatives that avoid using Section 4(f) property. One comment had suggested that we clarify within the definition of ''feasible and prudent alternative'' that the feasible and prudent standard applies to all project alternatives, not only avoidance alternatives. Based on this and other comments we took a close look at the definition and the way in which the term ''feasible and prudent alternative'' was used throughout the NPRM. We found that there were instances in which the use of the term was inconsistent with the definition. This has been corrected throughout the final rule and the definition has been clarified as ''feasible and prudent avoidance alternatives,'' as previously discussed. In responding to the comment, we point out that Section 4(f) itself speaks of a ''feasible and prudent alternative to using that land'', i.e., a feasible and prudent avoidance alternative. (49 U.S.C. 303(c)(1)). As a result, the concept of a feasible and prudent alternative is closely associated with the avoidance of Section 4(f) use.

Several comments suggested that the words ''feasible'' and ''prudent'' be split and defined separately in the final rule because the U.S. Supreme Court had discussed each term separately in *Overton Park.* Therefore, each word has ''a separate and distinct meaning,'' which could become confused by combining them into ''a single concept.'' The FHWA and FTA agree that the comment has merit, and have modified the definition to expand upon the meaning of each specific word in a separate paragraph within the definition of ''feasible and prudent avoidance alternative.'' The two terms were not completely separated into distinct definitions because ''feasible'' and ''prudent'' are two factors that, when combined, constitute a single test. In other words, the key is not whether a particular avoidance alternative is feasible or prudent, but rather whether it is feasible and prudent. That being the case, the agencies believe the regulation should reflect this important link between the terms.

Several comments opposed designating ''severe impacts to environmental resources protected under other Federal statutes'' as a factor in determining prudence. One favored changing the language to require another Federal agency to formally deny a permit under another Federal law before this factor could be considered in rejecting an avoidance alternative. This change was not adopted because there is no indication that Congress intended the Administration to elevate Section 4(f) protection above all other environmental concerns. The FHWA and FTA believe that the factor proposed is a relevant concern for determining the prudence of an avoidance alternative and that the language proposed is adequate. Requiring an applicant to submit permit applications and obtain a formal denial when a regulatory agency has indicated its objections to an avoidance alternative would create additional process and delay that do not necessarily equate to better project development. In addition, there is substantial caselaw supporting the consideration of other environmental concerns.

One comment expressed concern that designating ''additional construction, maintenance, or operational costs of an extraordinary magnitude'' as a factor in determining prudence does not clarify the issue of how much money should be spent to avoid the use of Section 4(f) property. Other comments questioned the requirement that such costs be ''of extraordinary magnitude.'' We understand that deciding what amount constitutes a reasonable public expenditure for avoiding the use of a Section 4(f) property may not be simple. Nevertheless, it is not appropriate to set a single dollar amount or even a percentage of total project cost as the threshold. The decision must take into account multiple factors including the type, function, and significance of the Section 4(f) property. Having multiple factors to weigh, of which cost is but one, should simplify the decision about the prudence of an avoidance alternative. If increased cost alone is the only downside to an avoidance alternative, the preservation purpose of Section 4(f) requires that the increased cost reach an extraordinary magnitude before it would outweigh the protection of Section 4(f) property. Merely a ''substantial cost increase'' is not enough.

One commenter recommended the deletion of the first two sentences of the definition of ''feasible and prudent avoidance alternative'' because the commenter felt that measuring the relative value of a Section 4(f) resource would be difficult and that the language is not consistent with paragraph 774.3(a). The FHWA and FTA decided not to delete these sentences because the regulation does not require the measurement of the relative value. Rather, it states that it is appropriate to consider the relative value of the Section 4(f) resource. Also, the FHWA and FTA do not agree that this definition is inconsistent with paragraph 774.3(a) and are following an explicit directive of Congress in providing a definition that elaborates on the meaning of that paragraph.

One comment advocated that a feasible-and-prudent determination should be based only upon whether the alternative causes an extraordinary level of disruption rather than balancing the relative value of the resource and the preservation purpose of the statute against the drawbacks of the avoidance alternative. The FHWA and FTA decided not to change the definition in response to this comment because we continue to believe that it is appropriate to consider the relative value of the Section 4(f) resource and other resources affected by an avoidance alternative in assessing the importance of protecting the Section 4(f) property.

Many comments questioned the proposed provision allowing the accumulation of multiple drawbacks to be considered cumulatively when assessing the prudence of an avoidance alternative. The FHWA and FTA decided to keep this provision because a substantial body of caselaw supports this approach, and because it allows for prudent transportation decisions that consider the totality of the circumstances surrounding each alternative. In some instances, such as where the Section 4(f) property is of relatively low significance, a series of

drawbacks associated with an avoidance alternative may cumulatively be so severe that it would not be prudent to reject the alternative using the low-quality Section 4(f) property.

Several comments expressed concern with the use of the word ''severe'' in the proposed definition for various reasons, while others supported this terminology. The FHWA and FTA proposed the term ''severe'' as a way to encompass in simpler language, while still providing stringent protection for Section 4(f) properties, the more complex and often confusing language used in Overton Park—i.e., ''unique problems or unusual factors'' and ''extraordinary magnitude.'' There is case law support for the idea that the Supreme Court did not literally intend that those precise terms must be used. We have reviewed each instance, including the context, where the term ''severe'' was used in this definition, and decided to retain the term except in NPRM factor 3 (factor 2 in this final rule) which now states: ''It results in unacceptable safety or operational problems.'' In this factor, the term ''severe'' was replaced with ''unacceptable'' to better reflect the Administration's knowledge of accepted standards and practices for designing safe and functional transportation projects. In the other instances, ''severe'' was retained for the reasons stated above.

One comment was concerned that factors i, ii, and vi in the NPRM's definition of ''feasible and prudent'' are subjective and unnecessary, and that they may be adequately represented in the other factors. This commenter suggested that these three factors be deleted or that guidance be issued as to how they will be applied and by whom. The factors will be applied by the Administration in a manner consistent with this final rule. Additional guidance will be issued in the future if necessary. The first of these factors, whether an alternative can ''be built as a matter of sound engineering judgment,'' defines when an alternative is feasible. This language was first used by the U.S. Supreme Court in *Overton Park* to explain the meaning of ''feasible,'' and was subsequently adopted verbatim by every U.S. Circuit Court that has considered the issue. The FHWA and FTA will leave this factor in the regulatory language because the conference report for SAFETEA–LU states that DOT must adhere to the legal standard set forth in *Overton Park* and this factor was so clearly articulated. Clarifying language was added to the final rule that makes clear the factor defines whether an avoidance alternative is ''feasible''. *See* H.R. Rep. No. 109–203, at 1057–58 (Conf. Rep.).

The second factor of concern to this commenter, whether a project can go forward in a way that meets its purpose and need, is at the heart of why the project is being built. For example, if a primary purpose of the project is to rectify a safety concern, it would not be prudent to choose an avoidance alternative that fails to address the safety issue. The FHWA and FTA will keep this factor because of its importance to meeting the transportation mission of the FHWA and FTA and the clear support in caselaw for eliminating alternatives that do not meet the transportation needs that the project is designed to fulfill. *See*, *e.g.*, *City of Alexandria* v. *Slater*, 198 F.3d 862 (D.C. Cir. 1999).

The final factor of concern to this commenter, whether an avoidance alternative causes ''unique problems or unusual factors,'' was included to ensure that the standard in the regulation is consistent with that set forth by the U.S. Supreme Court in *Overton Park*, which suggested that avoidance alternatives that ''involve unique problems'' could properly be rejected as not prudent.

• ''FONSI''—No comments were received on the proposed definition of ''FONSI'' and it is unchanged in this final rule.

• ''Historic Site''—One comment noted that the NPRM seemed to use the terms ''historic site'' and ''historic property'' interchangeably and suggested that only one be used and that a definition would be helpful. This final rule consistently uses the statutory term ''historic site'' and a definition of ''historic site'' was added to distinguish the term as it is used under Section 4(f) from its use under other statutes. The definition added is consistent with current FHWA and FTA policy and the National Historic Preservation Act. The definition states: ''*Historic Site*. For purposes of this part, the term ''historic site'' includes any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that are included in, or are eligible for inclusion in, the National Register.''

• Official(s) with Jurisdiction—One comment stated that the rule fails to provide clear guidance on the instances in which coordination with, or concurrence of, the officials with jurisdiction is required. The final rule requires coordination with the official(s) with jurisdiction at the following points:

(1) Prior to making Section 4(f) approvals under paragraphs 774.3(a) and 774.5(a);

(2) When determining the least overall harm under paragraph 774.3(c);

(3) When applying certain programmatic Section 4(f) evaluations under paragraph 774.5(c);

(4) When applying Section 4(f) to properties subject to Federal encumbrances under paragraph 774.5(d);

(5) When applying Section 4(f) to archeological sites discovered during construction under paragraph 774.9(e);

(6) When determining if a Section 4(f) property is significant under paragraph 774.11(c);

(7) When determining the application of Section 4(f) to multiple use properties under paragraph 774.11(d);

(8) When determining the applicability of Section 4(f) to historic sites under paragraph 774.11(e);

(9) When determining if there is a constructive use under paragraph 774.15(d);

(10) When determining if proximity impacts will be mitigated to a condition equivalent to, or better than, that which would occur if the project were not built under paragraph 774.15(f)(6); and

(11) When evaluating the reasonableness of measure to minimize harm under paragraph 774.3(a)(2) and Section 774.17.

The final rule published today requires the concurrence of the official(s) with jurisdiction at the following points:

(1) When finding that there are no adverse effects prior to making *de minimis* impact determinations under paragraph 774.5(b);

(2) When applying the exception for restoration, rehabilitation, or maintenance of historic transportation facilities under paragraph 774.13(a);

(3) When applying the exception for archeological sites of minimal value for preservation in place under paragraph 774.13(b);

(4) When applying the exception for temporary occupancies under paragraph 774.13(d); and

(5) When applying the exception for transportation enhancement projects and mitigation activities under paragraph 774.13(g).

The FHWA and FTA gave careful consideration to the statutory language in determining the appropriate role of other agencies within the procedures for granting Section 4(f) approvals. The statute requires consultation with the U.S. Departments of Agriculture, Housing and Urban Development, and

the Interior, but the ultimate responsibility for approving, or not approving, the use of Section 4(f) property is entrusted to the Administration. Although no other coordination is expressly required by the statute, the FHWA and FTA have decided to require consultation or concurrence at the points listed above with all officials with jurisdiction over the impacted properties in order to ensure that Section 4(f) approvals are granted only after careful consideration of all relevant facts.

One comment questioned the role that designated Tribal Historic Preservation Officers (THPOs) have in the Section 4(f) process. A THPO has jurisdiction over historic sites located on tribal land and is therefore an official with jurisdiction over such historic sites. When a project affects a historic site on tribal land, a recognized THPO would be acting in place of the SHPO, not in addition to the SHPO. However, if in this case the tribe in question has no officially recognized THPO, then the SHPO would be an official with jurisdiction in addition to a representative of the tribal government.

Applicants should be mindful of the interest that many tribes hold in properties of religious and cultural significance off tribal lands. Although the final rule does not designate the THPO as an official with jurisdiction over historic properties located off tribal lands, all interested tribes should be identified and consulted under the National Historic Preservation Act. The National Historic Preservation Act calls for the agency official to acknowledge the special expertise of tribes in assessing the National Register eligibility of historic properties that may possess religious and cultural significance to the tribe.

One comment noted that the definition of ''official(s) with jurisdiction'' is unclear in the case of federally designated Wild and Scenic Rivers. Suggested language was provided. We agree that this point should be clarified, and have added a Paragraph (c) to the definition of ''Official(s) with Jurisdiction'' that states: ''In the case of portions of Wild and Scenic Rivers to which Section 4(f) applies, the official(s) with jurisdiction are the official(s) of the Federal agency or agencies that own or administer the affected portion of the river corridor in question. For State administered, federally designated rivers [Section 2(a)(ii) of the Wild and Scenic Rivers Act, 16 U.S.C. 1273(a)(ii)], the officials with jurisdiction include both the State agency designated by the respective Governor and the Secretary of the Interior.'' Paragraph 774.11(g) explains how Section 4(f) applies to designated Wild and Scenic Rivers, and portions thereof.

- '' ROD''—No comments were received on this definition and it is unchanged in this final rule.
- '' Section 4(f) Evaluation''—A definition was added for this term to clarify that a Section 4(f) Evaluation is the documentation prepared to evidence the consideration of feasible and prudent avoidance alternatives when the impacts to a Section 4(f) property resulting from its use are not *de minimis*. The documentation may be a stand-alone document or part of a NEPA document, and it may rely upon information contained in technical studies.
- ''Section 4(f) Property''—A definition was added that incorporates the statutory language.
- ''Use''—One comment recommended that the definition of ''use'' be changed to clarify that a permanent use occurs when land is acquired for permanent incorporation into a transportation facility. The FHWA and FTA believe the proposed definition, which has been a part of the Section 4(f) regulations for many years, is clear as written and has not been the subject of controversy or confusion in the past. Therefore, the FHWA and FTA decline to make the suggested change.

Rulemaking Analyses and Notices

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

We have determined that this action will be a significant regulatory action within the meaning of Executive Order 12866 and will be significant within the meaning of DOT regulatory policies and procedures because of substantial congressional, State and local government, and public interest. Those interests include the receipt of Federal financial support for transportation investments, appropriate compliance with statutory requirements, and balancing of transportation mobility and environmental goals. We anticipate that the direct economic impact of this final rule will be minimal. The clarification of current regulatory requirements is mandated in SAFETEA–LU. We also consider this final rule a means to clarify and reorganize the existing regulatory requirements. These changes will not adversely affect, in a material way, any sector of the economy. In addition, we expect that these changes will not interfere with any action taken or planned by another agency and will not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 60l–612) the agencies have evaluated the effects of this rule on small entities and have determined that the rule will not have a significant economic impact on a substantial number of small entities. This rule does not include any new regulatory burdens that will affect small entities. For this reason, the FHWA and the FTA certify that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $128.1 million or more in any one year (2 U.S.C. 1532).

Executive Order 13132 (Federalism)

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA and the FTA have determined that this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. The agencies have also determined that this rule will not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction; 20.500 *et seq.*, Federal Transit Capital Investment Grants. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to these programs and were carried out in the development of this rule.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA and the FTA have determined that this rule does not contain new collection of

information requirements for the purposes of the PRA.

National Environmental Policy Act

This rule will not have any effect on the quality of the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and is categorically excluded under 23 CFR 771.117(c)(20). The rule is intended to lessen adverse environmental impacts by standardizing and clarifying compliance for Section 4(f), including the incorporation of clear direction to take into account the overall harm of each alternative.

Executive Order 12630 (Taking of Private Property)

We have analyzed this rule under Executive Order 12630, Government Actions and Interface with Constitutionally Protected Property Rights. We do not anticipate that this rule will effect a taking of private property or otherwise have taking implications under Executive Order 12630.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

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

Executive Order 13175 (Tribal Consultation)

We have analyzed this rule under Executive Order 13175, dated November 6, 2000, and believe that the rule will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal laws. The rulemaking addresses obligations of Federal funds to States for Federal-aid highway projects and to public transit agencies for capital transit projects and would not impose any direct compliance requirements on Indian tribal governments. While some historic Section 4(f) properties are eligible for Section 4(f) protection because of their cultural significance to a tribe, the rule does not impose any new consultation or compliance requirements on tribal governments. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, dated May 18, 2001. We have determined that this rule is not a significant energy action because, although it is a significant regulatory action under Executive Order 12866, the rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or you may visit FDMS at *http://www.regulations.gov.*

Regulation Identification Number

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

List of Subjects

23 CFR Part 771

Environmental protection, Grant programs—transportation, Highways and roads, Historic preservation, Mass transportation, Public lands, Recreation areas, Reporting and recordkeeping requirements, Wildlife refuges.

23 CFR Part 774

Environmental protection, Grant programs—transportation, Highways and roads, Historic preservation, Mass transportation, Public lands, Recreation areas, Reporting and recordkeeping requirements, Wildlife refuges.

49 CFR Part 622

Environmental impact statements, Grant programs—transportation, Mass transportation, Reporting and recordkeeping requirements.

Issued on: March 4, 2008.

James D. Ray,

Federal Highway Administrator, Acting Administrator.

James S. Simpson,

Federal Transit Administrator.

■ For the reasons set forth in the preamble, and under the authority of 23 U.S.C. 103(c), 109, 138, and 49 U.S.C. 303, and the delegations of authority at 49 CFR 1.48(b) and 1.51, the FHWA and FTA hereby amend Chapter I of Title 23 and Chapter VI of Title 49, Code of Federal Regulations, as set forth below:

Title 23—Highways

PART 771—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

■ 1. The authority citation for part 771 continues to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; 23 U.S.C. 109, 110, 128, 138 and 315; 49 U.S.C. 303, 5301(e), 5323(b), and 5324; 40 CFR parts 1500 *et seq.*; 49 CFR 1.48(b) and 1.51.

■ 2. Revise § 771.127(a) to read as follows:

§ 771.127 Record of decision.

(a) The Administration will complete and sign a record of decision (ROD) no sooner than 30 days after publication of the final EIS notice in the **Federal Register** or 90 days after publication of a notice for the draft EIS, whichever is later. The ROD will present the basis for the decision as specified in 40 CFR 1505.2, summarize any mitigation measures that will be incorporated in the project and document any required Section 4(f) approval in accordance with part 774 of this chapter. Until any required ROD has been signed, no further approvals may be given except for administrative activities taken to secure further project funding and other activities consistent with 40 CFR 1506.1.

* * * * *

§ 771.135 [Removed]

■ 3. Remove § 771.135.

■ 4. Add part 774 to read as follows:

PART 774—PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES (SECTION 4(F))

Sec.

774.1 Purpose.
774.3 Section 4(f) approvals.

774.5 Coordination.
774.7 Documentation.
774.9 Timing.
774.11 Applicability.
774.13 Exceptions.
774.15 Constructive use determinations.
774.17 Definitions.

Authority: 23 U.S.C. 103(c), 109(h), 138, 325, 326, 327 and 204(h)(2); 49 U.S.C. 303; Section 6009 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. 109–59, Aug. 10, 2005, 119 Stat. 1144); 49 CFR 1.48 and 1.51.

§ 774.1 Purpose.

The purpose of this part is to implement 23 U.S.C. 138 and 49 U.S.C. 303, which were originally enacted as Section 4(f) of the Department of Transportation Act of 1966 and are still commonly referred to as ''Section 4(f).''

§ 774.3 Section 4(f) approvals.

The Administration may not approve the use, as defined in § 774.17, of Section 4(f) property unless a determination is made under paragraph (a) or (b) of this section.

(a) The Administration determines that:

(1) There is no feasible and prudent avoidance alternative, as defined in § 774.17, to the use of land from the property; and

(2) The action includes all possible planning, as defined in § 774.17, to minimize harm to the property resulting from such use; or

(b) The Administration determines that the use of the property, including any measure(s) to minimize harm (such as any avoidance, minimization, mitigation, or enhancement measures) committed to by the applicant, will have a *de minimis* impact, as defined in § 774.17, on the property.

(c) If the analysis in paragraph (a)(1) of this section concludes that there is no feasible and prudent avoidance alternative, then the Administration may approve only the alternative that:

(1) Causes the least overall harm in light of the statute's preservation purpose. The least overall harm is determined by balancing the following factors:

(i) The ability to mitigate adverse impacts to each Section 4(f) property (including any measures that result in benefits to the property);

(ii) The relative severity of the remaining harm, after mitigation, to the protected activities, attributes, or features that qualify each Section 4(f) property for protection;

(iii) The relative significance of each Section 4(f) property;

(iv) The views of the official(s) with jurisdiction over each Section 4(f) property;

(v) The degree to which each alternative meets the purpose and need for the project;

(vi) After reasonable mitigation, the magnitude of any adverse impacts to resources not protected by Section 4(f); and

(vii) Substantial differences in costs among the alternatives.

(2) The alternative selected must include all possible planning, as defined in § 774.17, to minimize harm to Section 4(f) property.

(d) Programmatic Section 4(f) evaluations are a time-saving procedural alternative to preparing individual Section 4(f) evaluations under paragraph (a) of this section for certain minor uses of Section 4(f) property. Programmatic Section 4(f) evaluations are developed by the Administration based on experience with a specific set of conditions that includes project type, degree of use and impact, and evaluation of avoidance alternatives.[1] An approved programmatic Section 4(f) evaluation may be relied upon to cover a particular project only if the specific conditions in the programmatic evaluation are met

(1) The determination whether a programmatic Section 4(f) evaluation applies to the use of a specific Section 4(f) property shall be documented as specified in the applicable programmatic Section 4(f) evaluation.

(2) The Administration may develop additional programmatic Section 4(f) evaluations. Proposed new or revised programmatic Section 4(f) evaluations will be coordinated with the Department of Interior, Department of Agriculture, and Department of Housing and Urban Development, and published in the **Federal Register** for comment prior to being finalized. New or revised programmatic Section 4(f) evaluations shall be reviewed for legal sufficiency and approved by the Headquarters Office of the Administration.

(e) The coordination requirements in § 774.5 must be completed before the Administration may make Section 4(f) approvals under this section. Requirements for the documentation and timing of Section 4(f) approvals are located in §§ 774.7 and 774.9, respectively.

[1] FHWA has issued five programmatic Section 4(f) evaluations: (1) Final Nationwide Programmatic Section 4(f) Evaluation and Determination for Federal-Aid Transportation Projects That Have a Net Benefit to a Section 4(f) Property; (2) Nationwide Section 4(f) Evaluations and Approvals for Federally-Aided Highway Projects With Minor Involvement With Public Parks, Recreation Lands, Wildlife and Waterfowl Refuges, and Historic Sites; (3) Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects With Minor Involvements With Historic Sites; (4) Historic Bridges; Programmatic Section 4(f) Evaluation and Approval; and (5) Section 4(f) Statement and Determination for Independent Bikeway or Walkway Construction Projects.

§ 774.5 Coordination.

(a) Prior to making Section 4(f) approvals under § 774.3(a), the Section 4(f) evaluation shall be provided for coordination and comment to the official(s) with jurisdiction over the Section 4(f) resource and to the Department of the Interior, and as appropriate to the Department of Agriculture and the Department of Housing and Urban Development. The Administration shall provide a minimum of 45 days for receipt of comments. If comments are not received within 15 days after the comment deadline, the Administration may assume a lack of objection and proceed with the action.

(b) Prior to making *de minimis* impact determinations under § 774.3(b), the following coordination shall be undertaken:

(1) For historic properties:

(i) The consulting parties identified in accordance with 36 CFR part 800 must be consulted; and

(ii) The Administration must receive written concurrence from the pertinent State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO), and from the Advisory Council on Historic Preservation (ACHP) if participating in the consultation process, in a finding of ''no adverse effect'' or ''no historic properties affected'' in accordance with 36 CFR part 800. The Administration shall inform these officials of its intent to make a *de minimis* impact determination based on their concurrence in the finding of ''no adverse effect'' or ''no historic properties affected.''

(iii) Public notice and comment, beyond that required by 36 CFR part 800, is not required.

