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Contents

Federal Register

Vol. 73, No. 86

Friday, May 2, 2008

Agency for Toxic Substances and Disease Registry
NOTICES
Availability of the Draft Report:
''Selected Information on Chemical Releases within Great Lakes Counties, etc.'', 24290–24291

Agricultural Marketing Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24211–24212
United States Standards for Grades of Pineapples; Correction, 24212–24213

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Food and Nutrition Service
See Forest Service

Air Force Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24255–24256

Animal and Plant Health Inspection Service
NOTICES
Environmental Assessment; Availability:
Field Testing Mannheimia Haemolytica-Pasteurella Multocida Vaccine, Avirulent Live Culture, 24213–24214

Army Department
See Engineers Corps
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24256–24258

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

Centers for Disease Control and Prevention
NOTICES
Meetings:
Disease, Disability, and Injury Prevention and Control Special Emphasis Panels, 24291–24292
National Center for Environmental Health/Agency for Toxic Substances and Disease Registry, 24292–24293

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24293–24294

Children and Families Administration
NOTICES
Delegation of Authority, 24294–24295

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement List:
Additions and Deletions, 24217–24218
Additions and Deletions; Correction, 24217
Prosposed Additions, 24218–24219

Defense Department
See Air Force Department
See Army Department
See Engineers Corps
See Navy Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24253–24255

Drug Enforcement Administration
NOTICES
Application:
Abbott Laboratories, 24313
Notice of Application:
Manufacturer of Controlled Substances, 24313–24314
Registration:
Importer of Controlled Substances, 24314–24315

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24260–24261
Centers for Independent Living, 24261–24265
Meetings:
Advisory Committee on Student Financial Assistance; Roundtable, 24265
Title III of the Elementary and Secondary Education Act of 1965 (ESEA), As Amended by the No Child Left Behind Act of 2001 (NCLB), 24266–24272

Employment and Training Administration
NOTICES
Amended Certification Eligibility to Apply for Worker Adjustment Assistance, etc.:
Faurecia Exhaust Systems, Granger, IN, 24318–24319
Faurecia Exhaust Systems, Troy, OH, 24316
Panasonic Shikoku Electronics Corporation of America et al., 24316
Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance, 24316–24318
Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance, 24319–24320
Termination of Investigation:
Tenneco; Formerly Tenneco, Inc., Milan, OH, 24320

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Biomass Research and Development Technical Advisory Committee, 24272–24273

Engineers Corps
NOTICES
Environmental Impact Statements; Availability, etc.:
Seven Oaks Dam; Woolly Star Preserve Area, San Bernardino County, CA, 24258–24259

Environmental Protection Agency
RULES
Approval and Promulgation of Air Quality Implementation Plans:
West Virginia: Transportation Conformity Requirement, 24175–24178
Denial of Petition for Reconsideration and Request for Stay:
Treatment of Certain Ethanol Production Facilities Under the ''Major Emitting Facility'' Definition, 24174–24175
PROPOSED RULES
Approval and Promulgation of Air Quality Implementation Plans:
West Virginia; Transportation Conformity Requirements, 24187
Proposed Clarification for Chemical Identification Describing Activated Phosphors for TSCA Inventory Purposes; Reopening of Comment Period, 24187–24188
NOTICES
Environmental Impact Statements; Availability, etc., 24279–24281
Meetings:
Draft Toxicological Review of Propionaldehyde; In Support of Summary Information on the Integrated Risk Information System, 24281–24282
Protection of Stratospheric Ozone:
Request for Critical Use Exemption Applications (Years 2010 and 2011), 24282–24285
Science Advisory Board Staff Office Request for Nominations to Augment Expertise on the Ecological Processes and Effects Committee, 24285–24286

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness Directives:
Airbus A318, A319, A320, and A321 Series Airplanes, 24160–24162
Boeing Model 737 100, 200, 200C, 300, 400, and 500 Series Airplanes, 24151–24153
Boeing Model 737-300, -400, and -500 Series Airplanes, 24164–24168
Boeing Model 737 600, 700, 700C, 800 and 900 Series Airplanes, 24149–24151
Boeing Model 777-200, 300, and 300ER Series Airplanes, 24153–24155
Bombardier Model CL 600 2B19 (Regional Jet Series 100 & 440) Airplanes, 24147–24149
Bombardier Model CL-600-2C10 (Regional Jet Series 700, 701 & 702), CL-600-2D15 (Regional Jet Series 705), etc., 24145–24147
Bombardier Model DHC-8-102, et al., 24157–24160
Bombardier Model DHC-8-400, DHC-8-401, and DHC 8 402 Airplanes, 24143–24145
Cessna Aircraft Company 172, 175, 180, 182, 185, 206, 207, 208, 210, and 303 Series Airplanes, 24168–24171
De Havilland Support Limited Model Beagle B.121 Series 1, 2, and 3 Airplanes, 24141–24143
McDonnell Douglas Model DC 10 10, DC 10 10F, DC 10 15, and MD 10 10F Airplanes, 24155–24157
Taylorcraft, Inc. Models A, B, and F series Airplanes, 24162–24164
Standard Instrument Approach Procedures, Takeoff Minimums and Obstacle Departure Procedures; Micellaneous Amendments, 24171–24173
NOTICES
Surplus Property Release at Mobile Downtown Airport, Mobile, AL, 24346
Use of Aeronautical Property: Portland International Jetport, Portland, ME, 24346