(2) For parks, recreation areas, and wildlife and waterfowl refuges:

(i) Public notice and an opportunity for public review and comment concerning the effects on the protected activities, features, or attributes of the property must be provided. This requirement can be satisfied in conjunction with other public involvement procedures, such as a comment period provided on a NEPA document.

(ii) The Administration shall inform the official(s) with jurisdiction of its intent to make a *de minimis* impact finding. Following an opportunity for public review and comment as described in paragraph (b)(2)(i) of this section, the official(s) with jurisdiction

over the Section 4(f) resource must concur in writing that the project will not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection. This concurrence may be combined with other comments on the project provided by the official(s).

(c) The application of a programmatic Section 4(f) evaluation to the use of a specific Section 4(f) property under § 774.3(d)(1) shall be coordinated as specified in the applicable programmatic Section 4(f) evaluation.

(d) When Federal encumbrances on Section 4(f) property are identified, coordination with the appropriate Federal agency is required to ascertain the agency's position on the proposed impact, as well as to determine if any other Federal requirements may apply to converting the Section 4(f) land to a different function. Any such requirements must be satisfied, independent of the Section 4(f) approval.

§ 774.7 Documentation.

(a) A Section 4(f) evaluation prepared under § 774.3(a) shall include sufficient supporting documentation to demonstrate why there is no feasible and prudent avoidance alternative and shall summarize the results of all possible planning to minimize harm to the Section 4(f) property.

(b) A *de minimis* impact determination under § 774.3(b) shall include sufficient supporting documentation to demonstrate that the impacts, after avoidance, minimization, mitigation, or enhancement measures are taken into account, are *de minimis* as defined in § 774.17; and that the coordination required in § 774.5(b) has been completed.

(c) If there is no feasible and prudent avoidance alternative the Administration may approve only the alternative that causes the least overall harm in accordance with § 774.3(c). This analysis must be documented in the Section 4(f) evaluation.

(d) The Administration shall review all Section 4(f) approvals under §§ 774.3(a) and 774.3(c) for legal sufficiency.

(e) A Section 4(f) approval may involve different levels of detail where the Section 4(f) involvement is addressed in a tiered EIS under § 771.111(g) of this chapter.

(1) When the first-tier, broad-scale EIS is prepared, the detailed information necessary to complete the Section 4(f) approval may not be available at that stage in the development of the action. In such cases, the documentation should address the potential impacts that a proposed action will have on Section 4(f) property and whether those impacts could have a bearing on the decision to be made. A preliminary Section 4(f) approval may be made at this time as to whether the impacts resulting from the use of a Section 4(f) property are *de minimis* or whether there are feasible and prudent avoidance alternatives. This preliminary approval shall include all possible planning to minimize harm to the extent that the level of detail available at the first-tier EIS stage allows. It is recognized that such planning at this stage may be limited to ensuring that opportunities to minimize harm at subsequent stages in the development process have not been precluded by decisions made at the first-tier stage. This preliminary Section 4(f) approval is then incorporated into the first-tier EIS.

(2) The Section 4(f) approval will be finalized in the second-tier study. If no new Section 4(f) use, other than a *de minimis* impact, is identified in the second-tier study and if all possible planning to minimize harm has occurred, then the second-tier Section 4(f) approval may finalize the preliminary approval by reference to the first-tier documentation. Re-evaluation of the preliminary Section 4(f) approval is only needed to the extent that new or more detailed information available at the second-tier stage raises new Section 4(f) concerns not already considered.

(3) The final Section 4(f) approval may be made in the second-tier CE, EA, final EIS, ROD or FONSI.

(f) In accordance with §§ 771.105(a) and 771.133 of this chapter, the documentation supporting a Section 4(f) approval should be included in the EIS, EA, or for a project classified as a CE, in a separate document. If the Section 4(f) documentation cannot be included in the NEPA document, then it shall be presented in a separate document. The Section 4(f) documentation shall be developed by the applicant in cooperation with the Administration.

§ 774.9 Timing.

(a) The potential use of land from a Section 4(f) property shall be evaluated as early as practicable in the development of the action when alternatives to the proposed action are under study.

(b) Except as provided in paragraph (c) of this section, for actions processed with EISs the Administration will make the Section 4(f) approval either in the final EIS or in the ROD. Where the Section 4(f) approval is documented in the final EIS, the Administration will summarize the basis for its Section 4(f) approval in the ROD. Actions requiring the use of Section 4(f) property, and proposed to be processed with a FONSI or classified as a CE, shall not proceed until notification by the Administration of Section 4(f) approval.

(c) After the CE, FONSI, or ROD has been processed, a separate Section 4(f) approval will be required, except as provided in § 774.13, if:

(1) A proposed modification of the alignment or design would require the use of Section 4(f) property; or

(2) The Administration determines that Section 4(f) applies to the use of a property; or

(3) A proposed modification of the alignment, design, or measures to minimize harm (after the original Section 4(f) approval) would result in a substantial increase in the amount of Section 4(f) property used, a substantial increase in the adverse impacts to Section 4(f) property, or a substantial reduction in the measures to minimize harm.

(d) A separate Section 4(f) approval required under paragraph (c) of this section will not necessarily require the preparation of a new or supplemental NEPA document. If a new or supplemental NEPA document is also required under § 771.130 of this chapter, then it should include the documentation supporting the separate Section 4(f) approval. Where a separate Section 4(f) approval is required, any activity not directly affected by the separate Section 4(f) approval can proceed during the analysis, consistent with § 771.130(f) of this chapter.

(e) Section 4(f) may apply to archeological sites discovered during construction, as set forth in § 774.11(f). In such cases, the Section 4(f) process will be expedited and any required evaluation of feasible and prudent avoidance alternatives will take account of the level of investment already made. The review process, including the consultation with other agencies, will be shortened as appropriate.

§ 774.11 Applicability.

(a) The Administration will determine the applicability of Section 4(f) in accordance with this part.

(b) When another Federal agency is the Federal lead agency for the NEPA process, the Administration shall make any required Section 4(f) approvals unless the Federal lead agency is another U.S. DOT agency.

(c) Consideration under Section 4(f) is not required when the official(s) with jurisdiction over a park, recreation area, or wildlife and waterfowl refuge determine that the property, considered in its entirety, is not significant. In the absence of such a determination, the

Section 4(f) property will be presumed to be significant. The Administration will review a determination that a park, recreation area, or wildlife and waterfowl refuge is not significant to assure its reasonableness.

(d) Where Federal lands or other public land holdings (e.g., State forests) are administered under statutes permitting management for multiple uses, and, in fact, are managed for multiple uses, Section 4(f) applies only to those portions of such lands which function for, or are designated in the plans of the administering agency as being for, significant park, recreation, or wildlife and waterfowl refuge purposes. The determination of which lands so function or are so designated, and the significance of those lands, shall be made by the official(s) with jurisdiction over the Section 4(f) resource. The Administration will review this determination to assure its reasonableness.

(e) In determining the applicability of Section 4(f) to historic sites, the Administration, in cooperation with the applicant, will consult with the official(s) with jurisdiction to identify all properties on or eligible for the National Register of Historic Places (National Register). The Section 4(f) requirements apply to historic sites on or eligible for the National Register unless the Administration determines that an exception under § 774.13 applies.

(1) The Section 4(f) requirements apply only to historic sites on or eligible for the National Register unless the Administration determines that the application of Section 4(f) is otherwise appropriate.

(2) The Interstate System is not considered to be a historic site subject to Section 4(f), with the exception of those individual elements of the Interstate System formally identified by FHWA for Section 4(f) protection on the basis of national or exceptional historic significance.

(f) Section 4(f) applies to all archeological sites on or eligible for inclusion on the National Register, including those discovered during construction, except as set forth in § 774.13(b).

(g) Section 4(f) applies to those portions of federally designated Wild and Scenic Rivers that are otherwise eligible as historic sites, or that are publicly owned and function as, or are designated in a management plan as, a significant park, recreation area, or wildlife and waterfowl refuge. All other applicable requirements of the Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287, must be satisfied, independent of the Section 4(f) approval.

(h) When a property formally reserved for a future transportation facility temporarily functions for park, recreation, or wildlife and waterfowl refuge purposes in the interim, the interim activity, regardless of duration, will not subject the property to Section 4(f).

(i) When a property is formally reserved for a future transportation facility before or at the same time a park, recreation area, or wildlife and waterfowl refuge is established and concurrent or joint planning or development of the transportation facility and the Section 4(f) resource occurs, then any resulting impacts of the transportation facility will not be considered a use as defined in § 774.17. Examples of such concurrent or joint planning or development include, but are not limited to:

(1) Designation or donation of property for the specific purpose of such concurrent development by the entity with jurisdiction or ownership of the property for both the potential transportation facility and the Section 4(f) property; or

(2) Designation, donation, planning, or development of property by two or more governmental agencies with jurisdiction for the potential transportation facility and the Section 4(f) property, in consultation with each other.

§ 774.13 Exceptions.

The Administration has identified various exceptions to the requirement for Section 4(f) approval. These exceptions include, but are not limited to:

(a) Restoration, rehabilitation, or maintenance of transportation facilities that are on or eligible for the National Register when:

(1) The Administration concludes, as a result of the consultation under 36 CFR 800.5, that such work will not adversely affect the historic qualities of the facility that caused it to be on or eligible for the National Register, and

(2) The official(s) with jurisdiction over the Section 4(f) resource have not objected to the Administration conclusion in paragraph (a)(1) of this section.

(b) Archeological sites that are on or eligible for the National Register when:

(1) The Administration concludes that the archeological resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place. This exception applies both to situations where data recovery is undertaken and where the Administration decides, with agreement of the official(s) with jurisdiction, not to recover the resource; and

(2) The official(s) with jurisdiction over the Section 4(f) resource have been consulted and have not objected to the Administration finding in paragraph (b)(1) of this section.

(c) Designations of park and recreation lands, wildlife and waterfowl refuges, and historic sites that are made, or determinations of significance that are changed, late in the development of a proposed action. With the exception of the treatment of archeological resources in § 774.9(e), the Administration may permit a project to proceed without consideration under Section 4(f) if the property interest in the Section 4(f) land was acquired for transportation purposes prior to the designation or change in the determination of significance and if an adequate effort was made to identify properties protected by Section 4(f) prior to acquisition. However, if it is reasonably foreseeable that a property would qualify as eligible for the National Register prior to the start of construction, then the property should be treated as a historic site for the purposes of this section.

(d) Temporary occupancies of land that are so minimal as to not constitute a use within the meaning of Section 4(f). The following conditions must be satisfied:

(1) Duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land;

(2) Scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the Section 4(f) property are minimal;

(3) There are no anticipated permanent adverse physical impacts, nor will there be interference with the protected activities, features, or attributes of the property, on either a temporary or permanent basis;

(4) The land being used must be fully restored, i.e., the property must be returned to a condition which is at least as good as that which existed prior to the project; and

(5) There must be documented agreement of the official(s) with jurisdiction over the Section 4(f) resource regarding the above conditions.

(e) Park road or parkway projects under 23 U.S.C. 204.

(f) Certain trails, paths, bikeways, and sidewalks, in the following circumstances:

(1) Trail-related projects funded under the Recreational Trails Program, 23 U.S.C. 206(h)(2);

(2) National Historic Trails and the Continental Divide National Scenic Trail, designated under the National Trails System Act, 16 U.S.C. 1241–1251, with the exception of those trail segments that are historic sites as defined in § 774.17;

(3) Trails, paths, bikeways, and sidewalks that occupy a transportation facility right-of-way without limitation to any specific location within that right-of-way, so long as the continuity of the trail, path, bikeway, or sidewalk is maintained; and

(4) Trails, paths, bikeways, and sidewalks that are part of the local transportation system and which function primarily for transportation.

(g) Transportation enhancement projects and mitigation activities, where:

(1) The use of the Section 4(f) property is solely for the purpose of preserving or enhancing an activity, feature, or attribute that qualifies the property for Section 4(f) protection; and

(2) The official(s) with jurisdiction over the Section 4(f) resource agrees in writing to paragraph (g)(1) of this section.

§ 774.15 Constructive use determinations.

(a) A constructive use occurs when the transportation project does not incorporate land from a Section 4(f) property, but the project's proximity impacts are so severe that the protected activities, features, or attributes that qualify the property for protection under Section 4(f) are substantially impaired. Substantial impairment occurs only when the protected activities, features, or attributes of the property are substantially diminished.

(b) If the project results in a constructive use of a nearby Section 4(f) property, the Administration shall evaluate that use in accordance with § 774.3(a).

(c) The Administration shall determine when there is a constructive use, but the Administration is not required to document each determination that a project would not result in a constructive use of a nearby Section 4(f) property. However, such documentation may be prepared at the discretion of the Administration.

(d) When a constructive use determination is made, it will be based upon the following:

(1) Identification of the current activities, features, or attributes of the property which qualify for protection under Section 4(f) and which may be sensitive to proximity impacts;

(2) An analysis of the proximity impacts of the proposed project on the Section 4(f) property. If any of the proximity impacts will be mitigated, only the net impact need be considered in this analysis. The analysis should also describe and consider the impacts which could reasonably be expected if the proposed project were not implemented, since such impacts should not be attributed to the proposed project; and

(3) Consultation, on the foregoing identification and analysis, with the official(s) with jurisdiction over the Section 4(f) property.

(e) The Administration has reviewed the following situations and determined that a constructive use occurs when:

(1) The projected noise level increase attributable to the project substantially interferes with the use and enjoyment of a noise-sensitive facility of a property protected by Section 4(f), such as:

(i) Hearing the performances at an outdoor amphitheater;

(ii) Sleeping in the sleeping area of a campground;

(iii) Enjoyment of a historic site where a quiet setting is a generally recognized feature or attribute of the site's significance;

(iv) Enjoyment of an urban park where serenity and quiet are significant attributes; or

(v) Viewing wildlife in an area of a wildlife and waterfowl refuge intended for such viewing.

(2) The proximity of the proposed project substantially impairs esthetic features or attributes of a property protected by Section 4(f), where such features or attributes are considered important contributing elements to the value of the property. Examples of substantial impairment to visual or esthetic qualities would be the location of a proposed transportation facility in such proximity that it obstructs or eliminates the primary views of an architecturally significant historical building, or substantially detracts from the setting of a Section 4(f) property which derives its value in substantial part due to its setting;

(3) The project results in a restriction of access which substantially diminishes the utility of a significant publicly owned park, recreation area, or a historic site;

(4) The vibration impact from construction or operation of the project substantially impairs the use of a Section 4(f) property, such as projected vibration levels that are great enough to physically damage a historic building or substantially diminish the utility of the building, unless the damage is repaired and fully restored consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, i.e., the integrity of the contributing features must be returned to a condition which is substantially similar to that which existed prior to the project; or

(5) The ecological intrusion of the project substantially diminishes the value of wildlife habitat in a wildlife and waterfowl refuge adjacent to the project, substantially interferes with the access to a wildlife and waterfowl refuge when such access is necessary for established wildlife migration or critical life cycle processes, or substantially reduces the wildlife use of a wildlife and waterfowl refuge.

(f) The Administration has reviewed the following situations and determined that a constructive use does not occur when:

(1) Compliance with the requirements of 36 CFR 800.5 for proximity impacts of the proposed action, on a site listed on or eligible for the National Register, results in an agreement of ''no historic properties affected'' or ''no adverse effect;''

(2) The impact of projected traffic noise levels of the proposed highway project on a noise-sensitive activity do not exceed the FHWA noise abatement criteria as contained in Table 1 in part 772 of this chapter, or the projected operational noise levels of the proposed transit project do not exceed the noise impact criteria for a Section 4(f) activity in the FTA guidelines for transit noise and vibration impact assessment;

(3) The projected noise levels exceed the relevant threshold in paragraph (f)(2) of this section because of high existing noise, but the increase in the projected noise levels if the proposed project is constructed, when compared with the projected noise levels if the project is not built, is barely perceptible (3 dBA or less);

(4) There are proximity impacts to a Section 4(f) property, but a governmental agency's right-of-way acquisition or adoption of project location, or the Administration's approval of a final environmental document, established the location for the proposed transportation project before the designation, establishment, or change in the significance of the property. However, if it is reasonably foreseeable that a property would qualify as eligible for the National Register prior to the start of construction, then the property should be treated as a historic site for the purposes of this section; or

(5) Overall (combined) proximity impacts caused by a proposed project do not substantially impair the activities, features, or attributes that qualify a property for protection under Section 4(f);

(6) Proximity impacts will be mitigated to a condition equivalent to, or better than, that which would occur if the project were not built, as determined after consultation with the official(s) with jurisdiction;

(7) Change in accessibility will not substantially diminish the utilization of the Section 4(f) property; or

(8) Vibration levels from project construction activities are mitigated, through advance planning and monitoring of the activities, to levels that do not cause a substantial impairment of protected activities, features, or attributes of the Section 4(f) property.

§ 774.17 Definitions.

The definitions contained in 23 U.S.C. 101(a) are applicable to this part. In addition, the following definitions apply:

Administration. The FHWA or FTA, whichever is making the approval for the transportation program or project at issue. A reference herein to the Administration means the State when the State is functioning as the FHWA or FTA in carrying out responsibilities delegated or assigned to the State in accordance with 23 U.S.C. 325, 326, 327, or other applicable law.

All possible planning. All possible planning means that all reasonable measures identified in the Section 4(f) evaluation to minimize harm or mitigate for adverse impacts and effects must be included in the project.

(1) With regard to public parks, recreation areas, and wildlife and waterfowl refuges, the measures may include (but are not limited to): design modifications or design goals; replacement of land or facilities of comparable value and function; or monetary compensation to enhance the remaining property or to mitigate the adverse impacts of the project in other ways.

(2) With regard to historic sites, the measures normally serve to preserve the historic activities, features, or attributes of the site as agreed by the Administration and the official(s) with jurisdiction over the Section 4(f) resource in accordance with the consultation process under 36 CFR part 800.

(3) In evaluating the reasonableness of measures to minimize harm under § 774.3(a)(2), the Administration will consider the preservation purpose of the statute and:

(i) The views of the official(s) with jurisdiction over the Section 4(f) property;

(ii) Whether the cost of the measures is a reasonable public expenditure in light of the adverse impacts of the project on the Section 4(f) property and the benefits of the measure to the property, in accordance with § 771.105(d) of this chapter; and

(iii) Any impacts or benefits of the measures to communities or environmental resources outside of the Section 4(f) property.

(4) All possible planning does not require analysis of feasible and prudent avoidance alternatives, since such analysis will have already occurred in the context of searching for feasible and prudent alternatives that avoid Section 4(f) properties altogether under § 774.3(a)(1), or is not necessary in the case of a *de minimis* impact determination under § 774.3(b).

(5) A *de minimis* impact determination under § 774.3(b) subsumes the requirement for all possible planning to minimize harm by reducing the impacts on the Section 4(f) property to a *de minimis* level.

Applicant. The Federal, State, or local government authority, proposing a transportation project, that the Administration works with to conduct environmental studies and prepare environmental documents. For transportation actions implemented by the Federal government on Federal lands, the Administration or the Federal land management agency may take on the responsibilities of the applicant described herein.

CE. Refers to a Categorical Exclusion, which denotes an action with no individual or cumulative significant environmental effect pursuant to 40 CFR 1508.4 and § 771.117 of this chapter; unusual circumstances are taken into account in making categorical exclusion determinations.

De minimis impact. (1) For historic sites, *de minimis* impact means that the Administration has determined, in accordance with 36 CFR part 800 that no historic property is affected by the project or that the project will have ''no adverse effect'' on the historic property in question.

(2) For parks, recreation areas, and wildlife and waterfowl refuges, a *de minimis* impact is one that will not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f).

EA. Refers to an Environmental Assessment, which is a document prepared pursuant to 40 CFR parts 1500–1508 and § 771.119 of this title for a proposed project that is not categorically excluded but for which an EIS is not clearly required.

EIS. Refers to an Environmental Impact Statement, which is a document prepared pursuant to NEPA, 40 CFR parts 1500–1508, and §§ 771.123 and 771.125 of this chapter for a proposed project that is likely to cause significant impacts on the environment.

Feasible and prudent avoidance alternative. (1) A feasible and prudent avoidance alternative avoids using Section 4(f) property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the Section 4(f) property. In assessing the importance of protecting the Section 4(f) property, it is appropriate to consider the relative value of the resource to the preservation purpose of the statute.

(2) An alternative is not feasible if it cannot be built as a matter of sound engineering judgment.

(3) An alternative is not prudent if:

(i) It compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need;

(ii) It results in unacceptable safety or operational problems;

(iii) After reasonable mitigation, it still causes:

(A) Severe social, economic, or environmental impacts;

(B) Severe disruption to established communities;

(C) Severe disproportionate impacts to minority or low income populations; or

(D) Severe impacts to environmental resources protected under other Federal statutes;

(iv) It results in additional construction, maintenance, or operational costs of an extraordinary magnitude;

(v) It causes other unique problems or unusual factors; or

(vi) It involves multiple factors in paragraphs (3)(i) through (3)(v) of this definition, that while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude.

FONSI. Refers to a Finding of No Significant Impact prepared pursuant to 40 CFR 1508.13 and § 771.121 of this chapter.

Historic site. For purposes of this part, the term ''historic site'' includes any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that are included in, or are eligible for inclusion in, the National Register.

Official(s) with jurisdiction. (1) In the case of historic properties, the official with jurisdiction is the SHPO for the State wherein the property is located or, if the property is located on tribal land,

the THPO. If the property is located on tribal land but the Indian tribe has not assumed the responsibilities of the SHPO as provided for in the National Historic Preservation Act, then a representative designated by such Indian tribe shall be recognized as an official with jurisdiction in addition to the SHPO. When the ACHP is involved in a consultation concerning a property under Section 106 of the NHPA, the ACHP is also an official with jurisdiction over that resource for purposes of this part. When the Section 4(f) property is a National Historic Landmark, the National Park Service is also an official with jurisdiction over that resource for purposes of this part.

(2) In the case of public parks, recreation areas, and wildlife and waterfowl refuges, the official(s) with jurisdiction are the official(s) of the agency or agencies that own or administer the property in question and who are empowered to represent the agency on matters related to the property.

(3) In the case of portions of Wild and Scenic Rivers to which Section 4(f) applies, the official(s) with jurisdiction are the official(s) of the Federal agency or agencies that own or administer the affected portion of the river corridor in question. For State administered, federally designated rivers (section 2(a)(ii) of the Wild and Scenic Rivers Act, 16 U.S.C. 1273(a)(ii)), the officials with jurisdiction include both the State agency designated by the respective Governor and the Secretary of the Interior.

ROD. Refers to a Record of Decision prepared pursuant to 40 CFR 1505.2 and § 771.127 of this chapter.

Section 4(f) evaluation. Refers to the documentation prepared to support the granting of a Section 4(f) approval under § 774.3(a), unless preceded by the word ''programmatic.'' A ''programmatic Section 4(f) evaluation'' is the documentation prepared pursuant to § 774.3(d) that authorizes subsequent project-level Section 4(f) approvals as described therein.

Section 4(f) Property. Section 4(f) property means publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance.