Federal Communications Commission
RULES
Amendment of Various Rules Affecting Wireless Services, 24180–24184
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24286–24287
Suspension and Initiation of Debarment Proceedings:
Schools and Libraries Universal Service Support Mechanism, 24287–24289

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 24289

Federal Emergency Management Agency
RULES
Suspension of Community Eligibility, 24178–24180

Federal Energy Regulatory Commission
NOTICES
Combined Notice of Filings, 24273–24276
Compliance Filing:
Worsham-Steed Gas Storage, L.P, 24276
Environmental Statements; Availability, etc.:
AES Sparrows Point LNG, LLC, et al., 24276–24279

Federal Motor Carrier Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24346–24347

Federal Register, Administrative Committee
See Federal Register Office

Federal Register Office
NOTICES
Announcement of withdrawal and republication; correction, 24496

Federal Reserve System
NOTICES
Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies, 24289
Change in Bank Control Notices, Acquisition of Shares of Bank or Bank Holding Companies, 24289
Formations, Acquisitions, and Mergers of Bank Holding Companies, 24290

Fish and Wildlife Service
NOTICES
Cullinan Ranch Unit Restoration Project, San Pablo Bay National Wildlife Refuge, Solano County, CA, 24302–24303
Endangered Species Recovery Permit Applications, 24303–24304

Food and Drug Administration
NOTICES
Determination of Regulatory Review Period for Purposes of Patent Extension; TEKTURNA, 24295

Food and Nutrition Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24214–24215

Foreign-Trade Zones Board
NOTICES
Foreign-Trade Zone 76 Bridgeport, CT, Request for Manufacturing Authority, Derecktor Shipyards Conn, LLC (Cruise Ships, Ferries, and Yachts), 24219

Forest Service
NOTICES
Environmental Statements; Availability, etc.:
Crooked Creek Reservoir Repair; White River National Forest, Eagle County, CO, 24215–24216
Inspections Conducted by the United States Army Corps of Engineers on Formerly Used Defense Sites, 24216
New Fee for Snow Peak Shelter, 24216–24217

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Homeland Security Department
See Federal Emergency Management Agency

Housing and Urban Development Department
NOTICES
Federal Property Suitable as Facilities to Assist the Homeless, 24302

Indian Affairs Bureau
NOTICES
Draft Environmental Impact Statement:
Proposed Absaloka Mine Crow Reservation South Extension Coal Lease Approval, etc.; Big Horn County, MT, 24304–24305

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Minerals Management Service

Internal Revenue Service
PROPOSED RULES
Guidance Regarding Foreign Base Company Sales Income; Correction, 24186
Hearing:
Hybrid Retirement Plans, 24186

International Trade Administration
NOTICES
Certain Lined Paper Products from India: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review, 24219–24220
Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review:
Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea, 24220
Honey from Argentina: Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part, 24220–24222
Initiation of Five-year (Sunset) Review, 24222–24223
Meetings:
Exporters' Textile Advisory Committee; Notice of Meeting Postponement, 24223

International Trade Commission
NOTICES
Antidumping Duty Review:
Lawn and Garden Steel Fence Posts from China, 24310–24312
Determination:
Certain Steel Threaded Rod From China, 24312
Investigations:
Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey, 24312–24313

Justice Department
See Drug Enforcement Administration
NOTICES
Lodging of Consent Decree:
McCulloch Corporation, et al., 24313

Labor Department
See Employment and Training Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24315–24316

Land Management Bureau
NOTICES
Realty Action:
Proposed Modified Competitive Sale of Public Land, Conejos County and Competitive Sale of Public Land. Rio Grande County, CO, 24305–24306
Record of Decision:
Special Status Species Approved Resource Management Plan Amendment, 24306–24307
Temporary Closure of Public Lands During Competitive Special Recreation Permitted:
Events on Public Lands Managed by the Carson City Field Office, Nevada, 24307–24308

Maritime Administration
NOTICES
Requested Administrative Waiver of the Coastwise Trade Laws, 24347–24349

Minerals Management Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24308–24309

National Archives and Records Administration
See Federal Register Office

National Highway Traffic Safety Administration
PROPOSED RULES
Average Fuel Economy Standards:
Passenger Cars and Light Trucks, Model Years 2011-2015, 24352–24487