Use. Except as set forth in §§ 774.11 and 774.13, a ''use'' of Section 4(f) property occurs:

(1) When land is permanently incorporated into a transportation facility;

(2) When there is a temporary occupancy of land that is adverse in terms of the statute's preservation purpose as determined by the criteria in § 774.13(d); or

(3) When there is a constructive use of a Section 4(f) property as determined by the criteria in § 774.15.

Federal Transit Administration

Title 49—Transportation

CHAPTER VI—FEDERAL TRANSIT ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 622—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

■ 5. Revise the authority citation for Subpart A to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; 49 U.S.C. 303, 5301(e), 5323(b), and 5324; Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. 109–59, Aug. 10, 2005, 119 Stat. 1144); 40 CFR parts 1500 *et seq.*; 49 CFR 1.51.

■ 6. Revise § 622.101 to read as follows:

Subpart A—Environmental Procedures

§ 622.101 Cross-reference to procedures.

The procedures for complying with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and related statutes, regulations, and orders are set forth in part 771 of title 23 of the Code of Federal Regulations. The procedures for complying with 49 U.S.C. 303, commonly known as ''Section 4(f),'' are set forth in part 774 of title 23 of the Code of Federal Regulations.

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Part IV

Securities and Exchange Commission

17 CFR Parts 230, 239, 240 and 249
Foreign Issuer Reporting Enhancements; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 240 and 249

[Release Nos. 33–8900; 34–57409; International Series Release No. 1308; File No. S7–05–08]

RIN 3235–AK03

Foreign Issuer Reporting Enhancements

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to forms and rules.

SUMMARY: We are proposing a number of changes to our rules relating to foreign private issuers that are intended to improve the accessibility of the U.S. public capital markets to these issuers, as well as to enhance the information that is available to investors. These amendments are part of a series of initiatives that seek to address changes in our disclosure and other requirements applicable to foreign private issuers in light of market developments, new technologies and other matters in a manner that promotes investor protection, cross-border capital flows and the elimination of unnecessary barriers to our capital markets. We are proposing amendments that would enable foreign issuers to test their qualification to use the forms and rules available to foreign private issuers once a year, rather than continuously. We are also proposing amendments to change the deadline for annual reports filed by foreign private issuers and to eliminate an option under which foreign private issuers are permitted to omit segment data from their U.S. GAAP financial statements, and an amendment to the rule pertaining to going private transactions to reflect the new termination of reporting and deregistration rules for foreign private issuers. In addition, we are soliciting comment on proposals that would revise the annual report and registration statement forms used by foreign private issuers to improve certain disclosures provided in these forms.

DATES: Comments should be received on or before May 12, 2008.

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

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number S7–05–08 on the subject line; or
- Use the Federal Rulemaking ePortal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

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 S7–05–08. The file number should be included on the subject line if e-mail is used. To help us 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/proposed/shtml*). Comments are also available for public 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. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Felicia H. Kung, Senior Special Counsel, Office of International Corporate Finance, Division of Corporation Finance, at (202) 551–3450, or Craig Olinger, Deputy Chief Accountant, Division of Corporation Finance, at (202) 551–3400, or Katrina A. Kimpel, Professional Accounting Fellow, Office of the Chief Accountant, at (202) 551–5300, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3628.

SUPPLEMENTARY INFORMATION: We are proposing amendments to Rule 405 [1] of Regulation C,[2] Form F–1,[3] Form F–3 [4] and Form F–4 [5] under the Securities Act of 1933 (''Securities Act''),[6] Form 20–F [7] under the Securities Exchange Act of 1934 (''Exchange Act''),[8] and Exchange Act Rules 3b–4,[9] 13a–10,[10] 13e–3,[11] and 15d–10.[12] Our proposed amendments would: (1) Permit foreign issuers to test their qualification to use the forms and rules available to foreign private issuers on an annual basis, rather than on the continuous basis that is currently required; (2) Accelerate the filing deadline for annual reports filed on Form 20–F by foreign private issuers under the Exchange Act by shortening the filing deadline from 6 months to within 90 days after the foreign private issuer's fiscal year-end in the case of large accelerated and accelerated filers, and to within 120 days after a foreign private issuer's fiscal year-end for all other issuers, after a two-year transition period; (3) Eliminate an instruction to Item 17 of Form 20–F that permits certain foreign private issuers to omit segment data from their U.S. GAAP financial statements; and (4) Amend Rule 13e–3 under the Securities Exchange Act by adding cross-references to the new termination of reporting and deregistration rules for foreign private issuers.

In addition, we are soliciting comments on proposals to: (5) Require foreign private issuers that are required to provide a U.S. GAAP reconciliation to do so pursuant to Item 18 of Form 20–F; (6) Amend Form 20–F to require foreign private issuers to disclose information about changes in the issuer's certifying accountant, the fees and charges paid by holders of American Depositary Receipts, the payments made by the depositary to the foreign issuer whose securities underlie the American Depositary Receipts, and, for listed issuers, the differences in the foreign private issuer's corporate governance practices and those applicable to domestic companies under the relevant exchange's listing rules; and (7) Require foreign private issuers to provide certain financial information in annual reports on Form 20–F about a significant, completed acquisition that is significant at the 50% or greater level.

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[1] 17 CFR 230.405.
[2] 17 CFR 230.400 *et seq.*
[3] 17 CFR 239.31.
[4] 17 CFR 239.33.
[5] 17 CFR 239.34.
[6] 15 U.S.C. 77a *et seq.*
[7] 17 CFR 249.220f.
[8] 15 U.S.C. 78a *et seq.*
[9] 17 CFR 240.3b-4.
[10] 17 CFR 240.13a-10.
[11] 17 CFR 240.13e-3.
[12] 17 CFR 240.15d-10.

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I. Overview of the Proposed Amendments

When the Commission adopted Form 20–F in 1979,[13] the form used by foreign private issuers [14] to register a class of securities under the Exchange Act and to file annual reports,[15] we indicated our basic philosophy that U.S. investors should be provided with information that is equal ''as nearly as possible and practicable'' to that provided by domestic issuers in our markets.[16] Our objective in adopting Form 20–F was to place the disclosures required of foreign private issuers on a more equal footing to that required of domestic issuers. At the same time, we acknowledged that differences in the national laws and accounting regulations applicable to foreign private issuers should be considered when establishing disclosure requirements for foreign private issuers.[17] As a result, we provided certain disclosure accommodations in Form 20–F, although we indicated that our assessment of the appropriate disclosure requirements for foreign private issuers was part of an ongoing evolutionary process.[18]

In the nearly thirty years since the adoption of Form 20–F, there has been a movement toward greater international agreement on the accounting and other non-financial statement disclosures that should be provided by issuers. Last December, we published rules to permit foreign private issuers to file financial statements with the Commission that comply with International Financial Reporting Standards (IFRS), as issued by the International Accounting Standards Board (IASB), without reconciliation to generally accepted accounting principles (GAAP) used in the United States.[19] These rules support the efforts of the IASB and the Financial Accounting Standards Board (FASB) to converge their accounting standards. In addition, through the efforts of the International Organization of Securities Commissions (IOSCO),[20] securities regulators around the world are increasingly requiring the same types of disclosures in prospectuses used for public offerings and listings in their securities markets. In 1998, the IOSCO Technical Committee published the *International Disclosure Standards for Cross-Border Offerings and Initial Listings by Foreign Issuers* [21] (''*International Equity Disclosure Standards*''), which pertains to prospectuses prepared by foreign issuers for public offerings and listings of equity securities. The Commission explicitly incorporated all of the *International Equity Disclosure Standards* into Form 20–F, effective in 2000.[22] Other members of IOSCO have also based their prospectus requirements on the *International Equity Disclosure Standards.*

At the same time, we remain fully committed to facilitating cross-border capital flows and eliminating inadvertent barriers to our capital markets. In March 2007, we adopted rules that made it easier for foreign private issuers to terminate their reporting obligations and deregister their securities.[23] We adopted these rules out of concern that the burdens and uncertainties associated with terminating their registration and reporting obligations under the Exchange Act could serve as a disincentive to foreign private issuers accessing the U.S. public capital markets.[24] As noted previously, we adopted rules last December to permit foreign private issuers to file financial statements with the Commission that are prepared in accordance with IFRS, as issued by the IASB, without reconciliation to U.S. GAAP. In our implementation of the provisions of the Sarbanes-Oxley Act of 2002,[25] we also provided several accommodations to foreign private issuers. For example, we permitted foreign private issuers to comply with the requirement to include in their annual reports management's report on the company's internal control over financial reporting and the auditor's attestation on a delayed basis compared to some domestic issuers.[26] Foreign private issuers are also permitted to report changes in their internal controls over financial reporting on an annual basis, rather than on a quarterly basis as is required of domestic issuers.[27] In addition, with respect to the audit committee independence requirements under Section 301 of the Sarbanes-Oxley Act, foreign private issuers listed on U.S. exchanges were accorded certain accommodations that recognized non-U.S. practices and requirements.[28] More recently, in a companion release,[29] we are proposing amendments to Exchange Act Rule 12g3–2(b) [30] to modify the availability of this exemption from registration under Section 12(g) [31] of the Exchange Act for foreign private issuers, so that a qualified foreign private issuer that meets specified conditions can claim the exemption automatically

[13] Release No. 34–16371 (Nov. 29, 1979) [44 FR 70132] (hereinafter ''Form 20–F Adopting Release'').

[14] The definition for ''foreign private issuer'' is contained in Exchange Act Rule 3b–4(c). A foreign private issuer is any foreign issuer other than a foreign government, except for an issuer that (1) has more than 50% of its outstanding voting securities held of record by U.S. residents and (2) any of the following: (i) *A* majority of its officers and directors are citizens or residents of the United States, (ii) more than 50 percent of its assets are located in the United States, or (iii) its business is principally administered in the United States.

[15] Form 20–F is the combined registration statement and annual report form for foreign private issuers under the Exchange Act. It also sets forth disclosure requirements for registration statements filed by foreign private issuers under the Securities Act.

[16] Form 20–F Adopting Release, *supra* note 13.

[17] *See id.*

[18] Form 20–F Adopting Release, supra note 13.

[19] Release No. 33–8879 (Dec. 21, 2007) [73 FR 986].

[20] IOSCO consists of securities regulators from 188 countries (including ordinary, associate, and affiliate members) who are committed to working together ''to promote high standards of regulation to maintain just, efficient and sound markets.'' IOSCO, General Information About IOSCO, at *http://www.iosco.org/about/.*

[21] Available at *http://www.iosco.org/library/pubdocs/pdf/IOSCOPD81.pdf.* The IOSCO Technical Committee recently published the *International Disclosure Principles for Cross-Border Offerings and Listings of Debt Securities* (2007), *available at http://www.iosco.org/library/pubdocs/pdf/IOSCOPD242.pdf,* which applies to prospectuses used by foreign issuers for offerings and listings of debt securities. The Commission's prospectus disclosure requirements for debt securities offered by foreign private issuers, contained in Form 20–F, are consistent with these IOSCO Principles, as well.

[22] Release No. 33–7745 (Sept. 28, 1999) [64 FR 53900].

[23] Release No. 34–55540 (Mar. 27, 2007) [72 FR 16934].

[24] *Id.*

[25] 15 U.S.C. 7201 *et seq.*

[26] *See* Release No. 33–8392 (Feb. 24, 2004) [69 FR 9722] (extending the original compliance dates for accelerated filers to fiscal years ending on or after November 15, 2004, and for companies that are not accelerated filers and for foreign private issuers, to fiscal years ending on or after July 15, 2005); Release No. 33–8545 (Mar. 2, 2005) [70 FR 11528] (adopting an additional one-year extension of the compliance dates for companies that are non-accelerated filers and for foreign private issuers filing annual reports on Forms 20–F or 40–F); Release No. 33–8730A (Aug. 9, 2006) [71 FR 47056] (extending for one year the date by which a foreign private issuer that is an accelerated filer and that files annual reports on Forms 20–F or 40–F must begin to comply with the requirement to provide the auditor's attestation report on internal control over financial reporting).

[27] Release No. 33–8238 (June 5, 2003) [68 FR 36636].

[28] Release No. 33–8220 (Apr. 9, 2003) [68 FR 18788].

[29] Release No. 34–57350 (Feb. 19, 2008).

[30] 17 CFR. 240.12g3–2(b).

[31] 15 U.S.C. 78*l*(g).

without regard to the number of its U.S. shareholders.

As the nature of the global capital markets have evolved, and because of marked advancements in technology with respect to the gathering and processing of information, some of the disclosure accommodations that we provided to foreign private issuers almost 30 years ago may no longer be appropriate. As a result, we are proposing today amendments to rules and forms that should enhance the reporting of information by foreign private issuers, as well as the timeframe within which investors can have access to this information.

The amendments that we are proposing today balance our dual objectives of enhancing the disclosures that foreign private issuers provide to investors in the U.S. public markets, and improving the accessibility of our public markets to these issuers.

Our principal proposals are as follows:

- Permit reporting foreign issuers to assess their eligibility to use the special forms and rules available to foreign private issuers once a year on the last business day of their second fiscal quarter, rather than on a continuous basis, which is currently required;
- Accelerate the reporting deadline for annual reports filed on Form 20–F by foreign private issuers from six months to 90 days after the issuer's fiscal year-end in the case of large accelerated filers and accelerated filers, and to 120 days after the issuer's fiscal year-end for all other issuers, after a two-year transition period;
- Amend Form 20–F by eliminating an instruction to Item 17 of that form that permits certain foreign private issuers to omit segment data from their U.S. GAAP financial statements; and
- Amend Exchange Act Rule 13e–3, which pertains to going private transactions by reporting issuers or their affiliates, to reference the recently adopted deregistration and termination of reporting rules applicable to foreign private issuers.

In addition, we are also seriously considering other possible amendments that would affect foreign private issuers, and are seeking public comment on these proposals. These matters include the following:

- Eliminate the availability of the limited U.S. GAAP reconciliation option that is contained in Item 17 of Form 20–F for foreign private issuers that are only listing a class of securities on a U.S. national securities exchange, or only registering a class of equity securities under Section 12(g) of the Exchange Act, and not conducting a public offering. We are also proposing to eliminate this limited reconciliation option for annual reports filed on Form 20–F, and for certain non-capital raising offerings, such as offerings pursuant to reinvestment plans, offerings upon the conversion of securities, or offerings of investment grade securities. Thus, all foreign private issuers that are required to provide a U.S. GAAP reconciliation must do so pursuant to Item 18 of Form 20–F, although required third party financial statements could continue to be prepared pursuant to Item 17 of Form 20–F;
- Amend Form 20–F to require disclosure in annual reports filed on that Form about any changes in the registrant's certifying accountant;
- Amend Form 20–F to require annual disclosure of the fees and other charges paid by holders of American Depositary Receipts (ADRs) to depositaries, as well as any payments made by depositaries to the foreign private issuers whose securities underlie the ADRs;
- Amend Form 20–F to require annual disclosure of the significant differences in the corporate governance practices of listed foreign private issuers compared to the corporate governance practices applicable to domestic companies under the relevant exchange's listing standards; and
- Amend Form 20–F to require foreign private issuers to present information about highly significant completed acquisitions that are significant at the 50% or greater level.

II. Proposed Changes

A. Annual Test for Foreign Private Issuer Status

The Commission has a longstanding policy of facilitating the access of foreign companies to the U.S. capital markets, as evidenced by the accommodations to foreign practices and policies that are accorded to foreign companies that qualify as ''foreign private issuers.'' [32] For example, foreign private issuers are exempt from the Commission's proxy rules,[33] and from the insider stock trading reports and short-swing profit recovery provisions under Section 16 [34] of the Exchange Act.[35] They also provide any interim reports on the basis of home country regulatory and stock exchange practices, rather than the quarterly reports that are required of U.S. issuers,[36] and executive compensation disclosure on an aggregate basis if the information is reported on such a basis in the issuer's home country.[37]

For many companies, the determination of whether they qualify as a foreign private issuer is important because of these various accommodations and exemptions. However, to make sure that it qualifies for these accommodations, a foreign private issuer that has close to 50% of its outstanding voting securities held of record by U.S. residents may find that it must monitor on a continuous basis the different factors used to assess foreign private issuer status.[38] This can result in some uncertainty for foreign private issuers as to which reporting and regulatory requirements will apply to them within a given period of time, as well as result in confusion for investors if an issuer needs to move between foreign and domestic reporting forms in the same fiscal year. For example, if a foreign issuer concludes that it does not qualify as a foreign private issuer in the middle of its fiscal year, it may find it difficult to change its basis of accounting to U.S. GAAP in order to comply on a timely basis with the reporting requirements applicable to domestic issuers under the Exchange Act. These issuers also face the challenge of modifying their

[32] *See supra* note 14 for the definition of ''foreign private issuer.''

[33] 17 CFR 240.14a–1 *et seq.*

[34] 15 U.S.C. 78p.

[35] These exemptions are contained in Exchange Act Rule 3a12–3(b) [17 CFR 240.3a12–3(b)].

[36] Foreign private issuers submit current reports to the Commission on Form 6–K [17 CFR 249.306]. Unlike Form 8–K [17 CFR 249.308], which is the current report form used by domestic issuers, there are no specific substantive disclosures that are required by Form 6–K. Instead, foreign private issuers furnish under cover of Form 6–K whatever information that they (i) make or are required to make public pursuant to the law of the jurisdiction of its domicile or in which it is incorporated or organized, or (ii) file or are required to file with a stock exchange on which their securities are traded and which was made public by that exchange, or (iii) distribute or are required to distribute to their securityholders. These reports are required to be furnished promptly after the material contained in the report is made public.

[37] Item 6.B. of Form 20–F.

[38] *See* note 14 above for a description of the factors that foreign issuers must monitor. The Commission's staff has taken the position that, for the purpose of the exemptions contained in Exchange Act Rule 3a12–3(b), foreign private issuers need to assess their status at the end of each fiscal quarter. In addition, they must assess their status at the completion of any purchase or sale by the issuer of its equity securities (other than in connection with an employee benefit plan or compensation arrangement, conversion of outstanding convertible securities, or exercise of outstanding options, warrants or rights), any purchase or sale of assets by the issuer other than in the ordinary course of business, and any purchase of equity securities of the issuer in a public tender offer or exchange offer by a non-affiliate. Foreign Private Issuers Relying on Rule 3a12–3(b) under the Exchange Act, SEC No-Action Letter, [1993 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 76,667 (Mar. 30, 1993).

information and processing systems to comply with the domestic reporting and registration regime, as well as the executive compensation disclosure requirements, proxy rules and Section 16 reporting requirements that are applicable to domestic issuers. To provide greater certainty to both issuers and investors as to the status of these foreign issuers within a given period of time, we are proposing to permit foreign private issuers to assess their status once a year. Aside from facilitating a smoother transition when foreign private issuers change status in the middle of a fiscal year, we believe that this approach would benefit investors by eliminating confusion in the markets as to an issuer's status. This approach would also be more consistent with our approach to determining accelerated filer and smaller reporting company status, and should simplify compliance with the Commission's regulations.

We are proposing to permit reporting foreign issuers to assess their status on the last business day of their second fiscal quarter,[39] which is the same date used to determine accelerated filer status under Exchange Act Rule 12b–2[40] and smaller reporting company status in Item 10(f)(2)(i)[41] of Regulation S–K.[42] We believe that selecting this date would provide regulatory consistency and ease of issuer application, as opposed to different dates for determining filing status. In addition, if a foreign issuer determines that it no longer qualifies as a foreign private issuer on the last business day of its second fiscal quarter, it would be required to comply with the reporting requirements and use the forms prescribed for domestic companies beginning on the first day of the fiscal year following the determination date. For example, a foreign issuer that did not qualify as a foreign private issuer as of the end of its second fiscal quarter in 2009 would file a Form 10–K in 2010 for its 2009 fiscal year. The issuer would also begin complying with the proxy rules and Section 16, and become subject to reporting on Forms 8–K and 10–Q on the first day of its 2010 fiscal year. This would give such issuers six months' advance notice that they will need to transition to the domestic forms and applicable reporting requirements.

On the other hand, we are proposing to permit a reporting company that qualifies as a foreign private issuer to avail itself of the foreign private issuer accommodations, including use of the foreign private issuer forms and reporting requirements, beginning on the determination date on which it establishes its eligibility as a foreign private issuer. We are proposing this distinction because we believe the new foreign private issuer, who would be eligible to file its annual report for that fiscal year on Form 20–F, need not continue to provide reports on Form 8–K and 10–Q for the remainder of that fiscal year. Instead, the issuer would be required to provide reports on Form 6–K.

Under the proposed amendment, a Canadian issuer that files registration statements and Exchange Act reports using the multijurisdictional disclosure system (''MJDS'')[43] would also be required to test its status as a foreign private issuer only as of the last business day of its second fiscal quarter. Currently, a Canadian issuer that is eligible to file a Form 40–F[44] annual report at the end of a fiscal year is presumed to be eligible to use that Form, as well as Form 6–K, from the date of filing until the end of its next fiscal year.[45] If adopted, the proposed amendment would require a Canadian issuer that plans to use the MJDS to test its foreign private issuer status earlier in the year. However, as noted in the adopting release to the MJDS, it would have to test its eligibility to file annual reports on Form 40–F based on all of the other requirements of that Form, such as public float, at the end of the fiscal year.[46] The proposed amendment would not change the responsibility of the Canadian issuer to check its eligibility to use Forms 40–F and 6–K at the end of its fiscal year, or the requirement that a Canadian issuer test its ability to use the MJDS Securities Act registration statement forms at the time of filing.

Comments Solicited

1. Is it appropriate for foreign issuers to have six months' notice that they no longer qualify as foreign private issuers, and therefore must use the domestic registration and reporting forms as of the beginning of the next fiscal year? Should issuers who have been foreign private issuers, but who fail to qualify as foreign private issuers, be required to use the domestic forms immediately, as is currently required?

2. Is it likely that foreign issuers will attempt to manipulate the amount of their voting securities that are held by U.S. residents at the end of the second fiscal quarter as a result of the proposed test? Are there other factors under the definition of foreign private issuer that may be susceptible to manipulation on the test date, such as the resignation and reappointment of officers and directors, or the transfer of non-physical assets such as cash, receivables or securities out of the United States?

3. If a foreign issuer that has been filing on domestic issuer forms qualifies as a foreign private issuer on the last business day of its second fiscal quarter, should it be allowed to switch over immediately to the foreign private issuer forms, such as Forms 20–F and 6–K? In some cases, an event may trigger the filing of a Form 8–K, but a Form 6–K might not be required because the foreign issuer's home jurisdiction or stock exchange does not require the publication of information about the event.[47] If a foreign issuer would have been required to file a Form 8–K shortly after the end of its second fiscal quarter, but qualifies as a foreign private issuer on the last business day of the second quarter, should it be allowed to forgo the filing of the Form 8–K even if a Form 6–K would not be required? Should the foreign issuer be required to file the Form 8–K and make all the filings it would otherwise be required to make on the domestic forms until it files a Form 20–F or furnishes its first Form 6–K? Even if a foreign issuer is permitted to switch to the foreign private issuer forms immediately, should the foreign issuer be required to file a Form 8–K in the scenario described above because the event that triggered the filing occurred during its second fiscal quarter?

4. Because of the many accommodations provided to foreign private issuers, should foreign issuers be

[39] The proposed determination date for foreign private issuer status differs from the determination date for well-known seasoned issuer (WKSI) status. Under Rule 405 under the Securities Act, the determination date as to whether an issuer is a WKSI is the latest of: (i) *The* time of filing its most recent shelf registration statement, (ii) the time of filing its most recent amendment to a shelf registration statement for purposes of complying with Section 10(a)(3) of the Securities Act, 15 U.S.C. 77j(a)(3), or (iii) in the event that the issuer has not filed a shelf registration statement or amended a shelf registration statement for purposes of complying with section 10(a)(3) of that Act for 16 months, the time of filing of the issuer's most recent annual report on Form 10–K [17 CFR 249.310] or Form 20–F.

[40] 17 CFR 240.12b–2.

[41] 17 CFR 229.10(f)(2)(i).

[42] 17 CFR 229.10 *et seq. See also* Release No. 33–8876 (Dec. 19, 2007) [73 FR 934] (adopting amendments to the disclosure and reporting requirements under the Securities Act and the Exchange Act to expand the number of companies that qualify for the scaled disclosure requirements for smaller reporting companies).

[43] 17 CFR 239.37 to 17 CFR 239.41 and 17 CFR 249.240f.

[44] 17 CFR 249.240f. MJDS filers file annual reports on Form 40–F and current reports on Form 6–K.

[45] 45 *See* Release No. 33–6902 (June 21, 1991) [56 FR 30036] (adopting the MJDS system).

[46] *See id.*

[47] *See* note 36 above for a discussion for the Form 6–K requirements.

required to test their status twice a year, rather than just once a year? For example, should foreign issuers be required to test their status as of the last business day of their second fiscal quarter, as well as at the end of the fiscal year?

5. If we adopt the proposed amendment, to avoid confusion by investors, should a foreign issuer be required to notify the market when it has determined that it has switched its status from domestic issuer to foreign private issuer, or vice versa? If so, how should this notification be made, *e.g.*, press release, notice on its Web site?

6. How should we address the potential flowback of securities into the United States if a reporting foreign issuer concludes that it does not qualify as a foreign private issuer in its third fiscal quarter and, under the proposed rule, is able to qualify as a Category 2 [48] issuer under Regulation S [49] and also avoid the restrictions of Category 3 [50] and Rule 905 [51] of Regulation S for unregistered offshore offerings of its equity securities for almost a year and a half after it has made this determination?

7. Should MJDS filers be required to test their foreign private issuer status on the last business day of their most recent second fiscal quarter, as well as at the end of the fiscal year? Would it be reasonable to require MJDS filers to assess their status twice a year because they must test their qualification to use the Form 40–F at the end of the fiscal year in any case? Would such a testing requirement be reasonable in light of the accommodations made for MJDS filers, *e.g.*, they comply with the disclosure requirements of their home jurisdiction?

8. As proposed, a Canadian MJDS filer that did not qualify as a foreign private issuer on the last day of its second fiscal quarter would immediately not be able to use the MJDS forms for Securities Act offerings, since the eligibility to use the MJDS Securities Act forms is tested at the time that the registration statement is filed. In that case, the issuer would still be able to use the other foreign private issuer registration statement forms, such as Form F–3, until the end of its fiscal year. Should these issuers be permitted to file on the foreign private issuer registration statement forms in this circumstance? Alternatively, should these issuers be permitted to use the MJDS Securities Act registration statement forms until the end of their fiscal year?

B. Accelerating the Reporting Deadline for Form 20–F Annual Reports

As the Commission noted when it proposed to accelerate the filing dates for periodic reports filed by domestic issuers,[52] technological advances have made it easier for companies to process and disseminate information quickly. At the same time, investors evaluate and react to information in a shorter timeframe, and many now expect to receive information on a faster basis. Although some information about foreign private issuers is available through their earnings releases and other announcements, investors may not have access to the more complete disclosure contained in an issuer's Form 20–F annual reports until six months after the end of the issuer's fiscal year. The longer filing due date for these reports was initially established as an accommodation to the different disclosure requirements in the foreign private issuers' home jurisdictions. [53] However, many companies that operate in the international markets gather and evaluate information on a vastly expedited basis compared to 29 years ago, when Form 20–F was adopted, so that such a delayed filing date for these reports may no longer be necessary. Today, foreign private issuers in many jurisdictions are expected to file annual reports with their home securities regulator on a faster timetable,[54] so that a significant portion of the information required in a Form 20–F is readily available.

Consistent with our efforts to modernize the periodic reporting system for domestic issuers, we are now proposing to shorten the filing due date for annual reports filed by foreign private issuers on Form 20–F.[55] Currently, a foreign private issuer must file its annual report on Form 20–F within six months after its fiscal year-end. We are proposing to accelerate the due date for annual reports filed on Form 20–F to within 90 days after the foreign private issuer's fiscal year-end in the case of large accelerated and accelerated filers, and to within 120 days after the issuer's fiscal year-end for all other issuers, after a two-year transition period. We note that the proposed due dates for Form 20–F would still provide an accommodation to many foreign private issuers, since large accelerated and accelerated domestic filers are required to file annual reports on Form 10–K [56] within 60 days and 75 days, respectively, of their fiscal year-ends.[57] All other domestic issuers are required to file annual reports on Form 10–K within 90 days after their fiscal year-end.[58]

When we proposed to accelerate the periodic report filing dates for domestic issuers, we solicited comments on whether the deadline for annual reports filed on Form 20–F should be shortened to four or five months after the end of

[48] 17 CFR 230.903(b)(2).

[49] 17 CFR 230.901–230.905 and Preliminary Notes.

[50] 17 CFR 230.903(b)(3).

[51] 17 CFR 230.905.

[52] *See* Release No. 33–8089 (Apr. 12, 2002) [67 FR 19896].

[53] Form 20–F Adopting Release, *supra* note 13 (noting that the Commission decided not to adopt a filing due date for Form 20–F annual reports of four months after the registrant's fiscal year-end in deference to commenters' concerns about the need for more time to comply with applicable foreign regulations, which at that time often permitted annual reports to be furnished to shareholders more than four months after the issuer's fiscal year-end).

[54] For example, the European Union's (EU) Transparency Directive requires companies listed on an EU regulated market to file their annual financial reports four months after the end of each financial year at the latest. Directive 2004/109/EC of the European Parliament and of the Council (Dec. 15, 2004). All EU member states were required to implement the Transparency Directive by January 20, 2007. Canadian issuers are also required to file their annual financial statements within a similar timeframe. Under *National Instrument 51–102 Continuous Disclosure Obligations*, a reporting Canadian issuer must file its annual financial statements within 90 to 120 days after its most recently completed financial year-end, depending on its status as a ''venture issuer.'' Israeli companies are required to file their annual reports within three months of the end of their reporting year, provided that the report is submitted 14 days or more before the date fixed for convening the general meeting at which the company's financial statements will be presented, or within three days of the date when the company's accountant signed his audit opinion, whichever is earlier. Regulation 7, Israeli Securities Regulations (Periodic and Immediate Reports).

[55] We are not proposing a similar acceleration in the filing deadline for annual reports filed on Form 40–F, which is used by eligible Canadian issuers under the MJDS. Under the MJDS, issuers who file annual reports on Form 40–F must comply with the substantive disclosure requirements and filing deadlines established by the relevant Canadian securities regulator. In keeping with the purpose of MJDS, which is to facilitate cross-border capital flows between the United States and Canada by streamlining the registration and periodic reporting process for cross-border issuers, the Form 40–F must continue to be filed with the Commission on the same day that the information is due to be filed with the relevant Canadian securities regulatory authority, as set forth in General Instruction D.(3) of Form 40–F. However, we note that a reporting Canadian issuer that is not a ''venture issuer'' must file its annual financial statements on or before 90 days after its most recently completed financial year-end, while all other Canadian issuers must file their annual financial statements on or before 120 days after their most recently completed financial year-end. *See supra* note 54.

[56] 17 CFR 249.310.

[57] *See* General Instructions A.(2)(a) and (b) of Form 10–K. At the time that we first adopted rule and form amendments to accelerate the filing of the quarterly and annual reports of reporting U.S. issuers, we noted that those amendments would increase the discrepancy in the due dates for filing annual reports between foreign private issuers and larger seasoned U.S. issuers, and indicated that we would continue to consider this issue. Release No. 33–8128 (Sept. 5, 2002) [67 FR 58480].

[58] *See* General Instruction A.(2)(c) of Form 10–K.

the issuer's fiscal year.[59] Several commenters indicated that they supported accelerating the deadline for filing annual reports on Form 20–F, citing considerations such as recent technological and information processing improvements, as well as concerns about the potential competitive disadvantage faced by domestic companies as a result of the large discrepancy in reporting deadlines applicable to domestic versus foreign companies.[60] However, others noted the additional challenges faced by foreign registrants, such as requirements to reconcile their financial statements to U.S. GAAP, to prepare English translations, and to comply with home country reporting requirements.[61] These commenters expressed concern that accelerating the Form 20–F deadlines for foreign private issuers would result in additional costs and burdens that would discourage foreign issuers from accessing the U.S. capital markets.

Since the adoption of the accelerated reporting deadlines for domestic companies, the Commission has adopted rule amendments that addressed some of the specific concerns highlighted by commenters. For example, as noted previously, we adopted rule amendments that free foreign private issuers that prepare financial statements in accordance with IFRS as issued by the IASB from the obligation to reconcile their financial statements to U.S. GAAP.[62] When we proposed that rule, we noted that some investor representatives at a March 2007 roundtable on IFRS organized by the Commission's staff (''March 2007 IFRS Roundtable'') commented that IFRS financial statements would be more useful if issuers filed their Form 20–F annual reports on an accelerated basis.[63] As a result, we solicited comment again on whether the deadline for annual reports filed on Form 20–F should be accelerated.[64]

Many of the commenters supported accelerating the deadline for Form 20–F filers, although several expressed concern that any deadline should not impede the ability of foreign private issuers to fulfill their obligations to file annual reports with their home regulators on a timely basis. To that end, some commenters urged a deadline that was later than the foreign private issuer's home filing requirements to permit sufficient time for translation of the annual report into English and compliance with the additional disclosure requirements imposed by the Commission.[65] In contrast, other commenters supported a deadline that was consistent with the deadline faced by the foreign private issuers in its home jurisdiction.[66] Others noted that dropping the requirement to reconcile financial statements prepared in accordance with IFRS, as issued by the IASB, to U.S. GAAP would expedite the preparation of Form 20–F, so that an accelerated deadline would be feasible.[67]

After carefully considering the concerns expressed by all of the commenters, we believe that it is appropriate to propose accelerating the deadline for filing annual reports on Form 20–F. Annual reports that are filed on an expedited basis would provide investors with more timely access to these filings, and would improve the delivery and flow of reliable information to investors and the capital markets, thereby helping to improve the efficiency of the markets. The current six-month deadline was adopted at a time when many of the current technologies to gather information and to process it were not available. A number of foreign private issuers already file their annual reports on Form 20–F well before the current six-month deadline. In addition, the recent rule amendments that would exempt foreign private issuers from the reconciliation requirement if they prepare their financial statements according to IFRS as issued by the IASB should make it easier for many foreign private issuers to prepare their annual reports on Form 20–F. We estimate that in the next several years a majority of the foreign private issuers who file annual reports with the Commission will have incentives to use either U.S. GAAP, or IFRS as issued by the IASB as more countries adopt IFRS as their basis of accounting, or permit companies to use IFRS as issued by the IASB as their basis of accounting. We are not proposing to change the age of financial statement requirements for registration statements under the Securities Act or Exchange Act.[68] Accelerating the deadline for filing annual reports on Form 20–F should enable investors in the U.S. markets to get annual reports on the more current basis in which they are provided in other jurisdictions.

If the Commission decides to adopt amendments to accelerate the deadline for filing annual reports on Form 20–F, several commenters who responded to our IFRS Proposing Release[69] urged the Commission to provide a transition period for any accelerated deadline that was adopted.[70] We expect that the proposal, if adopted, would provide a two-year transition period. For example, if the proposal is adopted this year, the Form 20–F filing deadline would change for the fiscal years ending on or after December 15, 2010. For foreign private issuers that are large accelerated or accelerated filers, the Form 20–F due date would be 90 days after the fiscal year-end, and for all other foreign private issuers, annual reports filed on Form 20–F would be due 120 days after the fiscal year end, for fiscal years ending on or after December 15, 2010. In addition to these proposed amendments, we are proposing a conforming deadline for transition reports filed on Form 20–F, so that the deadline is the same as the deadline for annual reports filed on Form 20–F.[71]

Comments Solicited

9. Would accelerating the due date for Form 20–F annual reports be beneficial for investors? Given the differences in the reporting requirements that exist among the various foreign reporting

[59] Release No. 33–8089, *supra* note 52.

[60] *See, e.g.*, comment letters from Association for Investment Management and Research; Brown-Forman Corporation; Chevron Phillips Chemical Company LLP; Comcast Corporation; Deloitte & Touche LLP; The Dow Chemical Company; Eastman Kodak Company, Robert Krakauer, Markel Corporation; Maverick Capital Ltd.; SBC Communications Inc.

[61] *See, e.g.*, comment letters from Cleary, Gottlieb, Steen & Hamilton (''Cleary Gottlieb''); The Association of the Bar of the City of New York (NYCBA). For a summary of the comments received relating to the question of whether the deadline for filing Form 20–F should be accelerated, *see* U.S. Securities & Exchange Commission, Summary of Comments Relating to Proposed Amendments to Accelerate Periodic Report Filing Dates and Disclosure Concerning Web site Access to Reports, Section III.C.6., July 1, 2002, at *http://www.sec.gov/rules/extra/33–8089summary.htm.*

[62] Release No. 33–8879, *supra* note 19.

[63] *See* Unedited Transcript, SEC Staff's International Financial Reporting Standards Roadmap Roundtable (Mar. 6, 2007), *available at http://www.sec.gov/spotlight/ifrsroadmap/ifrsroadmap-transcript.txt.*

[64] Release No. 33–8818 (July 2, 2007) [72 FR 37962] (hereinafter ''IFRS Proposing Release'').

[65] *See, e.g.*, comment letter from Sullivan & Cromwell (supporting the acceleration of the Form 20–F deadline). *See also* comment letter from Cleary Gottlieb (not supporting an accelerated Form 20–F deadline, but nonetheless suggesting a deadline after the issuer's home country annual report is due if the Commission plans to accelerate the deadline).

[66] *See, e.g.*, comment letter from HSBC.

[67] *See, e.g.*, comment letters from the NYCBA and Swedish Export Credit Corporation.

[68] Under Item 8.A.4. of Form 20–F, the last year of audited financial statements may not be older than 15 months at the time of the offering or listing.

[69] IFRS Proposing Release, *supra* note 64.

[70] *See, e.g.*, comment letters from Merrill Lynch; Nippon Keidanren.

[71] We also took this approach when we adopted amendments to accelerate the periodic report filing dates for domestic companies. *See* Release No. 33–8128, *supra* note 57; Release No. 33–8644 (Dec. 21, 2005) [70 FR 76626] (adopting further refinements to the acceleration rules). *See also* Release No. 33–6823 (Mar. 13, 1989) [54 FR 10306] (conforming the transition report rules to the periodic report rules).

regimes, would accelerating the due date for Form 20–F annual reports have different impacts on foreign private issuers or investors depending on the particular country or the nature of the issuer's business? Would any of these differences affect the usefulness of the information to investors? If you believe that the due date should be accelerated, are the proposed due dates appropriate? Should different due dates be applied to foreign private issuers depending on the worldwide market value of their common equity held by non-affiliates, similar to the different annual report filing deadlines that are applied to domestic issuers? Should foreign private issuers with a larger worldwide market value be required to provide reports on a faster basis than other foreign private issuers because they presumably have additional resources and a better developed infrastructure that would enable them to comply with an accelerated due date?

10. Would accelerating the due date for filing annual reports on Form 20–F impose any unreasonable burdens on foreign private issuers, who may have to collect and provide more information in that Form than may be required in their home jurisdictions, and may also have to translate the information into English? Would the proposed accelerated due dates impose any burdens on foreign private issuers that may be required to file annual reports on Form 20–F with the Commission before they are required to provide annual reports in their home jurisdictions? Should the due date be accelerated to within 120 days of the foreign private issuer's fiscal year-end for all foreign private issuers, including large accelerated and accelerated filers?

11. Should different due dates be imposed on foreign private issuers depending on whether they file financial statements using U.S. GAAP, IFRS as issued by the IASB, or another GAAP with a reconciliation to U.S. GAAP? Should different due dates be imposed on foreign private issuers depending on whether their disclosure was originally prepared in a foreign language and needs to be translated into English?

12. Should the deadline for filing Form 20–F annual reports be linked to the issuer's home country requirements for filing annual reports? If so, should the deadline be the same as the one in the issuer's home country, or should it be on a delayed basis, such as one or two months later? If you believe that the deadline for filing Form 20–F should be linked to the issuer's home country requirements, should the foreign private issuer be responsible for submitting supporting materials that indicate when annual reports are due in its home jurisdiction, such as the applicable legislation or regulation, to the Commission at the time of its Form 20–F submission? Would varying deadlines according to home country requirements cause confusion for investors?

13. Would a different transition period be more appropriate for implementation of the accelerated deadline? For example, should foreign private issuers be subject to the accelerated deadline after a longer or shorter transition period instead?

14. Do foreign private issuers face unique challenges in preparing transition reports that would render a reduced filing period for those reports unduly burdensome?

C. Segment Data Disclosure

Under Item 17 of Form 20–F, foreign private issuers that present financial statements otherwise fully in compliance with U.S. GAAP may omit segment data from their financial statements, and also are permitted to have a qualified U.S. GAAP audit report as a result of this omission. We estimate that fewer than 10 foreign private issuers currently use this accommodation. We are proposing to amend Form 20–F by eliminating this narrow accommodation.

The reporting permitted by this accommodation is inconsistent with recent international developments in financial reporting. For example, in order to file financial statements without reconciliation to U.S. GAAP, foreign private issuers must comply fully with IFRS as issued by the IASB, including presentation of segment data. An accommodation that permits a foreign private issuer to present incomplete and non-compliant U.S. GAAP financial statements may no longer be necessary or appropriate. Accordingly, we are proposing to amend Item 17 of Form 20–F by removing Instruction 3 to that Form, which currently permits the omission of segment data from U.S. GAAP financial statements.

Comments Solicited

15. In Part III.A. of this release, we propose an amendment to eliminate the option to prepare financial statements according to Item 17 of Form 20–F. Under that proposed amendment, foreign private issuers would be required to prepare their financial statements according to the requirements of Item 18 of Form 20–F, which requires all of the information required by U.S. GAAP and Regulation S–X. If that proposal is adopted, would it still be useful to eliminate the exemption from providing segment data?

16. Should we provide an exemption for foreign private issuers that are currently preparing financial statements under U.S. GAAP that omit segment data pursuant to Instruction 3 of Item 17? If we adopt the proposed amendment, should we provide a ''grandfather'' provision or an exemptive order to permit the small number of foreign private issuers to continue to not report segment data?

D. Exchange Act Rule 13e–3

We are proposing to amend Exchange Act Rule 13e–3,[72] which pertains to going private transactions by reporting issuers or their affiliates, to reflect the recently adopted rules pertaining to the ability of foreign private issuers to terminate their Exchange Act registration and reporting obligations.[73] Currently, Rule 13e–3 is triggered when an issuer and/or any of its affiliates are engaged in a specified transaction or series of transactions[74] that have either a reasonable likelihood or a purpose of causing (i) any class of equity securities of the issuer that is subject to section 12(g) or section 15(d)[75] of the Exchange Act to be held of record by less than 300 persons, or (ii) the securities to be neither listed on any national securities exchange nor authorized to be quoted on an inter-dealer quotation system of any registered national securities association.

Rule 13e–3 requires any issuer or affiliate that engages in a Rule 13e–3 transaction to file a Schedule 13E–3[76] disclosing its plan to take the company private, and to make prompt amendments to reflect certain information about the proposed transaction. In the Schedule 13E–3, the filing party must disclose the purposes for the transaction, whether any alternative means for accomplishing the stated purposes were considered, the reasons for the structure of the transaction and why it was being undertaken at the time, the effects that the transaction would have on the issuer and its unaffiliated security holders, whether or not the filing party believes the transaction is fair to unaffiliated

[72] 17 CFR 240.13e–3.

[73] Release No. 34–55540, *supra* note 23.

[74] A ''Rule 13e–3 transaction'' is defined as (i) a purchase of any equity security by the issuer of such security or by an affiliate, (ii) a tender offer, (iii) a proxy solicitation or information statement distribution in connection with a merger or similar transaction, (iv) the sale of substantially all the assets of an issuer to its affiliate, or (v) a reverse stock split. 17 CFR 240.13e–3.

[75] 15 U.S.C. 78*o*(d).

[76] 17 CFR 240.13e–100.

security holders, and the factors considered in determining fairness. Rule 13e–3(f)[77] also requires dissemination of the information required by Schedule 13E–3 to security holders within specified time periods.

When the Commission adopted Rule 13e–3, we indicated that the Rule would be triggered if a specified transaction has either the reasonable likelihood or purpose of causing the termination of reporting obligations under the Exchange Act because the class of securities would be held of record by less than 300 persons as a result of the transaction.[78] Recently, we adopted amendments to the deregistration provisions applicable to foreign private issuers that would permit them to terminate their reporting obligations under the Exchange Act by meeting a quantitative benchmark designed to measure relative U.S. market interest for their equity securities that does not depend on a head count of the issuers' U.S. security holders.[79] Although Rule 13e–3 does not reflect the termination of registration and reporting provisions that were previously applicable to foreign private issuers, we propose to amend the Rule to better reflect the current deregistration provisions. As a result, we are proposing to amend Rule 13e–3(a)(3)(ii)(A)[80] to specify that the cited effect is deemed to have occurred when a domestic or foreign issuer becomes eligible to deregister under Exchange Act Rules 12g–4[81] and 12h–6,[82] respectively.

When a foreign private issuer engages in a Rule 13e–3 transaction that would cause the termination of its registration or reporting obligations under the Exchange Act, Rule 13e–3 is intended to provide the issuer's security holders with one last opportunity to obtain information about the company and consider their alternatives. This is equally true in the context of a foreign private issuer that is deregistering as it is for a domestic or foreign company that is ceasing to file reports because the number of its shareholders falls below 300.

Comments Solicited

17. Is it appropriate to amend Rule 13e–3 by using the quantitative benchmark set forth in the new termination of reporting and deregistration provisions?

18. Instead of referencing the applicable termination of reporting and deregistration provisions, is there another threshold that should be applied in Rule 13e–3(a)(3)(ii)(A) to foreign private issuers?

19. If the proposed amendment is adopted, would more registrants be required to comply with Rule 13e–3 than intended because they may be engaged in one of the transactions described in Rule 13e–3(a)(3)(i) as a step toward terminating their registration or reporting obligations with respect to a class of securities, transactions that previously might not have resulted in the application of Rule 13e–3?

20. To what extent may foreign private issuers engage in ordinary course securities transactions (such as buybacks or repurchases) that may trigger Rule 13e–3, and is it necessary to provide exceptions so that these transactions do not trigger Rule 13e–3?

III. Other Matters Under Consideration

The Commission is considering whether it is appropriate to amend Form 20–F in order to revise the disclosure elicited from foreign private issuers in annual reports and registration statements. The proposals discussed in this section touch on a number of different areas. Unlike our proposal relating to the annual report filing deadline, we have not discussed these matters in previous releases and we are especially interested in comments from investors, foreign issuers and others as to whether we should impose these new disclosure requirements.

In addition to the specific proposals discussed below, we would also welcome commenters' views regarding other areas as to which we should consider revising our disclosure requirements applicable to foreign private issuers, either with respect to requiring new areas of disclosure or eliminating current disclosure requirements.

A. Requiring Item 18 Reconciliation in Annual Reports and Registration Statements Filed on Form 20–F

Currently, a foreign private issuer that is only listing a class of securities on a national securities exchange, or only registering a class of securities under Exchange Act section 12(g), without conducting a public offering of those securities may provide financial statements according to Item 17 of Form 20–F. Foreign private issuers may also provide financial statements according to Item 17 for their annual reports on Form 20–F. Under Item 17, a foreign private issuer must prepare its financial statements and schedules in accordance with U.S. GAAP, or IFRS as issued by the IASB. If its financial statements and schedules are prepared in accordance with another basis of accounting, the issuer must include a reconciliation to U.S. GAAP. This reconciliation must include a narrative discussion of reconciling differences, a reconciliation of net income for each year and any interim periods presented, a reconciliation of major balance sheet captions for each year and any interim periods, and a reconciliation of cash flows for each year and any interim periods.[83] In contrast, if a foreign private issuer that presents its financial statements on a basis other than U.S. GAAP, or IFRS as issued by the IASB provides financial statements under Item 18 of Form 20–F, it must provide all the information required by U.S. GAAP and Regulation S–X, in addition to the reconciling information for the line items specified in Item 17.

We are proposing to eliminate this distinction between the disclosure provided to the primary and secondary markets by requiring Item 18 information for foreign private issuers that are only listing a class of securities on an exchange, or only registering a class of securities under Exchange Act section 12(g), without conducting a public offering. We are also proposing to require Item 18 information for foreign private issuers that file annual reports on Form 20–F. In addition, foreign private issuers that are making certain non-capital raising offerings, such as offerings pursuant to reinvestment plans, offerings upon the conversion of securities or offerings of investment grade securities, currently are permitted to provide Item 17 financial statements in their registration statements under the Securities Act. To ensure that the same type of financial information is provided regardless of the type of offering that is being made, we are also proposing to require foreign private issuers to file financial statements that comply with Item 18 when registering these types of offerings under the Securities Act.

The majority of foreign private issuers who do not prepare financial statements in accordance with U.S. GAAP elect to provide financial information pursuant to Item 18, rather than Item 17, of Form 20–F.[84] In our view, a reconciliation

[77] 17 CFR 240.13e–3(f).

[78] Release No. 33–6100 (Aug. 2, 1979) [44 FR 46736].

[79] Release No. 34–55540, *supra* note 23.

[80] 17 CFR 240.13e–3(a)(3)(ii)(A).

[81] 17 CFR 240.12g–4.

[82] 17 CFR 240.12h–6.

[83] *See* Item 17(c)(2) of Form 20–F.

[84] A foreign private issuer's latest annual report filed on Form 20–F and all subsequent Form 20–F annual reports are incorporated by reference into its Form F–3 shelf registration statement. See Item 6 (Incorporation of Certain Information by Reference) in Form F–3. General Instruction I.B.1. of Form F–3 requires foreign private issuers to

Continued

that includes the footnote disclosures required by U.S. GAAP and Regulation S–X [85] can provide important additional information.[86] As a result, we are proposing to amend Form 20–F and the registration statement forms available to foreign private issuers under the Securities Act (Forms F–1, F–3 and F–4) to require the disclosure of financial information according to Item 18 of Form 20–F for registration statements filed under both the Exchange Act and the Securities Act, as well as for annual reports. However, we are not proposing to eliminate the availability of Item 17 disclosures for Canadian MJDS filers in light of the special recognition accorded to MJDS filings. In addition, more countries are expected to adopt IFRS as their basis of accounting, or to permit companies to use IFRS as issued by the IASB as their basis of accounting in the next few years. We therefore believe that eliminating the availability of Item 17 in MJDS registration statements would not be necessary. Item 17 would also continue to be available for financial statements of non-registrants that are required to be included in a foreign or domestic issuer's registration statement, annual report or other Exchange Act report. These include significant acquired businesses under Rule 3–05 [87] of Regulation S–X, significant equity method investees under Rule 3–09 [88] of Regulation S–X, entities whose securities are pledged as collateral under Rule 3–16 [89] of Regulation S–X, and exempt guarantors under Rule 3–10(i) [90] of Regulation S–X.

If this amendment is adopted, we propose to establish a compliance date that would provide foreign private issuers with sufficient time to transition to the Item 18 requirements when preparing their financial statements. We anticipate that if this amendment is adopted in 2008, a foreign private issuer that currently prepares its financial statements according to Item 17 of Form 20–F would not be required to prepare financial statements pursuant to Item 18 until it files an annual report for its first fiscal year ending on or after December 15, 2009.

Comments Solicited

21. Would the proposed amendment to eliminate the availability of the Item 17 option benefit investors?

22. Is it appropriate to provide a transition period for foreign private issuers that are currently preparing financial statements in accordance with Item 17 of Form 20–F? Is a compliance date that provides a transition period in the best interests of investors? If so, is the suggested transition period appropriate in length, or should it be shorter or longer than proposed?

23. As proposed, Item 17 will now only be available for the presentation of financial information for non-issuer entities required to be included in a foreign or domestic issuer's registration statement or Exchange Act report. Is there any reason for retaining the Item 17 financial information option for non-capital raising offerings made by foreign private issuers or annual reports?

24. Would the elimination of the Item 17 option increase costs for companies? If so, what types of compliance costs would be affected? Are there ways to mitigate the costs?

25. To what extent are the benefits to investors from the additional Item 18 financial disclosure linked to more timely filing of Form 20–F? If we decide not to accelerate the deadline for filing Form 20–F as proposed, should we still require the additional Item 18 financial disclosure?

26. Should we provide an exemption for foreign private issuers that are currently preparing financial statements pursuant to Item 17? If we adopt the proposed amendment, should we provide a ''grandfather'' provision or an exemptive order to permit these foreign private issuers to continue to provide financial information pursuant to Item 17?

B. Disclosure About Changes in a Registrant's Certifying Accountant

Domestic companies currently report any changes in and disagreements with their certifying accountant in a current report on Form 8–K and in a registration statement on Form 10 [91] under the Exchange Act,[92] as well as in their registration statements filed on Forms S–1[93] and S–4 [94] under the Securities Act. Among other things, this disclosure provides information about potential opinion shopping situations by issuers. ''Opinion shopping'' generally refers to the search for an auditor that is willing to support a proposed accounting treatment that is designed to help a company achieve its reporting objectives, even though that treatment could frustrate reliable reporting.[95]

Foreign private issuers have not been required to provide this disclosure. When we proposed the adoption of Form 20–F, we proposed a disclosure requirement soliciting information about changes in the registrant's certifying accountant.[96] The disclosure item was not included in Form 20–F.[97] However, the issues underlying the need for this disclosure also apply to foreign private issuers, and the relationship between issuers and their auditors in this area would seem to be as important for investors. Moreover, foreign private issuers that are listed on the New York Stock Exchange (NYSE) are already required by that Exchange to notify the market about a change in their auditors,[98] although this information is required to be furnished under cover of Form 6–K, which does not have the substantive disclosure requirements of Form 8–K.[99] As a result, we are proposing amendments that would require substantially the same types of disclosures currently provided by domestic issuers about changes in and disagreements with their certifying accountant.

We are proposing to amend Form 20–F by adding an Item 16F that would elicit the same types of change of accountant disclosures obtained in Item 4.01 (Changes in Registrant's Certifying Accountant) of Form 8–K,[100] including the disclosure requirements of Item 304(a) of Regulation S–K,[101] which are referenced in Form 8–K, and Item 9 (Changes in and Disagreements with Accountants on Accounting and Financial Disclosure) of Form 10–K,[102] which refers to the disclosure

provide financial statements that comply with Item 18 for primary offerings.

[85] 17 CFR part 210.1–01 *et seq.*

[86] Under Item 17, an issuer is not required to provide the extensive footnote disclosures required by U.S. GAAP and Regulation S–X, unless these disclosures are otherwise required under its home country GAAP. For example, the footnote disclosures related to pension assets, obligations and assumptions, lease commitments, business segments, tax attributes, stock compensation awards, financial instruments and derivatives, among many others, are not required under Item 17 unless they are otherwise required by the issuer's home country GAAP.

[87] 17 CFR 210.3–05.

[88] 17 CFR 210.3–09.

[89] 17 CFR 210.3–16.

[90] 17 CFR 210.3–10(i).

[91] 17 CFR 249.210.

[92] In their annual reports on Form 10–K, domestic issuers do not provide the same type of change of accountant disclosure, since they should have reported this information on a more current basis on Form 8–K. However, they do provide the disclosures required by Item 304(b) of Regulation S–K [17 CFR 229.304(b)]. *See* text *infra* for a discussion of Item 304(b).

[93] 17 CFR 239.11.

[94] 17 CFR 239.25.

[95] *See* Release No. 33–6766 (Apr. 7, 1988) (adopting amendments to Form 8–K, Regulation S–K and Schedule 14A [17 CFR 240.14a–101] related to disclosure concerning a change in a registrant's certifying accountant).

[96] Release No. 34–14128 (Nov. 2, 1977) [42 FR 58684] (contained in proposed Item 24).

[97] Form 20–F Adopting Release, *supra* note 13.

[98] Section 204.03 of the NYSE Listed Company Manual.

[99] *See supra* note 36 for a discussion of the differences between Forms 6–K and 8–K.

[100] Item 4.01 of Form 8–K.

[101] 17 CFR 229.304(a).

[102] Item 9 of Form 10–K.

requirements of Item 304(b) of Regulation S–K. Among other things, Item 304(a) of Regulation S–K requires an issuer to disclose whether an independent accountant that was previously engaged as the principal accountant to audit the issuer's financial statements, or a significant subsidiary on which the accountant expressed reliance in its report, has resigned, declined to stand for re-election, or was dismissed. Item 304(a) of Regulation S–K also requires an issuer to disclose any disagreements or reportable events that occurred within the issuer's latest two fiscal years and any interim period preceding the change of accountant. Item 304(b) of Regulation S–K solicits disclosure about whether, during the fiscal year in which the change of accountants took place or during the subsequent year, the issuer had similar, material transactions to those which led to the disagreements with the former accountants, and whether such transactions were accounted for or disclosed in a manner different from that which the former accountants would have concluded was required. If so, Item 304(b) requires the issuer to disclose the existence and nature of the disagreement or reportable event, and also disclose the effect on the financial statements if the method that would have been required by the former accountants had been followed. Because foreign private issuers do not file Forms 8–K and 10–K and are not otherwise subject to Item 304 of Regulation S–K, we are proposing that they provide disclosure about changes in and disagreements with their certifying accountants in their annual reports on Form 20–F, as well as in their initial registration statements filed on Forms 20–F, F–1 and F–4.

We are also proposing to amend Forms F–1 and F–4, which are used to register public offerings of securities by foreign private issuers under the Securities Act, to require the new Item 16F disclosure requirement about the issuer's changes in and disagreements with their certifying accountant for first-time registrants with the Commission. We are not proposing to require Item 16F disclosure for repeat registrants because this information would be included in annual reports on Form 20–F filed by repeat registrants. Although we do not make this distinction in Forms S–1 and S–4, domestic issuers are subject to a Form 8–K current report requirement for change of accountant disclosure. Requiring this disclosure for repeat filers using S–1 and S–4 does not create an additional disclosure burden for them.

As proposed, Item 16F is virtually identical to Item 304 of Regulation S–K. However, we have eliminated or modified some of the due dates described in Item 304(a)(3) of Regulation S–K because the disclosure is being made on an annual basis, rather than on a current basis. For example, although Item 16F would require the issuer to provide a copy of the disclosures that it is making in response to Item 16F to the former accountant, it would not require the issuer to provide the disclosures no later than the day that the disclosures are filed with the Commission, as is required by Item 304(a)(3) of Regulation S–K. In addition, we expect that the former accountant would be able to furnish the issuer with a letter stating whether it agrees with the statements made by the issuer in response to Item 16F and, if not, stating the respects in which it does not agree, and that the issuer would be able to file the former accountant's letter as an exhibit to the annual report that contains this disclosure at the time that the annual report is due. Item 304(a)(3) provides that if the former accountant's letter is not available at the time that the report or registration statement is filed, then the issuer can file the letter with the Commission within ten business days after the filing of the report or registration statement. Because foreign private issuers would be permitted to provide the proposed disclosure in their annual reports, we believe that this accommodation would not be necessary for annual reports unless the change in accountant occurred less than 30 days prior to the filing of the annual report.[103] As proposed, Item 16F would permit a delayed filing of the former accountant's letter in an annual report only if the change in accountant occurred within this 30-day timeframe.

Comments Solicited

27. Should foreign private issuers be required to provide information about changes in and disagreements with their certifying accountant? Would this disclosure be useful to investors? If so, should foreign private issuers be subject to the same disclosure requirements that apply to domestic issuers, or would a different disclosure requirement be more appropriate?

28. Should foreign private issuers be permitted to provide the letter from the former accountant in their annual reports on a delayed basis for a change of accountants that occurs less than 30 days before the annual report is filed, as proposed? Is 30 days an appropriate parameter? Alternatively, should foreign private issuers be permitted to provide the letter from the former accountant on a delayed basis for a change in accountant that occurs up to 45 days or 60 days before the annual report is filed, or only if the change in accountant occurs less than 15 days before the annual report is filed? Because foreign private issuers provide this disclosure on a delayed basis compared to domestic issuers, is this accommodation necessary?

29. Are there restrictions under a foreign issuer's home country law or regulations that would prohibit an auditor from reporting to a foreign regulator about disagreements with the issuer? If so, how should we address such restrictions?

30. Should the proposed change of accountant disclosure requirements contained in Item 16F be extended to registration statements filed by all foreign private issuers under the Securities Act, not just first-time registrants? Would this impose an undue burden on foreign private issuers that may not be subject to such a disclosure requirement in their home jurisdictions?

C. Annual Disclosure About ADR Fees and Payments

The Commission has long been interested in improving the disclosure provided to investors about the fees and other charges paid in connection with ADR facilities.[104] We continue to believe that ADR holders can benefit from enhanced disclosure in this area, especially in light of new depositary fees that are being charged to ADR holders in connection with sponsored ADR facilities. For example, many depositaries are now charging an annual fee for general depositary services, a fee that was formerly prohibited by some exchanges.[105]

Currently, disclosures about fees and other payments made by ADR holders to the depositary are provided in the Form 20–F that is filed to register the deposited securities under the Exchange

[103] Under General Instruction C.(b) of Form 20–F, the information provided in a Form 20–F annual report should be as of the latest practicable date, unless a disclosure item in the Form explicitly directs otherwise. As a result, changes in the foreign private issuer's certifying accountant that occur after the issuer's fiscal year-end, but before the Form 20–F is filed, would be disclosed in the issuer's Form 20–F annual report.

[104] We noted the importance of transparency in fee disclosures in our 1991 ADR concept release, Release No. 33–6894 (May 23, 1991) [56 FR 24420].

[105] *See* Release No. 34–53978 (June 13, 2006) [71 FR 35474] (notice of NYSE rule change to eliminate the requirement that certain services be provided without charge to ADR holders).

Act,[106] but are not disclosed in the annual report. The information provided is also generic, providing maximums paid on the deposit and withdrawal of the securities underlying the ADRs. Although ADR fees are disclosed in the ADR itself,[107] ADR holders frequently purchase their ADRs in book-entry form and do not see the disclosures provided in the physical certificate. We are proposing to amend Form 20–F by revising Item 12.D.3. and the Instructions to Item 12 to solicit disclosure of these fees on an annual basis, including the annual fee for general depositary services. In addition, some depositaries may make certain payments to the foreign issuers whose securities underlie the ADRs. These types of payments should also be disclosed because the cost of these payments may be passed on to ADR holders through the fees and other charges that they pay to the depositary. The proposed amendments to Item 12.D.3. and the Instructions to Item 12 of Form 20–F would require disclosure of these payments in the registration statement on Form 20–F that is filed for the deposited securities, as well as in the annual report, for sponsored ADR facilities.

Comments Solicited

31. Would it be useful to investors to receive information about ADR fees and payments made by depositaries on an annual basis? Is there other information relating to ADRs that would be useful to investors on an annual basis, such as the number of ADRs outstanding? Are there other methods by which investors can readily obtain this information? Should foreign private issuers be required to disclose the information in their Form 20–F annual reports only if the information is not disclosed on their websites?

32. Should Item 12 be amended to also explicitly solicit a brief discussion of the reasons why the depositary is making payments to the foreign private issuer, or is disclosure of the amount paid to the issuer sufficient?

33. Should depositaries be required to disclose payments that they make to third parties? Are these payments necessarily passed on to ADR holders?

34. Should Regulation S–K and Form 10–K be amended to elicit similar disclosure from foreign issuers that are not foreign private issuers and that file annual reports on Form 10–K, but that have securities traded in ADR form?

D. Disclosure About Differences in Corporate Governance Practices

Foreign private issuers are subject to different legal and regulatory requirements in their home jurisdictions, and as a result frequently follow different corporate governance practices from domestic companies. In recognition of this, many U.S. securities exchanges exempt listed foreign private issuers from many of their corporate governance requirements.[108] However, these exchanges require these issuers to disclose the significant ways in which their corporate governance practices differ from those followed by domestic companies under the relevant exchange's listing standards. Foreign private issuers may provide this disclosure either in their annual reports, and/or on their Websites.[109] Although disclosure of differences in corporate governance practices does not imply a preference for any particular type of corporate governance regime, this disclosure is useful to investors because it facilitates their ability to monitor the issuer's corporate governance practices.

Foreign private issuers frequently opt to provide this disclosure on their websites, rather than in their annual reports. We are proposing to require disclosure of this information in the Form 20–F annual reports filed by all foreign private issuers whose securities are listed on a U.S. exchange. This would consolidate all of the relevant corporate governance disclosure about a listed company in one central location. Currently, foreign private issuers are required to provide in their annual reports the disclosure required by Exchange Act Rule 10A–3(d)[110] regarding an exemption from the listing standards for audit committees.[111]

We propose to add a new Item 16G in Form 20–F that would require foreign private issuers to provide a concise summary in their annual reports of the significant ways in which the foreign private issuer's corporate governance practices differ from the corporate governance practices of domestic companies listed on the same exchange. We expect that the disclosure provided in response to the proposed Item 16G would be similar to the disclosure that foreign private issuers currently provide in response to the corporate governance disclosure requirements of the exchange on which their securities are listed.

Comments Solicited

35. Would disclosure of significant differences in the corporate governance practices of foreign private issuers in their annual reports enable investors to better monitor the corporate governance practices of the issuers in which they are investing?

36. Instead of the narrative discussion that is proposed, is there an alternative format, such as a tabular presentation of the differences in corporate governance practices, that would make the information provided in the annual report easier to understand and thus more useful to investors?

37. Is it sufficiently clear what differences in corporate governance should be disclosed? Are there important elements of corporate governance that investors should be informed of and that should be specifically addressed in a company's disclosure under this proposed requirement?

E. Financial Information for Significant, Completed Acquisitions

We propose to amend Item 17(a) of Form 20–F to require foreign private issuers to provide, in additional circumstances, the financial information required by Rule 3–05 and Article 11[112] of Regulation S–X, which pertain, respectively, to the financial statements that must be provided for significant, completed acquisitions and the preparation of pro forma financial statements. Although domestic companies must present the financial statements of significant acquired businesses and pro forma financial information in their registration statements under both the Securities Act and the Exchange Act, as well as in a Form 8–K, foreign private issuers only provide this information in the

[106] Rule 12a–8 [17 CFR 240.12a–8] exempts depositary shares registered on Form F–6 [17 CFR 239.36] under the Securities Act, but not the underlying deposited securities, from the operation of Section 12(a) of the Exchange Act [15 U.S.C. 78*l*(a)].

[107] As a technical matter, an ADR is the physical certificate that evidences American Depositary Shares (ADS), and an ADS is the security that represents an ownership interest in deposited securities. However, the terms are often used interchangeably by market participants.

[108] *See* Section 303A.00 of the NYSE Listed Company Manual (noting that foreign private issuers are permitted to follow home country practice instead of the applicable corporate governance provisions of the NYSE Listed Company Manual, except for the requirements pertaining to audit committees, certain certifications, and certain corporate governance disclosures); Section 4350(a)(1) of the Nasdaq Manual (noting that requirements pertaining to audit committees and audit opinions apply, among other things); Section 110 of the Amex Company Guide (stating that in evaluating the listing application of a foreign private issuer, ''the Exchange will consider the laws, customs and practices of the applicant's country of domicile, to the extent not contrary to the federal securities laws'').

[109] *See* Section 303A.11 of the NYSE Listed Company Manual; Section 4350(a)(1) of the Nasdaq Manual; Section 110 of the Amex Company Guide.

[110] 17 CFR 240.10A–3(d).

[111] *See* Item 16D of Form 20–F.

[112] 17 CFR 210.11 *et seq.*

registration statements that they file under the Securities Act and the Exchange Act.

Item 2.01 of Form 8–K [113] requires domestic issuers to disclose certain information when they or one of their majority-owned subsidiaries complete an acquisition or disposition of a significant amount of assets, other than in the ordinary course of business. The Form 8–K filed to report this acquisition or disposition must be filed within four business days after the event has occurred.[114] For a business acquisition significant at the 20% or greater level that must be disclosed pursuant to Item 2.01, Item 9.01 of Form 8–K requires the financial statements of the acquired business to be filed with the initial report of the acquisition on Form 8–K, or by amendment no later than 71 calendar days after the date that the initial report on Form 8–K is due.[115] The financial information must be presented in accordance with Rule 3–05 of Regulation S–X, and the pro forma financial information must be presented pursuant to Article 11 of Regulation S–X.[116]

Foreign private issuers have not been required to present financial information about significant, completed acquisitions in their annual reports under the Exchange Act. When we first proposed Form 20–F, we proposed a disclosure requirement that would have solicited substantially similar information about the acquisition or disposition of assets that is required by Item 2.01 of Form 8–K.[117] This proposal was not adopted,[118] and the corresponding Rule 3–05 and Article 11 financial statement disclosures were also not implemented as a disclosure requirement for foreign private issuers.

We are now proposing to require foreign private issuers to provide the financial information solicited by Rule 3–05 and Article 11 of Regulation S–X in their Exchange Act annual reports. Because foreign private issuers do not file current reports on Form 8–K, we are not proposing to impose a requirement that this financial information be presented on a more current basis than annually. As proposed, foreign private issuers would provide financial information in their annual report on Form 20–F about highly significant acquisitions completed during the most recent fiscal year covered by their annual report on that Form. We are aware that imposing a disclosure requirement in annual reports would incrementally increase compliance costs for foreign private issuers, but we believe that if a single business acquisition is significant at the 50% or greater level, this information is particularly useful to investors and should be disclosed. As proposed, the disclosure requirement would be triggered at the 50% or greater level,[119] and would require the provision of financial statements for three fiscal years as prescribed by Rule 3–05(b)(2)(iv) of Regulation S–X.

We are not proposing to require annual reports filed on Form 20–F to contain the information required by Rule 3–05 and Article 11 of Regulation S–K if the information has already been provided previously in a registration statement. In addition, we are not proposing to require financial information about probable acquisitions, or financial information for the aggregation of individually insignificant acquisitions.

Comments Solicited

38. If the information about significant, completed acquisitions is disclosed on an annual, as opposed to current, basis, would the information still be useful to investors? Would investors find the information useful even though the disclosure would be provided at least several months after the acquisition was completed?

39. What types of burdens, if any, would be placed on foreign private issuers if they are required to provide financial information disclosure about highly significant, completed acquisitions annually on Form 20–F?

40. As proposed, a foreign private issuer would be required to provide information about a highly significant, completed acquisition in its annual report on Form 20–F. In light of the proposal to accelerate the reporting deadline for annual reports filed on Form 20–F, should foreign private issuers be provided additional time to disclose information about a highly significant, completed acquisition on an amended annual report? If so, should the due date for the filing of this information be based upon the time that the acquisition was consummated? For example, information about a significant acquisition that was consummated early in the calendar year would be due with the annual report filed on Form 20–F, whereas financial information for a highly significant acquisition that occurred late in the calendar year could be provided on a delayed basis beyond the reporting deadline for the annual report filed on Form 20–F.

41. Should foreign private issuers be required to provide financial information for business acquisitions that are significant at the 50% or greater level, or should the test of significance be at the 20% or greater level, as for domestic issuers? Would another significance level between 20% and 50% be more appropriate? To ensure that only very large transactions are required to be presented, should the test of significance be limited to the comparison of the purchase price to the issuer's assets? Alternatively, should a new test be developed for this purpose in which the comparison for significance is based on the size of the issuer's public float?

42. Would it be useful to investors to require annual reports filed on Form 20–F to disclose the information required by Rule 3–05 and Article 11 of Regulation S–K even if the information has been provided previously in a registration statement? What kind of benefits would investors derive from disclosure in the annual reports?

IV. General Request for Comments

We request and encourage any interested person to submit comments on any aspect of our proposals and any of the matters that might have an impact on the proposed amendments. We request comment from investors, issuers, and other users of the information that may be affected by the proposals. We also request comment from service professionals, such as law and accounting firms. With respect to any comments, we note that they are of greatest assistance to our rulemaking initiatives if accompanied by supporting data and analysis of the issues addressed in those comments.

V. Paperwork Reduction Act

A. Background

The proposed amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995

[113] Item 2.01 of Form 8–K.

[114] General Instruction B.1. of Form 8–K.

[115] Item 9.01(a) of Form 8–K. A domestic issuer or a foreign private issuer that is a shell company, however, must report the acquisition within 4 business days on Form 8–K or Form 20–F, respectively. *See* Release No. 33–8587 (July 15, 2005) [70 FR 42234].

[116] Item 9.01(b) of Form 8–K.

[117] Release No. 34–14128, *supra* note 96 (proposing this as Item 23 to the Form).

[118] See Form 20–F Adopting Release, *supra* note 13.

[119] The significance of an acquired business is measured by the comparison of: (1) *The* registrant's investment in the acquired business (acquisition price) to the registrant's total assets, (2) the acquired business's total assets to the total assets of the registrant, or (3) the acquired business's pre-tax income to the pre-tax income of the registrant. *See* Rule 1–02(w) [17 CFR 210.1–02] of Regulation S–X.

(''PRA'').[120] We are submitting the proposed amendments to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[121] The titles for the affected collections of information are:

(1) ''Form 20–F'' (OMB Control No. 3235–0288);

(2) ''Form F–1'' (OMB Control No. 3235–0258);

(3) ''Form F–3'' (OMB Control No. 3235–0256); and

(4) ''Form F–4'' (OMB Control No. 3235–0325).

Form 20–F sets forth the disclosure requirements for annual reports and registration statements filed by foreign private issuers under the Exchange Act, as well as many of the disclosure requirements for registration statements filed by foreign private issuers under the Securities Act. Forms F–1, F–3 and F–4 were adopted pursuant to the Securities Act, and set forth the disclosure requirements for registration statements filed by foreign private issuers to offer securities to the public.

The hours and costs associated with preparing, filing and sending these forms and complying with these rules constitute reporting and cost burdens imposed by each collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The information collection requirements related to Forms 20–F, F–1, F–3 and F–4 are mandatory. There is no mandatory retention period for the information disclosed, and the information disclosed would be made publicly available on the EDGAR filing system. We have based our estimates of the effect that the proposed rule and form amendments would have on those collections of information primarily on our review of the most recently completed PRA submissions for the affected rules and forms.

The proposed amendments, if adopted, would: (1) Amend Rule 405 of Regulation C under the Securities Act and Exchange Act Rule 3b–4 to permit foreign issuers to test their qualification to use the forms and rules available to foreign private issuers on an annual basis, rather than on the continuous basis that is currently required; (2) Amend Form 20–F to accelerate the filing deadline for annual reports filed by foreign private issuers on Form 20–F, subject to a two-year transition period, and amend Exchange Act Rules 13a–10 and 15d–10 to conform the deadline for transition reports filed by foreign private issuers on Form 20–F with the deadline for annual reports filed on that Form; (3) Amend Form 20–F by eliminating an instruction to Item 17 of that Form, which permits certain foreign private issuers to omit segment data from their U.S. GAAP financial statements; (4) Amend Rule 13e–3, which pertains to going private transactions by reporting issuers or their affiliate, to reflect the recently adopted rules pertaining to the ability of foreign private issuers to terminate their Exchange Act registration and reporting obligations; (5) Amend Form 20–F and Forms F–1, F–3 and F–4 to require foreign private issuers that are required to provide a U.S. GAAP reconciliation to do so pursuant to Item 18 of Form 20–F; (6) Amend Form 20–F, Forms F–1 and F–4 to require foreign private issuers to disclose information about a change in the issuer's certifying accountant; (7) Amend Form 20–F to require foreign private issuers to disclose the fees and charges paid by ADR holders, the payments made by the depositary to the foreign issuer whose securities underlie the ADRs, and for listed issuers, the differences in the foreign private issuer's corporate governance practices and those applicable to domestic companies under the relevant exchange's listing rules; and (8) Amend Form 20–F to require foreign private issuers to provide certain financial information in their annual reports on Form 20–F about a significant, completed acquisition that is significant at the 50% or greater level when that acquisition is completed after the issuer's first fiscal quarter.

We have based the annual burden and cost estimates of the proposed amendments on the following estimates and assumptions:

- A foreign private issuer incurs or will incur 25% of the annual burden required to produce each Form 20–F, Form F–1, Form F–3, or Form F–4; and
- Outside firms, including legal counsel, accountants and other advisors, incur or will incur 75% of the burden required to produce each Form 20–F, Form F–1, Form F–3, or Form F–4 at an average cost of $400 per hour.[122]

We estimated the average number of hours each entity spends completing the forms and the average hourly rate for outside professionals. That estimate includes the time and the cost of in-house preparers, reviews by executive officers, in-house counsel, outside counsel, independent auditors and members of the audit committee.

B. Burden and Cost Estimates Related to the Proposed Amendments

1. Form 20–F

We estimate that currently foreign private issuers file 942 Form 20–Fs each year. We assume that 25% of the burden required to produce the Form 20–Fs is borne internally by foreign private issuers, resulting in 614,891 annual burden hours borne by foreign private issuers out of a total of 2,459,564 annual burden hours. Thus, we estimate that 2,611 total burden hours per response are currently required to prepare the Form 20–F. We further assume that 75% of the burden to produce the Form 20–Fs is carried by outside professionals retained by foreign private issuers at an average cost of $400 per hour, for a total cost of $737,868,600.

The proposed amendment to amend Form 20–F to accelerate the filing deadline for annual reports and transitions reports filed on that Form would not change the amount of information required to be included in Exchange Act reports. In connection with this proposal, we are also proposing to amend Exchange Act Rules 13a–10 and 15d–10, which pertain to transition reports filed on Form 20–F. Our proposed amendments would conform the deadline for transition reports filed on Form 20–F with the proposed deadline for annual reports filed on Form 20–F. These amendments also would not change the amount of information required to be included in Exchange Act reports. Therefore, these proposed amendments would neither increase nor decrease the amount of burden hours necessary to prepare annual reports on Form 20–F for the purposes of the PRA.

With respect to our proposed amendment to require foreign private issuers that are required to provide a U.S. GAAP reconciliation to do so pursuant to Item 18 of Form 20–F, we estimate that approximately 200 companies that file Form 20–F will be impacted by the proposal. We expect that, if adopted, the proposed amendment would cause those foreign private issuers to have more burden hours. We estimate that for each of the companies affected by the proposal, there would occur an increase of 2% (52.22 hours) in the number of burden hours required to prepare their Form 20–F, for a total increase of 10,444 hours

[120] 44 U.S.C. 3501 *et seq.*

[121] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

[122] In connection with other recent rulemakings, we have had discussions with several law firms to estimate an hourly rate of $400 as the cost to companies for the services of outside professional retained to assist in the preparation of these disclosures. For Securities Act registration statements, we also consider additional reviews of the disclosure by underwriter's counsel and underwriters.

as a result of this proposal. We expect that 25% of those increased burden hours (2,611 hours) will be incurred by foreign private issuers. We further expect that 75% of these increased burden hours (7,833 hours) will be incurred by outside firms, at an average cost of $400 per hour, for a total of $3,133,200 in increased costs to the respondents of the information collection as a result of this proposal.

With respect to our proposed amendment to require disclosure about a change in the issuer's certifying accountant in annual reports and registration statements filed on Form 20–F, we estimate that approximately 90 companies that file Form 20–F will be impacted by the proposal. We expect that, if adopted, the proposed amendment would cause those foreign private issuers to have more burden hours. We estimate that for each of the companies affected by the proposal, there would occur an increase of .75% (19.58 hours) in the number of burden hours required to prepare their Form 20–F, for a total increase of 1,762.2 hours. We expect that 25% of those increased burden hours (440.55 hours) will be incurred by foreign private issuers. We further expect that 75% of these increased burden hours (1,321.65 hours) will be incurred by outside firms, at an average cost of $400 per hour, for a total of $528,660 in increased costs to the respondents of the information collection as a result of the proposal.

With respect to our proposed amendment to require disclosure about ADR fees and payments on an annual basis, we estimate that approximately 442 companies that file Form 20–F will be impacted by the proposal. We expect that, if adopted, the proposed amendment would cause those foreign private issuers to have more burden hours. We estimate that for each of the companies affected by the proposal, there would occur an increase of .25% (6.53 hours) in the number of burden hours required to prepare their Form 20–F, for a total increase of 2,886.26 hours. We expect that 25% of those increased burden hours (721.57 hours) will be incurred by foreign private issuers. We further expect that 75% of these increased burden hours (2,164.71 hours) will be incurred by outside firms, at an average cost of $400 per hour, for a total of $865,884 in increased costs to the respondents of the information collection as a result of these proposal.

With respect to our proposed amendment to require annual disclosure about differences in a listed foreign private issuer's corporate practices and those applicable to domestic companies under the relevant exchange's listing rule, we estimate that approximately 783 companies that file Form 20–F will be impacted by the proposal. We expect that, if adopted, the proposed amendment would not cause a significant change in the burden hours for those foreign private issuers because they already prepare this information for the exchanges on which they are listed.

With respect to our proposed amendment to eliminate an instruction to Item 17 of Form 20–F, which permits certain foreign private issuers to omit segment data from their U.S. GAAP financial statements, we estimate that approximately 5 companies that file Form 20–F will be currently impacted by the proposal. We expect that, if adopted, the proposed amendment would cause those foreign private issuers to have more burden hours. We estimate that for each of the companies affected by the proposal, there would occur an increase of 2% (52.22 hours) in the number of burden hours required to prepare their Form 20–F, for a total increase of 261.1 hours. We expect that 25% of those increased burden hours (65.3 hours) will be incurred by foreign private issuers. We further expect that 75% of these increased burden hours (195.83 hours) will be incurred by outside firms, at an average cost of $400 per hour, for a total of $78,332 in increased costs to the respondents of the information collection as a result of the proposal.

With respect to our proposed amendment to amend Form 20–F to require foreign private issuers to provide certain financial information in their annual reports on that Form about a significant, completed acquisition that is significant at the 50% or greater level when that acquisition is completed after the issuer's first fiscal quarter, we estimate that approximately 45 companies that file Form 20–F will be currently impacted by the proposal. We expect that, if adopted, the proposed amendment would cause those foreign private issuers to have more burden hours. We estimate that for each of the companies affected by the proposal, there would occur an increase of 20% (522.2 hours) in the number of burden hours required to prepare their Form 20–F, for a total increase of 23,499 hours. We expect that 25% of those increased burden hours (5,874.75 hours) will be incurred by foreign private issuers. We further expect that 75% of these increased burden hours (17,624.25 hours) will be incurred by outside firms, at an average cost of $400 per hour, for a total of $7,049,700 in increased costs to the respondents of the information collection as a result of this proposal.

Thus, we estimate that the proposed amendments to Form 20–F would increase the annual burden borne by foreign private issuers in the preparation of Form 20–F from 614,891 hours to 624,604 hours. We further estimate that the proposed amendments would increase the total annual burden associated with Form 20–F preparation to 2,498,417 burden hours, which would increase the average number of burden hours per response to 2652. We further estimate that the proposed amendment would increase the total annual costs attributed to the preparation of Form 20–F by outside firms to $749,524,376.

2. Form F–1

We estimate that currently foreign private issuers file 42 registration statements on Form F–1 each year. We assume that 25% of the burden required to produce a Form F–1 is borne by foreign private issuers, resulting in 18,890 annual burden hours incurred by foreign private issuers out of a total of 75,560 annual burden hours. Thus, we estimate that 1,799 total burden hours per response are currently required to prepare a registration statement on Form F–1. We further assume that 75% of the burden to produce a Form F–1 is carried by outside professionals retained by foreign private issuers at an average cost of $400 per hour, for a total cost of $22,667,400.

We estimate that currently approximately 4 companies that file registration statements on Form F–1 will be impacted by the proposal to require foreign private issuers to provide disclosure about a change in their certifying accountant in their initial registration statements. We expect that, if adopted, the proposed amendment would cause those foreign private issuers to have more burden hours. We estimate that each company affected by the proposal would have a .75% increase (13.49 hours) in the number of burden hours required to prepare their registration statements on Form F–1, for a total increase of 54 hours. We expect that 25% of these increased burden hours (13.5 hours) will be incurred by foreign private issuers. We further expect that 75% of the increased burden hours (40.5 hours) will be incurred by outside firms, at an average cost of $400 per hour, for a total of $16,200 in increased costs to the respondents of the information collection as a result of the proposal.

We estimate that none of the companies that file registration statements on Form F–1 will be impacted by the proposal to require foreign private issuers that are required

to provide a U.S. GAAP reconciliation to do so pursuant to Item 18 of Form 20–F. In our experience, the companies that use Form F–1 are engaging in capital raising transactions, so that all registrants have been providing financial information according to Item 18. The proposed amendment would be a technical change to the Form without any expected impact on the companies using that Form.

Thus, we estimate that the proposed amendments to Form F–1 would increase the annual burden incurred by foreign private issuers in the preparation of Form F–1 from 18,890 hours to 18,904 hours. We further estimate that the proposed amendment would increase the total annual burden associated with Form F–1 preparation to 75,614 burden hours, which would increase the average number of burden hours per response to 1800. We further estimate that the proposed amendment would increase the total annual costs attributed to the preparation of Form F–1 by outside firms to $22,683,600.

3. Form F–3

We estimate that currently foreign private issuers file 106 registration statements on Form F–3 each year. We assume that 25% of the burden required to produce a Form F–3 is borne by foreign private issuers, resulting in 4,399 annual burden hours incurred by foreign private issuers out of a total of 17,596 annual burden hours. Thus, we estimate that 166 total burden hours per response are currently required to prepare a registration statement on Form F–3. We further assume that 75% of the burden to produce a Form F–3 is carried by outside professionals retained by foreign private issuers at an average cost of $400 per hour, for a total cost of $5,278,800.

We estimate that currently approximately 20 companies that file registration statements on Form F–3 will be impacted by the proposal to require foreign private issuers that are required to provide a U.S. GAAP reconciliation to do so pursuant to Item 18 of Form 20–F. We expect that, if adopted, the proposed amendment would cause those foreign private issuers to have more burden hours. We estimate that each company affected by the proposal would have a 2% increase (3.32 hours) in the number of burden hours required to prepare their registration statements on Form F–3, for a total increase of 66.4 hours. We expect that 25% of these increased burden hours (16.6 hours) will be incurred by foreign private issuers. We further expect that 75% of the increased burden hours (49.8 hours) will be incurred by outside firms, at an average cost of $400 per hour, for a total of $19,920 in increased costs to the respondents of the information collection as a result of the proposal.

Thus, we estimate that the proposed amendment to Form F–3 would increase the annual burden incurred by foreign private issuers in the preparation of Form F–3 from 4,399 hours to 4,416 hours. We further estimate that the proposed amendment would increase the total annual burden associated with Form F–3 preparation to 17,663 burden hours, which would increase the average number of burden hours per response to 167. We further estimate that the proposed amendment would increase the total annual costs attributed to the preparation of Form F–3 by outside firms to $5,298,720.

4. Form F–4

We estimate that currently foreign private issuers file 68 registration statements on Form F–4 each year. We assume that 25% of the burden required to produce a Form F–4 is borne internally by foreign private issuers, resulting in 24,497 annual burden hours incurred by foreign private issuers out of a total of 97,988 annual burden hours. Thus, we estimate that 1,441 total burden hours per response are currently required to prepare a registration statement on Form F–4. We further assume that 75% of the burden to produce a Form F–4 is carried by outside professionals retained by foreign private issuers at an average cost of $400 per hour, for a total cost of $29,396,400.

We estimate that currently approximately none of the companies that file registration statements on Form F–4 will be impacted by the proposal to require foreign private issuers that are required to provide a U.S. GAAP reconciliation to do so pursuant to Item 18 of Form 20–F. In our experience, the companies that use Form F–4 have all been providing financial information according to Item 18 because of the types of transactions that are registered on that Form, so the proposed amendment would be a technical change to the Form without any expected impact on the companies using it.

We estimate that currently approximately 5 companies that file registration statements on Form F–4 will be impacted by the proposal to require foreign private issuers to provide disclosure about a change in their certifying accountant in their initial registration statements. We expect that, if adopted, the proposed amendment would cause those foreign private issuers to have more burden hours. We estimate that each company affected by the proposal would have a .75% increase (10.81 hours) in the number of burden hours required to prepare their registration statements on Form F–1, for a total increase of 54 hours. We expect that 25% of these increased burden hours (13.5 hours) will be incurred by foreign private issuers. We further expect that 75% of the increased burden hours (40.5 hours) will be incurred by outside firms, at an average cost of $400 per hour, for a total of $16,200 in increased costs to the respondents of the information collection as a result of the proposal.

Thus, we estimate that the proposed amendments to Form F–4 would increase the annual burden incurred by foreign private issuers in the preparation of Form F–4 from 24,497 hours to 24,511 hours. We further estimate that the proposed amendment would increase the total annual burden associated with Form F–4 preparation to 98,042 burden hours, which would decrease the average number of burden hours per response to 1,442. We further estimate that the proposed amendment would increase the total annual costs attributed to the preparation of Form F–4 by outside firms to $29,412,600.

5. Other Proposed Amendments

The proposed amendments to Securities Act Rule 405 and Exchange Act Rule 3b–4 would revise the definition of ''foreign private issuer'' to permit foreign issuers to test their status as ''foreign private issuers'' on the last business day of their second fiscal quarter, rather than continuously, as is currently the case. Our proposed amendments would not change the amount of information required to be included in Securities Act registration statements or Exchange Act reports. Therefore, they would neither increase nor decrease the amount of burden hours necessary to prepare documents under either of those Acts for the purposes of the PRA.

In addition, we also expect the proposed amendment to Exchange Act Rule 13e–3 to have a neutral effect on foreign private issuers. We do not expect a change in the number of foreign private issuers who would be required to comply with Rule 13e–3, or the burden hours required to prepare a Schedule 13E–3.

C. Request for Comment

Pursuant to 44 U.S.C. 3506(c)(2)(B), we request comment in order to:

• Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including

whether the information will have practical utility;

- Evaluate the accuracy of our estimates of the burden of the proposed collections of information;
- Determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected;
- Evaluate whether there are ways to minimize the burden of the collections of information on those who respond, including through the use of automated collection techniques or other forms of information technology; and
- Evaluate whether the proposed amendments will have any effects on any other collections of information not previously identified in this section.

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing the burdens. Persons who desire to submit comments on the collection of information requirements should direct their comments to the OMB, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and send a copy of the comments to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090, with reference to File No. S7–05–08. Requests for materials submitted to the OMB by us with regard to these collections of information should be in writing, refer to File No. S7–05–08 and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 100 F Street, NE., Washington DC 20549. Because the OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, your comments are best assured of having their full effect if the OMB receives them within 30 days of publication.

VI. Cost-Benefit Analysis

We are proposing amendments to our rules and forms relating to foreign private issuers that are intended to improve the accessibility of the U.S. public capital markets to these issuers, as well as to enhance the information that is available to investors. The Commission has considered the costs and benefits as described below and encourages commenters to identify, discuss, analyze, and supply relevant data regarding any additional costs or benefits. Specifically, the Commission requests data to quantify the costs and the value of each of the benefits identified. The Commission also seeks estimates and views regarding the identified costs and benefits of the proposals for particular types of market participants and any other costs or benefits that may result from the adoption of the proposed rule.

1. Annual Test for Foreign Private Issuer Status

A. Expected Benefits

The proposed amendments to the definition of ''foreign private issuer'' contained in Securities Act Rule 405 and Exchange Act Rule 3b–4 would permit reporting foreign issuers to assess their eligibility to use the special forms and rules available to foreign private issuers once a year on the last business day of their second fiscal quarter, rather than continuously, as is currently the case. This is the same date used to determine accelerated filer status under Exchange Act Rule 12b–2 and smaller reporting company status in Item 10(f)(2)(i) of Regulation S–K. As a result, these proposed amendments should simplify compliance with the Commission's regulations by establishing one date that is used to ascertain an issuer's status. Foreign issuers should benefit as a result of this simplification of their compliance requirements, which could make the U.S. markets more attractive to them as a source of capital and thereby enhance the competitiveness of the U.S. markets compared to other markets. The proposed amendments are expected to reduce the cost for foreign issuers of monitoring whether they qualify as foreign private issuers, including the time spent by management in tracking this information. If more foreign issuers are encouraged to remain in the U.S. markets and to make public offerings, investors should also benefit because this will enhance their ability to invest in the securities of foreign issuers that have been registered with the Commission, and that are thus subject to the disclosure requirements and investor protections provided by the federal securities laws.

Once a foreign issuer determines that it no longer qualifies as a foreign private issuer, the proposed amendments would provide the issuer with at least six months' advance notice that it must comply with the domestic issuer forms and rules. This would provide these issuers with more time to comply with the reporting requirements applicable to domestic issuers under the Exchange Act, and to modify their information and processing systems to comply with the domestic reporting and registration regime. This includes the requirements to comply with the more extensive executive compensation disclosure requirements that apply to domestic issuers, as well as the proxy rules and Section 16 reporting requirements under the Exchange Act, which do not apply to foreign private issuers. Because the proposed amendments would provide foreign issuers with advance notice when their status changes, more foreign issuers may be encouraged to remain in the U.S. markets, and investors should benefit from the increased opportunities to invest in foreign securities in the United States.

The proposed amendments should mitigate a burden on foreign issuers by reducing the amount of time and the resources they expend to determine their status pursuant to the four-factor test set forth in the definition of ''foreign private issuer.'' In this respect, the proposed amendments would be most beneficial to reporting foreign private issuers that have close to 50% of their outstanding voting securities held of record by U.S. residents, since they are most at risk of no longer qualifying as foreign private issuers. The current requirement that foreign issuers continuously test their status can result in confusion for investors if a foreign issuer needs to move between foreign and domestic reporting forms in the same fiscal year. For example, investors may be confused if a foreign issuer determines that it no longer qualifies as a foreign private issuer, and then switches from the foreign private issuer forms (Form 6–K and Form 20–F) to the domestic forms (*e.g.*, quarterly reports on Form 10–Q) in the same fiscal year. The proposed amendments would benefit U.S. investors by eliminating this confusion. However, the proposed amendments may not be as helpful in reducing investor confusion with respect to foreign private issuers that have been reporting under the domestic regime and that would now be permitted to switch immediately to the foreign private issuer reporting regime upon the determination of their eligibility to do so.

At the same time, foreign issuers that previously did not qualify as foreign private issuers, but that determine that they would qualify as foreign private issuers, would be able to use the foreign private issuer rules and forms immediately under the proposed amendments. This accommodation could encourage more foreign issuers to enter the U.S. markets and to make public offerings, and should benefit investors by enhancing their ability to invest in foreign securities that have been registered with the Commission.

B. Expected Costs

Investors could incur costs from the proposed amendments if foreign issuers that have been reporting under the domestic reporting regime immediately switch over to the foreign private issuer forms once they qualify as foreign private issuers. Because foreign private issuers have different Exchange Act reporting obligations than domestic issuers and file on different forms, some investors may find it confusing if a foreign issuer that had been reporting under the domestic reporting regime switches reporting regimes mid-year. In addition, once a foreign issuer switches status from a domestic issuer to a foreign private issuer, investors will no longer have the benefit of the disclosures that were once provided by the foreign issuer on the domestic forms.

Currently, when a foreign issuer no longer qualifies as a foreign private issuer, it must immediately file quarterly reports on Form 10–Q and current reports on Form 8–K. It must also comply with the Commission's proxy rules and the Section 16 insider stock trading and short-swing profit recovery provisions. Under the proposed amendments, when a foreign issuer determines that it no longer qualifies as a foreign issuer, for the six months following the test date, the foreign issuer would be permitted to continue relying on the rules applicable to foreign private issuers, such as the exemption from the proxy rules and Section 16. The foreign issuer would also be allowed to use the forms reserved for foreign private issuers, and to provide current reports on Form 6–K, rather than Exchange Act reports on Forms 10–Q and 8–K. During that period, investors would not have the benefit of the additional disclosures that the foreign issuer would otherwise be required to provide.

2. Proposed Amendments to Form 20–F

The proposed amendments would make several changes to annual reports filed on Form 20–F. We are proposing to accelerate the deadline for annual reports filed on Form 20–F by foreign private issuers. We are also proposing to amend Form 20–F to require certain additional disclosures in annual reports on that Form. The proposed amendments would require issuers to disclose any changes in and disagreements with the registrant's certifying accountant in their Form 20–F annual reports, as well as in the Securities Act registration statements filed by first-time registrants with the Commission. The proposed amendments would also require disclosure of the fees and other charges paid by ADR holders to depositaries, and any payments made by depositaries to the foreign issuers whose securities underlie the ADRs. In addition, we are proposing to amend Form 20–F to require disclosure in the annual report about the significant differences in the corporate governance practices of listed foreign private issuers compared to the corporate governance practices applicable to domestic companies under the relevant exchange's listing standards. Another proposed amendment would eliminate an instruction to Item 17 of Form 20–F that permits certain foreign private issuers to omit segment data from the U.S. GAAP financial statements. The proposed amendments to Form 20–F would also amend that Form to require foreign private issuers to present information about a significant, completed acquisition that is significant at the 50% or greater level, calculated based on assets or income from continuing operations, in their annual reports on that Form.

In addition to these amendments, we are proposing to eliminate the availability of the limited U.S. GAAP reconciliation option that is contained in Item 17 of Form 20–F for foreign private issuers that are only listing a class of securities on a U.S. national securities exchange, or only registering a class of equity securities under Section 12(g) of the Exchange Act, and not conducting a public offering. The proposed amendments would apply not only to registration statements filed on Form 20–F in the circumstances described above, but also to annual reports filed on that Form. Related to this proposed amendment, we are proposing to eliminate the Item 17 limited reconciliation option for certain non-capital raising offerings, such as offerings pursuant to dividend reinvestment plans, offerings upon the conversion of securities, or offerings of investment grade securities. The Securities Act registration statement forms available to foreign private issuers (Form F–1, F–3 and F–4) would be amended accordingly.

A. Expected Benefits

We anticipate that the proposed amendments to Form 20–F and the related amendments to the Securities Act registration statement forms available to foreign private issuers would provide a significant benefit to U.S. investors by providing them with enhanced disclosure that is more similar to the disclosures provided by domestic issuers, as well as disclosure on an accelerated basis that is more comparable to the timeframe within which domestic issuers file annual reports. Because of the Commission's integrated disclosure system, in which approximately the same information is provided in both the primary and secondary markets, the disclosure requirements contained in Form 20–F are often more comprehensive than the disclosures required by foreign securities regulators. For example, although many foreign regulators require audited financial statements and a form of management's report in annual reports, they do not require disclosure about executive compensation, description about the issuer's business, or a Management's Discussion and Analysis (MD&A). These additional disclosures are required in the Form 20–F annual reports that foreign private issuers file with the Commission.

Based on our analysis of a sample of Form 20–F annual reports filed with the Commission in the past few years, we estimate that approximately one-third of all such filers currently file Form 20–F annual reports with us within 120 days after their fiscal year-end. The proposed amendment to accelerate the due date for Form 20–F annual reports would thus affect a majority of the foreign private issuers that file on Form 20–F. As a result of the accelerated deadline, investors may be better able to compare the performance of foreign and domestic issuers, since information about both will be provided on a more contemporaneous basis.

The proposed amendments to require additional disclosure in Form 20–F annual reports should help investors better compare foreign and domestic issuers. Currently, domestic issuers provide disclosure about changes in and disagreements with their certifying accountant on a Form 8–K current report. Listed domestic issuers are also required to comply with the corporate governance requirements of the U.S. exchange on which their securities are listed, although foreign private issuers whose securities are listed on the same exchange are exempt. The proposed amendments would provide investors with more comparable information about foreign private issuers regarding possible audit opinion shopping and corporate governance practices.

The proposed amendments to require disclosure about ADR fees and payments made by depositaries to the foreign issuers whose securities underlie the ADRs will make this information more readily available to investors. The placement of this disclosure in annual reports and Form 20–F registration statements should

assist investors in determining the fees related to their investments in ADRs, including indirect costs that may be imposed on them if the depositary bank passes along the cost of its payments to foreign issuers to ADR holders. This should better enable investors to determine the value of investing in the ADRs of foreign issuers.

Several of the proposed amendments to Item 17 of Form 20–F may also help ensure that all foreign private issuers provide the same level of financial information, thereby facilitating a readier comparison across all issuers. This could, as a consequence, increase the attractiveness of these companies to investors. For example, the proposed amendments would eliminate the availability of the limited U.S. GAAP reconciliation option in Item 17 of Form 20–F for annual reports, registration statements on Form 20-F that do not involve a public offering, and Securities Act registration statements for certain non-capital raising transactions. Currently, most foreign private issuers that provide U.S. GAAP reconciliation disclose financial information according to Item 18 of Form 20–F. The proposed amendment would ensure that all foreign private issuers provide this level of disclosure. Another proposed amendment would eliminate the instruction to Item 17 of Form 20–F that permits certain foreign private issuers to omit segment data from their U.S. GAAP financial statements. Although we estimate that less than 10 foreign private issuers use this instruction, the instruction creates an anomaly whereby an issuer is permitted to provide a qualified U.S. GAAP audit report.

Investors are also expected to benefit from the proposed amendment to require foreign private issuers to present information about a highly significant, completed acquisition in their annual reports filed on Form 20–F. Currently, foreign private issuers are not required to provide any information about such transactions in their periodic reports. The proposed amendment would enable investors to receive historical financial information about the acquired company, information they currently receive from domestic registrants, but not from foreign issuers that are acquirers. This information may help investors to assess the past performance of the acquired entity and its possible effect on the valuation of the acquiring company.

B. Expected Costs

Foreign private issuers could incur costs from the proposed amendments to Form 20–F, and the related amendments to the Securities Act registration statements available to foreign private issuers. In order to comply with the proposed accelerated due dates, many foreign private issuers would likely have to implement new systems for preparing information during the transition period to the new rules. They could be required to prepare annual reports on a dual track, one for the annual report filed with their home country regulator and the Form 20–F annual report. According to our analysis of a sample of Form 20–F annual reports filed with us, approximately one-fifth of all such filers file their Form 20–F annual reports within 90 days of their fiscal year-end, and approximately one-third file their Form 20–F annual reports within 120 days of their fiscal year-end. The cost of preparing filings on an accelerated basis may therefore vary among issuers. In addition, because of the Commission's integrated disclosure system, in which issuers provide approximately the same disclosures to both the primary and secondary markets, the disclosures required in Form 20–F are more substantial than the information required for annual reports in many foreign jurisdictions. The proposed amendments could thus result in increased costs for foreign private issuers.

The proposed amendments to provide additional disclosures in Form 20–F may also impose additional costs on foreign private issuers. With respect to the proposed disclosure regarding ADR fees and payments made by depositaries, we note that the information about ADR fees is provided in the deposit agreement and form of receipt that are attached as exhibits to the Form F–6 used to register the ADRs under the Securities Act, as well as in the Securities Act registration statement related to the offering of the securities underlying the ADRs. Because the information is already required by the Commission, albeit in filings that most retail investors are not familiar with, we do not believe that the requirement to include this information in the foreign private issuer's annual report on Form 20–F would involve significant compliance costs.

In addition, the information about the payments made by depositaries to foreign private issuers would provide important new information to investors about incentives used by depositaries that may encourage foreign private issuers to sell their securities in ADR form and with a particular depositary bank. If foreign issuers are reluctant to disclose this information, they could be discouraged from entering the U.S. markets, or, if they already have established ADR facilities in the United States, from maintaining their ADR facilities. This would reduce the opportunities for investors to invest in foreign securities in the United States.

Foreign private issuers could incur some costs related to the proposal to include information about differences in corporate governance practices for listed foreign private issuers. However, the U.S. exchanges already require that this information be prepared. For foreign private issuers that are listed on U.S. exchanges, the proposed amendment would not involve the collection of new information or preparation of new disclosure, but would simply require that the information also be made available in the annual report, where many investors may expect to see it. As a result, we believe the compliance costs of this proposed amendment would be relatively small. Under the proposed amendments, corporate governance information would not be required for issuers that are not listed on a U.S. exchange.

The proposed amendments to eliminate the availability of the limited U.S. GAAP reconciliation contained in Item 17 of Form 20–F, and to require segment data in U.S. GAAP financial statements could result in costs for the affected foreign private issuers because they would now need to collect this information and to prepare additional disclosure in their Form 20–F annual reports. However, based on our review of Form 20–F annual report filings made with us for fiscal year 2006, we estimate that most foreign private issuers already provide financial information according to Item 18 of Form 20–F, and that less than 10 foreign private issuers would be affected by the requirement to provide segment data.

Foreign private issuers would also incur costs in connection with the proposal to require disclosure about any changes in and disagreements with the registrant's certifying accountant in Form 20–F annual reports and in Securities Act registration statements filed by first-time registrants. In addition to the preparation costs of including this information in the Form 20–F, the foreign private issuer could also incur certain costs associated with the proposed requirement to obtain a letter from its former accountant stating whether it agrees with the disclosure provided by the issuer in the document filed with the Commission.

Foreign private issuers could also incur compliance costs in connection with the proposal to require information about a highly significant, completed acquisition in annual reports filed on Form 20–F. These costs would include,

for example, costs related to the preparation of this information. In some cases, this requirement could deter and potentially discourage issuers from effectuating certain transactions because of the difficulty of obtaining financial information to comply with this requirement.

Investors may incur costs to the extent that the amendments to Form 20–F discourage foreign private issuers from registering or maintaining their registration with the Commission. If foreign private issuers deregister or do not register their securities under the Securities Act or the Exchange Act, there may be reduced opportunities for investment by U.S. investors in the securities of foreign issuers. Although each of the proposed amendments would affect a different number of foreign private issuers, for purposes of the Paperwork Reduction Act, we estimate that these new disclosures would result in an increased paperwork burden of 34 hours for all respondents and $9,516,990 for Form 20–F.

3. Exchange Act Rule 13e–3

A. Expected Benefits

We believe that the proposal to amend Exchange Act Rule 13e–3, which pertains to going private transactions by reporting issuers or their affiliates, to reflect the recently adopted rules pertaining to the ability of foreign private issuers to terminate their Exchange Act registration and reporting obligations would benefit investors. The proposed amendment would help ensure that Rule 13e–3 covered the types of transactions that were intended when the Commission first adopted the Rule. Investors would benefit because more foreign private issuers are expected to be able to terminate their registration and reporting obligations under the Exchange Act as a result of these recently adopted amendments. If more foreign private issuers decide to conduct going private transactions to terminate their registration or reporting obligations, the proposed amendment to Rule 13e–3 would require more foreign private issuers to comply with that Rule and to file a Schedule 13E–3, as required by that Rule. Investors would benefit from the additional disclosures that would be provided.

B. Expected Costs

Foreign private issuers may incur additional costs in connection with the proposed amendment to Rule 13e–3(a)(3)(ii)(A) if Rule 13e–3 is more easily triggered because of the reference to the new termination of registration and reporting requirements that apply to foreign private issuers. These costs would include, for example, the cost of preparing, filing and disseminating a Schedule 13E–3, as well as any required amendments to that Schedule, with the Commission.

Comments Solicited

We solicit comment on the costs and benefits to U.S. and other investors, foreign private issuers and others who may be affected by the proposed amendments. We request your views on the costs and benefits described above, as well as on any other costs and benefits that could result from adoption of the proposed amendments. We also request data to quantify the costs and value of the benefits identified. In particular, we solicit comment on:

- The number of current foreign private issuers that are expected to be affected by the proposed amendments;
- The estimated U.S dollar cost to foreign issuers as a result of the proposed amendment to accelerate the due date for filing Form 20–F annual reports;
- The number of current foreign issuers who do not already provide financial information according to Item 18 of Form 20–F; and
- How investors would be affected both directly and indirectly from the proposed amendments, as discussed in this section.

VII. Consideration of Impact on the Economy, Burden on Competition, and Promotion of Efficiency, Competition, and Capital Formation

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''),[123] we solicit data to determine whether the proposals constitute a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results or is likely to result in: an annual effect on the economy of $100 million or more (either in the form of an increase or a decrease); a major increase in costs or prices for consumers or individual industries; or significant adverse effects on competition, investment or innovation. We request comment on the potential impact of the proposals on the economy on an annual basis. Commenters are requested to provide empirical data and other factual support for their views if possible.

Section 2(b) of the Securities Act [124] and Section 3(f) of the Exchange Act [125] require us, when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action will promote efficiency, competition, and capital formation. When adopting rules under the Exchange Act, Section 23(a)(2) of the Exchange Act [126] requires us to consider the impact that any new rule would have on competition. In addition, Section 23(a)(2) prohibits us from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The purpose of the proposed amendments to Securities Act Rule 405 and Exchange Act Rule 3b–4, which would permit foreign issuers to assess their eligibility to use the special forms and rules available to foreign private issuers once a year, are expected to facilitate capital formation by foreign issuers in the U.S. capital markets. The proposed amendments should reduce regulatory compliance burdens for foreign private issuers that rely on the proposed amendments because of the reduction in monitoring costs. Reduced compliance burdens are expected to lower the cost of raising capital in the Unites States for those issuers. In addition, the competitiveness of the U.S. markets may be enhanced because the reduced monitoring costs may make the markets more attractive to them. The reduction in compliance burdens may also promote efficiency because foreign issuers would no longer need to continuously test their qualification as foreign private issuers.

The proposed amendments to Form 20–F would accelerate the reporting deadline for annual reports on Form 20–F. The proposed amendments to Exchange Act Rules 13a–10 and 15d–10 would conform the due dates for transition reports filed on Form 20–F with the proposed due dates for annual reports on Form 20–F. Several of the proposed amendments to Form 20–F would require more disclosure in the annual reports filed by foreign private issuers. The disclosures required would include information about any changes in and disagreements with the registrant's certifying accountant, ADR fees and payments made by depositaries to the foreign issuers whose securities underlie the ADR, information about corporate governance, and information about highly significant, completed acquisitions. In addition, the proposed amendments would eliminate the availability of the limited U.S. GAAP reconciliation option contained in Item 17 of Form 20–F, and would eliminate

[123] Pub. L. 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

[124] 15 U.S.C. 77b(b).

[125] 15 U.S.C. 78c(f).

[126] 15 U.S.C. 78w(a)(2).

an instruction to Item 17 of that Form, which permits certain foreign private issuers to omit segment data from their U.S. GAAP financial statements.

These proposed amendments would create a more level playing field between foreign private issuers and U.S. issuers because they would require disclosures from foreign private issuers that are currently required of domestic issuers. Foreign private issuers that file annual reports on Form 20–F would also be required to provide these annual reports in a timeframe that is closer to the annual report due dates imposed on domestic issuers. As a result, the proposed amendments should put foreign private issuers and domestic issuers in a more similar position with respect to their compliance obligations under the Commission's regulations, although the incremental costs of complying with these proposed amendments may also create a disincentive for some foreign private issuers to enter the U.S. capital markets.

The proposed amendments may also facilitate capital formation by foreign companies in the U.S. capital markets by enabling investors to obtain more information about these companies in a timeframe that would make the information useful to them and in a manner that would allow for greater comparability to domestic issuers. This could affect the allocation of capital between foreign private issuers and domestic issuers.

The proposed amendments to Exchange Act Rule 13e–3, which reflect the newly adopted rules pertaining to the termination and deregistration of the reporting obligations of foreign private issuers, could require more foreign private issuers to comply with that Rule and to file a Schedule 13E–3 as a result if more foreign private issuers decide to conduct going private transactions to terminate their registration and reporting obligations. This additional compliance obligation could create a disincentive for foreign private issuers to enter the U.S. markets.

We solicit comment on whether the proposed rules would impose a burden on competition or whether they would promote efficiency, competition and capital formation. For example, would the proposals have an adverse effect on competition that is neither necessary nor appropriate in furtherance of the purposes of the Exchange Act? Would the proposals create an adverse competitive effect on U.S. issuers or on foreign issuers? Commenters are requested to provide empirical data and other factual support for their views if possible.

VIII. Regulatory Flexibility Act Certification

The Commission hereby certifies, pursuant to 5 U.S.C. 605(b), that the amendments to Rule 405 of Regulation C, Form F–1, Form F–3, and Form F–4 under the Securities Act, and Form 20–F, Rule 3b–4, Rule 13a–10, Rule 13e–3 and Rule 15d–10 under the Exchange Act contained in this release, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed amendments would: (1) Amend Rule 405 of Regulation C under the Securities Act to permit foreign issuers to test their qualification to use the forms and rules available to foreign private issuers on an annual basis, rather than on the continuous basis that is currently required; (2) Amend Form 20–F to accelerate the filing deadline for annual reports filed by foreign private issuers on Form 20–F, subject to a two-year transition period, and amend Exchange Act Rules 13a-10 and 15d–10 so that the deadline for transition reports filed by foreign private issuers on Form 20–F is the same as the deadline for annual reports filed on Form 20–F; (3) Amend Form 20–F by eliminating an instruction to Item 17 of that Form, which permits certain foreign private issuers to omit segment data from their U.S. GAAP financial statements; (4) Amend Rule 13e–3, which pertains to going private transactions by reporting issuers or their affiliate, to reflect the recently adopted rules pertaining to the ability of foreign private issuers to terminate their Exchange Act registration and reporting obligations; (5) Amend Form 20–F and Forms F–1, F–3 and F–4 to require foreign private issuers that are required to provide a U.S. GAAP reconciliation to do so pursuant to Item 18 of Form 20–F; (6) Amend Form 20–F to require foreign private issuers to disclose information about a change in the issuer's certifying accountant, the fees and charges paid by ADR holders, the payments made by the depositary to the foreign issuer whose securities underlie the ADRs, and for listed issuers, the differences in the foreign private issuer's corporate governance practices and those applicable to domestic companies under the relevant exchange's listing rules; and (7) Amend Form 20–F to require foreign private issuers to provide certain financial information in their annual reports on Form 20–F about a significant, completed acquisition that is significant at the 50% or greater level when that acquisition is completed after the issuer's first fiscal quarter.

Based on an analysis of the language and legislative history of the Regulatory Flexibility Act, Congress does not appear to have intended the Act to apply to foreign issuers. The entities directly affected by the proposed amendments will fall outside the scope of the Act. For this reason, the proposed amendments should not have a significant economic impact on a substantial number of small entities.

We solicit written comments regarding this certification. We request that commenters describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

IX. Statutory Authority and Text of the Proposed Amendments

We are proposing amendments to the rules and forms pursuant to the authority set forth in Sections 6, 7, 10 and 19 of the Securities Act, as amended, and Sections 3, 12, 13, 15, 23 and 36 of the Exchange Act, as amended.

List of Subjects in 17 CFR Parts 230, 239, 240 and 249

Reporting and recordkeeping requirements, Securities.

Text of the Proposed Amendments

For the reasons set out in the preamble, the Commission proposes to amend Title 17, Chapter II of the Code of Federal Regulations as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z-3, 77sss, 78c, 78d, 78j, 78*l*, 78m, 78n, 78o, 78t, 78w, 78*ll*(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. Section 230.405 is amended by revising the definition of ''foreign private issuer'' to read as follows:

§ 230.405 Definition of terms.

* * * * *

Foreign private issuer. (1) The term *foreign private issuer* means any foreign issuer other than a foreign government except an issuer meeting the following conditions as of the last business day of its most recently completed second fiscal quarter:

(i) More than 50 percent of the outstanding voting securities of such issuer are directly or indirectly owned of record by residents of the United States; and

(ii) Any of the following:

(A) The majority of the executive officers or directors are United States citizens or residents;

(B) More than 50 percent of the assets of the issuer are located in the United States; or

(C) The business of the issuer is administered principally in the United States.

(2) In the case of a new registrant with the Commission, the determination of whether an issuer is a foreign private issuer shall be made as of a date within 30 days prior to the issuer's filing of an initial registration statement under either the Act or the Securities Exchange Act of 1934.

(3) Once an issuer qualifies as a foreign private issuer, it will immediately be able to use the forms and rules designated for foreign private issuers until it fails to qualify for this status at the end of its most recently completed second fiscal quarter. An issuer's determination that it fails to qualify as a foreign private issuer governs its eligibility to use the forms and rules designated for foreign private issuers beginning on the first day of the fiscal year following the determination date. Once an issuer fails to qualify for foreign private issuer status, it will remain unqualified unless it meets the requirements for foreign private issuer status as of the last business day of its second fiscal quarter.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

3. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78u–5, 78w(a), 78ll, 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

4. Form F–1 (referenced in § 239.31) is amended by revising paragraph (c) and Instruction 2 to Item 4 of Part I and removing the Instruction to Item 4A of Part I. The revisions read as follows:

Note: The text of Form F–1 does not, and the amendments thereto will not, appear in the Code of Federal Regulations.

Form F–1—Registration Statement Under the Securities Act of 1933

* * * * *

Part I

* * * * *

Item 4. Information With Respect to the Registrant and the Offering

Furnish the following information with respect to the Registrant.

* * * * *

(c) Information required by Item 16F of Form 20–F.

* * * * *

Instructions

* * * * *

2. You do not have to provide the information required by Item 4(c) if you are required to file reports under sections 13(a) or 15(d) of the Exchange Act.

* * * * *

5. Form F–3 (referenced in § 239.33) is amended by:

a. In General Instruction I.B.2., removing the phrase ''may comply with Item 17 or 18'' in the last sentence and adding in its place ''must comply with Item 18'';

b. In General Instruction I.B.3., removing the phrase ''may comply with Item 17 or 18'' in the first sentence and adding in its place ''must comply with Item 18'';

c. In General Instruction I.B.4., removing the phrase ''may comply with Item 17 or 18'' in the second sentence and adding in its place '' must comply with Item 18''; and

d. Revising the Instruction to Item 5 to read as follows:

Note: The text of Form F–3 does not, and the amendments thereto will not, appear in the Code of Federal Regulations.

Form F–3—Registration Statement Under the Securities Act of 1933

* * * * *

Item 5. Material Changes

* * * * *

Instruction. Financial statements or information required to be furnished by this Item shall be reconciled pursuant to Item 18 of Form 20–F.

* * * * *

6. Form F–4 (referenced in § 239.34) is amended by:

a. Revising Instruction 1 to Item 11;

b. Revising Item 12(b)(2) introductory text and Item 12(b)(3)(vii);

c. In Item 12(b)(3)(viii), removing the period and adding in its place ''; and'' and adding Item 12(b)(3)(ix);

d. Adding an Instruction to Item 12;

e. Revising Instruction 1 to Item 13;

f. Revising Item 14(h);

g. In Item 14(i), removing the period and adding in its place ''; and'';

h. Adding Item 14(j);

i. Adding ''1'' before the existing instruction for Instructions to Item 14 and adding an Instruction 2; and

j. In Item 17(b)(5)(ii), removing the period and adding in its place ''; and'' and adding Item 17(b)(6).

The revisions and additions read as follows:

Note: The text of Form F–4 does not, and the amendments thereto will not, appear in the Code of Federal Regulations.

Form F–4—Registration Statement Under the Securities Act of 1933

* * * * *

Item 11. Incorporation of Certain Information by Reference

* * * * *

Instructions

1. All annual reports or registration statements incorporated by reference pursuant to Item 11 of this Form shall contain financial statements that comply with Item 18 of Form 20–F.

* * * * *

Item 12. Information With Respect to F–3 Registrants

* * * * *

(b) * * *

(2) Include financial statements and information as required by Item 18 of Form 20–F. In addition, provide:

(3) * * *

(vii) Financial statements required by Item 18 of Form 20–F, and financial information required by Rule 3–05 and Article 11 of Regulation S–X with respect to transactions other than that pursuant to which the securities being registered are to be issued. (Schedules required under Regulation S–X shall be filed as ''Financial Statement Schedules'' pursuant to Item 21 of this Form, but need not be provided with respect to the company being acquired if information is being furnished pursuant to Item 17(a) of this Form);

* * * * *

(ix) Item 16F of Form 20–F, change in registrant's certifying accountant.

Instruction

You do not have to provide the information required by Item 12(b)(3)(ix) if you are required to file reports under sections 13(a) or 15(d) of the Exchange Act.

* * * * *

Item 13. Incorporation of Certain Information by Reference

* * * * *

Instructions

1. All annual reports incorporated by reference pursuant to Item 13 of this Form shall contain financial statements

that comply with Item 18 of Form 20–F.

* * * * *

Item 14. Information With Respect to Foreign Registrants Other Than F–3 Registrants

* * * * *

(a) * * *

(h) Financial statements required by Item 18 of Form 20–F, as well as financial information required by Rule 3–05 and Article 11 of Regulation S–X with respect to transactions other than that pursuant to which the securities being registered are to be issued. (Schedules required by Regulation S–X shall be filed as ''Financial Statement Schedules'' pursuant to Item 21 of this Form);

* * * * *

(j) Item 16F of Form 20–F, change in registrant's certifying accountant.

Instructions

1. * * *

2. You do not have to provide the information required by Item 14(j) if you are required to file reports under sections 13(a) or 15(d) of the Exchange Act.

* * * * *

Item 17. Information With Respect to Foreign Companies Other Than F–3 Companies

* * * * *

(b) * * *

(6) Item 16F(b) of Form 20–F, change in registrant's certifying accountant.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

7. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.*, and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

8. Section 240.3b–4 is amended by revising paragraph (c) and adding paragraphs (d) and (e) to read as follows:

§ 240.3b–4 Definition of ''foreign government'', ''foreign issuer'' and ''foreign private issuer''.

* * * * *

(c) The term ''*foreign private issuer*'' means any foreign issuer other than a foreign government except for an issuer meeting the following conditions as of the last business day of its most recently completed second fiscal quarter:

* * * * *

(d) Notwithstanding paragraph (c) of this part, in the case of a new registrant with the Commission, the determination of whether an issuer is a foreign private issuer will be made as of a date within 30 days prior to the issuer's filing of an initial registration statement under either the Act or the Securities Act of 1933.

(e) Once an issuer qualifies as a foreign private issuer, it will immediately be able to use the forms and rules designated for foreign private issuers until it fails to qualify for this status at the end of its most recently completed second fiscal quarter. An issuer's determination that it fails to qualify as a foreign private issuer governs its eligibility to use the forms and rules designated for foreign private issuers beginning on the first day of the fiscal year following the determination date. Once an issuer fails to qualify for foreign private issuer status, it will remain unqualified unless it meets the requirements for foreign private issuer status as of the last business day of its second fiscal quarter.

9. Section 240.13a–10 is amended by revising paragraph (g)(3) to read as follows:

§ 240.13a–10 Transition reports.

* * * * *

(g) * * *

(3) The report for the transition period shall be filed on Form 20–F responding to all items to which such issuer is required to respond when Form 20–F is used as an annual report. The financial statements for the transition period filed therewith shall be audited. The transition report shall be filed as follows:

(i) For large accelerated filers and accelerated filers (as defined in § 240.12b–2), within 90 days after either the close of the transition period or the date on which the issuer made the determination to change the fiscal closing date, whichever is later, for fiscal years ending on or after December 15, 2010; and

(ii) For all other issuers, within 120 days after either the close of the transition period or the date on which the issuer made the determination to change the fiscal closing date, whichever is later, for fiscal years ending on or after December 15, 2010.

* * * * *

10. Section 240.13e–3 is amended by revising paragraph (a)(3)(ii)(A) to read as follows:

§ 240.13e–3 Going private transactions by certain issuers or their affiliates.

(a) * * *

(3) * * *

(ii) * * *

(A) Causing any class of equity securities of the issuer which is subject to section 12(b) or section 15(d) of the Act to become eligible for termination of registration under Rule 12g–4 [§ 240.12g–4] or Rule 12h–6 [§ 240.12h–6], or causing the reporting obligations with respect to such class to become eligible for termination under Rule 12h–6 [§ 240.12h–6]; or

* * * * *

11. Section 240.15d–10 is amended by revising paragraph (g)(3) to read as follows:

§ 240.15d–10 Transition reports.

* * * * *

(g) * * *

(3) The report for the transition period shall be filed on Form 20–F responding to all items to which such issuer is required to respond when Form 20–F is used as an annual report. The financial statements for the transition period filed therewith shall be audited. The transition report shall be filed as follows:

(i) For large accelerated filers and accelerated filers (as defined in § 240.12b–2), within 90 days after either the close of the transition period or the date on which the issuer made the determination to change the fiscal closing date, whichever is later, for fiscal years ending on or after December 15, 2010; and

(ii) For all other issuers, within 120 days after either the close of the transition period or the date on which the issuer made the determination to change the fiscal closing date, whichever is later, for fiscal years ending on or after December 15, 2010.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

12. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.*, 7202, 7233, 7241, 7262, 7264, and 7265; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

13. Form 20–F (referenced in § 249.220f) is amended by:

a. Revising General Instructions A.(b) and E.(c);

b. Revising Items 12.D and 12.D.3, and Instruction 1 to Item 12;

c. Adding Item 16F and Instructions to Item 16F;

d. Adding Item 16G and an Instruction to Item 16G;

e. Revising Item 17(a);

f. Removing Instruction 3 to Item 17, and redesignating Instructions 4, 5 and 6 as 3, 4 and 5; and

g. Revising the Instruction to Item 18.

The additions and revisions read as follows:

Note: The text of Form 20–F does not, and the amendments thereto will not, appear in the Code of Federal Regulations.

Form 20–F

* * * * *

General Instructions

A. Who May Use Form 20–F and When It Must Be Filed

* * * * *

(b) A foreign private issuer must file its annual report on this Form within the following period:

(1) For large accelerated filers and accelerated filers (as defined in § 240.12b–2), within 90 days after the end of the fiscal year covered by the report for fiscal years ending on or after December 15, 2010; and

(2) For all other issuers, within 120 days after the end of the fiscal year covered by the report for fiscal years ending on or after December 15, 2010.

* * * * *

E. Which Items To Respond to in Registration Statements and Annual Reports

(a) * * *

(c) *Financial Statements.* An Exchange Act registration statement or annual report filed on this Form must contain the financial statements and related information specified in Item 18 of this Form. Note that Items 17 and 18 may require you to file the financial statements of other entities in certain circumstances. These circumstances are described in Regulation S–X.

* * * * *

Item 12. Description of Securities Other Than Equity Securities

* * * * *

D. American Depositary Shares. If you are registering securities represented by American depositary receipts in a sponsored facility, provide the following information.

* * * * *

3. Describe all fees and charges that a holder of American depositary receipts may have to pay, either directly or indirectly. Indicate the type of service, the amount of the fees or charges and to whom the fees or charges are paid. In particular, provide information about any fees or charges in connection with (a) depositing or substituting the underlying shares; (b) receiving or distributing dividends; (c) selling or exercising rights; (d) withdrawing an underlying security; (e) transferring, splitting or grouping receipts; and (f) general depositary services, particularly those charged on an annual basis.

In addition, describe all fees and other direct and indirect payments made by the depositary to the foreign issuer of the deposited securities.

Instructions to Item 12:

1. *Except for Item 12.D.3., you do not need to provide the information called for by this item if you are using this form as an annual report.*

* * * * *

Item 16F. Change in Registrant's Certifying Accountant

(a)(1) If during the registrant's two most recent fiscal years or any subsequent interim period, an independent accountant who was previously engaged as the principal accountant to audit the registrant's financial statements, or an independent accountant who was previously engaged to audit a significant subsidiary and on whom the principal accountant expressed reliance in its report, has resigned (or indicated it has declined to stand for re-election after the completion of the current audit) or was dismissed, then the registrant shall:

(i) State whether the former accountant resigned, declined to stand for re-election or was dismissed and the date thereof.

(ii) State whether the principal accountant's report on the financial statements for either of the past two years contained an adverse opinion or a disclaimer of opinion, or was qualified or modified as to uncertainty, audit scope, or accounting principles; and also describe the nature of each such adverse opinion, disclaimer of opinion, modification, or qualification.

(iii) State whether the decision to change accountants was recommended or approved by:

(A) Any audit or similar committee of the board of directors, if the issuer has such a committee; or

(B) The board of directors, if the issuer has no such committee.

(iv) State whether during the registrant's two most recent fiscal years and any subsequent interim period preceding such resignation, declination or dismissal there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreement(s), if not resolved to the satisfaction of the former accountant, would have caused it to make reference to the subject matter of the disagreement(s) in connection with its report. Also,

(A) describe each such disagreement;

(B) state whether any audit or similar committee of the board of directors, or the board of directors, discussed the subject matter of each of such disagreements with the former accountant; and

(C) state whether the registrant has authorized the former accountant to respond fully to the inquiries of the successor accountant concerning the subject matter of each of such disagreements and, if not, describe the nature of any limitation thereon and the reason therefore.

The disagreements required to be reported in response to this Item include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this Item are those that occur at the decision-making level, *i.e.*, between personnel of the registrant responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report.

(v) Provide the information required by paragraph (a)(1)(iv) of this Item for each of the kinds of events (even though the registrant and the former accountant did not express a difference of opinion regarding the event) listed in paragraphs (a)(1)(v)(A) through (D) of this section, that occurred within the registrant's two most recent fiscal years and any subsequent interim period preceding the former accountant's resignation, declination to stand for re-election, or dismissal (''reportable events''). If the event led to a disagreement or difference of opinion, then the event should be reported as a disagreement under paragraph (a)(1)(iv) and need not be repeated under this paragraph.

(A) The accountant's having advised the registrant that the internal controls necessary for the registrant to develop reliable financial statements do not exist;

(B) The accountant's having advised the registrant that information has come to the accountant's attention that has led it to no longer be able to rely on management's representations, or that has made it unwilling to be associated with the financial statements prepared by management;

(C)(*1*) The accountant's having advised the registrant of the need to expand significantly the scope of its audit, or that information has come to the accountant's attention during the time period covered by Item

16F(a)(1)(iv), that if further investigated may:

(*i*) Materially impact the fairness or reliability of either: a previously issued audit report or the underlying financial statements; or the financial statements issued or to be issued covering the fiscal period(s) subsequent to the date of the most recent financial statements covered by an audit report (including information that may prevent it from rendering an unqualified audit report on those financial statements); or

(*ii*) Cause it to be unwilling to rely on management's representations or be associated with the registrant's financial statements; and

(*2*) Due to the accountant's resignation (due to audit scope limitations or otherwise) or dismissal, or for any other reason, the accountant did not so expand the scope of its audit or conduct such further investigation; or

(D)(*1*) The accountant's having advised the registrant that information has come to the accountant's attention that it has concluded materially impacts the fairness or reliability of either (i) a previously issued audit report or the underlying financial statements, or (ii) the financial statements issued or to be issued covering the fiscal period(s) subsequent to the date of the most recent financial statements covered by an audit report (including information that, unless resolved to the accountant's satisfaction, would prevent it from rendering an unqualified audit report on those financial statements); and

(*2*) Due to the accountant's resignation, dismissal or declination to stand for re-election, or for any other reason, the issue has not been resolved to the accountant's satisfaction prior to its resignation, dismissal or declination to stand for re-election.

(2) If during the registrant's two most recent fiscal years or any subsequent interim period, a new independent accountant has been engaged as either the principal accountant to audit the registrant's financial statements, or as an independent accountant to audit a significant subsidiary and on whom the principal accountant is expected to express reliance in its report, then the registrant shall identify the newly engaged accountant and indicate the date of such accountant's engagement. In addition, if during the registrant's two most recent fiscal years, and any subsequent interim period prior to engaging that accountant, the registrant (or someone on its behalf) consulted the newly engaged accountant regarding:

(i) Either: The application of accounting principles to a specified transaction, either completed or proposed; or the type of audit opinion that might be rendered on the registrant's financial statements, and either a written report was provided to the registrant or oral advice was provided that the new accountant concluded was an important factor considered by the registrant in reaching a decision as to the accounting, auditing or financial reporting issue; or

(ii) Any matter that was either the subject of a disagreement (as defined in Item 16F(a)(1)(iv) and the related instructions to this Item) or a reportable event (as described in Item 16F(a)(1)(v), then the registrant shall:

(A) So state and identify the issues that were the subjects of those consultations;

(B) Briefly describe the views of the newly engaged accountant as expressed orally or in writing to the registrant on each such issue and, if written views were received by the registrant, file them as an exhibit to the annual report requiring compliance with this Item 16F(a);

(C) State whether the former accountant was consulted by the registrant regarding any such issues, and if so, provide a summary of the former accountant's views; and

(D) Request the newly engaged accountant to review the disclosure required by this Item 16F(a) before it is filed with the Commission and provide the new accountant the opportunity to furnish the registrant with a letter addressed to the Commission containing any new information, clarification of the registrant's expression of its views, or the respects in which it does not agree with the statements made by the registrant in response to Item 16F(a). The registrant shall file any such letter as an exhibit to the annual report containing the disclosure required by this Item.

(3) The registrant shall provide the former accountant with a copy of the disclosures it is making in response to this Item 16F(a). The registrant shall request the former accountant to furnish the registrant with a letter addressed to the Commission stating whether it agrees with the statements made by the registrant in response to this Item 16F(a) and, if not, stating the respects in which it does not agree. The registrant shall file the former accountant's letter as an exhibit to the annual report or registration statement containing this disclosure. If the former accountant's letter is unavailable at the time that the registration statement is filed, then the registrant shall request the former accountant to provide the letter as promptly as possible so that the registrant can file the letter with the Commission within ten business days after the filing of the registration statement. If the change in accountants occurred less than 30 days prior to the filing of the annual report and the former accountant's letter is unavailable at the time that the annual report is filed, then the registrant shall request the former accountant to provide the letter as promptly as possible so that the registrant can file the letter with the Commission within ten business days after the filing of the annual report. In either case, the former accountant may provide the registrant with an interim letter highlighting specific areas of concern and indicating that a more detailed letter will be forthcoming. If not filed with the annual report or registration statement containing the registrant's disclosure under this Item 16F(a), then the interim letter, if any, shall be filed by the registrant by amendment promptly.

(b) If: (1) In connection with a change in accountants subject to paragraph (a) of this Item 16F, there was any disagreement of the type described in paragraph (a)(1)(iv) or any reportable event as described in paragraph (a)(1)(v) of this Item;

(2) During the fiscal year in which the change in accountants took place or during the subsequent fiscal year, there have been any transactions or events similar to those which involved such disagreement or reportable event; and

(3) Such transactions or events were material and were accounted for or disclosed in a manner different from that which the former accountants apparently would have concluded was required, the registrant shall state the existence and nature of the disagreement or reportable event and also state the effect on the financial statements if the method had been followed which the former accountants apparently would have concluded was required.

These disclosures need not be made if the method asserted by the former accountants ceases to be generally accepted because of authoritative standards or interpretations subsequently issued.

Instructions to Item 16F:

1. If you are filing Form 20–F as a registration statement under the Exchange Act, you do not have to provide the information required by Item 16F if you are already required to file reports under sections 13(a) or 15(d) of the Exchange Act. Item 16F applies to all annual reports filed on Form 20–F.

2. The disclosure called for by paragraph (a) of this Item need not be provided if it has been previously reported, as that term is defined in Rule

12b–2 under the Exchange Act (§ 240.12b–2 of this chapter). The disclosure called for by paragraph (b) of this Item must be furnished, where required, notwithstanding any prior disclosure about accountant changes or disagreements.

3. The information required by paragraph (a) of this Item need not be provided for a company being acquired by the registrant in a transaction being registered on Form F–4 that is not subject to the filing requirements of either section 13(a) or 15(d) of the Exchange Act.

4. The term ''disagreements'' as used in this Item shall be interpreted broadly to include any difference of opinion concerning any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure which (if not resolved to the satisfaction of the former accountant) would have caused it to make reference to the subject matter of the disagreement in connection with its report. It is not necessary for there to have been an argument to have had a disagreement, merely a difference of opinion. For purposes of this Item, however, the term ''disagreements'' does not include initial differences of opinion based on incomplete facts or preliminary information that were later resolved to the former accountant's satisfaction by, and providing the registrant and the accountant do not continue to have a difference of opinion upon, obtaining additional relevant facts or information.

5. In determining whether any disagreement or reportable event has occurred, an oral communication from the engagement partner or another person responsible for rendering the accounting firm's opinion (or his/her designee) will generally suffice as the accountant advising the registrant of a reportable event or as a statement of a disagreement at the ''decision-making level'' within the accounting firm and require disclosure under this Item.

6. The term ''board of directors'' as used in this Item 16F has the meaning set forth in § 240.10A–3(e)(2).

Item 16G. Corporate Governance

If the registrant's securities are listed on a national securities exchange, provide a concise summary of any significant ways in which its corporate governance practices differ from those followed by domestic companies under the corporate governance standards of that exchange.

Instruction to Item 16G:

Item 16G only applies to annual reports, and not to registration statements on Form 20–F. Registrants should provide a brief and general discussion, rather than a detailed, item-by-item analysis.

* * * * *

Item 17. Financial Statements

(a) The registrant shall furnish financial statements for the same fiscal years and accountants' certificates that would be required to be furnished if the registration statement were on Form 10 or the annual report on Form 10–K. In addition, in an annual report the registrant shall furnish the information required by Rule 3–05, for the periods required by Rule 3–05(b)(2)(iv), and Article 11 of Regulation S–X (§ 210.3–05 and § 210.11 *et seq.* of this chapter) for any acquisition completed during the most recent fiscal year covered by the Form 20–F that is significant under the definition in Rule 1–02(w) of Regulation S–X (§ 210.1–02(w) of this chapter), substituting 50 percent for 10 percent. However, the information required by Rule 3–05 and Article 11 of Regulation S–X is not required in an annual report filed on Form 20–F if the information has already been provided previously in a registration statement. In an annual report, the registrant does not need to provide Rule 3–05 and Article 11 of Regulation S–X information for probable acquisitions, and does not need to provide Rule 3–05 and Article 11 of Regulation S–X information for the aggregation of individually insignificant acquisitions. Schedules designated by §§ 210.12–04, 210.12–09, 210.12–15, 210.12–16, 210.12–17, 210.12–18, 210.12–28, and 210.12–29 of this chapter shall also be furnished if applicable to the registrant.

* * * * *

Item 18. Financial Statements

* * * * *

Instruction to Item 18:

All of the instructions to Item 17 also apply to this Item.

* * * * *

Dated: February 29, 2008.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. E8–4366 Filed 3–11–08; 8:45 am]

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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

S. 2478/P.L. 110–194

To designate the facility of the United States Postal Service located at 59 Colby Corner in East Hampstead, New Hampshire, as the ''Captain Jonathan D. Grassbaugh Post Office''. (Mar. 11, 2008; 122 Stat. 651)

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