Passenger Car Average Fuel Economy Standards:
Model Years 2008-2020 and Light Truck Average Fuel Economy Standards — Model Years 2008-2020; Request for Product Plan Information, 24190–24210
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24349–24350

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 24295–24298
National Heart, Lung, and Blood Institute, 24298
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 24299–24300
National Institute of Mental Health, 24299
National Institute of Nursing Research, 24299
National Institute on Aging, 24300

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone Off Alaska;
Pacific Ocean Perch by Vessels in the Bering Sea and Aleutian Islands Trawl Limited Access Fishery in the Eastern Aleutian District of the Bering Sea and Al, 24184–24185
NOTICES
Incidental Takes of Marine Mammals During Specified Activities:
Marine Geophysical Surveys in the Eastern Tropical Pacific Ocean, 24223–24235
Meetings:
New England Fishery Management Council, 24235
North Pacific Fishery Management Council, 24235–24236
Small Takes of Marine Mammals Incidental to Specified Activities;
Ocean Bottom Cable Seismic Survey in the Liberty Prospect, Beaufort Sea, AK, 24236–24253

National Science Foundation
NOTICES
Meetings; Sunshine Act, 24320–24321

Navy Department
RULES
Certifications and Exemptions under the International Regulations for Preventing Collisions at Sea (1972), 24173–24174
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24259–24260
Environmental Statements; Availability, Etc.:
Proposed Homeporting of Additional Surface Ships at Naval Station Mayport, FL, 24260

Nuclear Regulatory Commission
NOTICES
Receipt and Availability of Application for a Combined License:
Constellation Generation Group, LLC. and Unistar Nuclear Operating Services, LLC., 24321

Personnel Management Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24321–24323

Presidential Documents
EXECUTIVE ORDERS
Burma; Blocking Property and Prohibiting Certain Transactions (EO 13464), 24489–24493

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24323
Application: ING USA Annuity and Life Insurance Company, et al., 24324–24327
Meetings; Sunshine Act, 24327
Self-Regulatory Organizations; Proposed Rule Changes:
Boston Stock Exchange, Inc., 24327–24329
Chicago Board Options Exchange, Inc., 24329–24332
Financial Industry Regulatory Authority, Inc., 24332–24338
New York Stock Exchange LLC, 24338–24339

Small Business Administration
NOTICES
Disaster Declaration:
Arkansas, 24339–24340

Social Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 24340–24342

State Department
NOTICES
Overseas Citizens Services Records, 24342–24345
Public Hearings on Proposed New Order of Approval and Plan 2007 for Lake Ontario and the St. Lawrence River, 24345–24346

Substance Abuse and Mental Health Services Administration

NOTICES
Current List of Laboratories which Meet Minimum Standards to Engage in Urine Drug Testing for Federal Agencies, 24300–24301

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Maritime Administration
See National Highway Traffic Safety Administration
RULES
Implementation of OMB Guidance on Nonprocurement Suspension and Debarment, 24139–24141
PROPOSED RULES
Grants and Cooperative Agreements to State and Local Governments:
Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, 24188–24190

Treasury Department
See Internal Revenue Service

Separate Parts In This Issue

Part II
Transportation Department, National Highway Traffic Safety Administration, 24352–24487

Part III
Executive Office of the President, Presidential Documents, 24489–24493

Part IV
Federal Register Office, 24496

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

2 CFR
1200.....24139

3 CFR
Executive Orders:
EO 13464 24491

14 CFR
39 (13 documents) 24141, 24143, 24145, 24147, 24149, 24151, 24153, 24155, 24157, 24160, 24162, 24164, 24168
97.....24171

26 CFR
Proposed Rules:
1 (2 documents) 24186

32 CFR
706.....24173

40 CFR
51.....24174
52 (2 documents) 24174, 24175
70.....24174
71.....24174
Proposed Rules:
52.....24187
704.....24187
720.....24187
721.....24187
723.....24187

44 CFR
64.....24178

47 CFR
24.....24180
27.....24180

49 CFR
29.....24139
Proposed Rules:
18.....24188
19.....24188
523.....24352
531 (2 documents) 24190, 24352
533 (2 documents) 24190, 24352
534.....24352
536.....24352
537.....24352

50 CFR
679.....24184

Rules and Regulations

Federal Register
Vol. 73, No. 86
Friday, May 2, 2008

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

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

2 CFR Part 1200

49 CFR Part 29

RIN 2105–AD68

Department of Transportation Implementation of OMB Guidance on Nonprocurement Suspension and Debarment

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

ACTION: Final rule.

SUMMARY: The Department of Transportation (Department) is moving its regulations on nonprocurement suspension and debarment from their current location in title 49 of the Code of Federal Regulations (CFR) to title 2 of the CFR. By issuing this final rule and moving its nonprocurement suspension and debarment regulations to new CFR part 1200 in title 2 thereof, the Department is also adopting the interim and final government-wide guidance on nonprocurement suspension and debarment issued by the Office of Management and Budget (OMB) in the **Federal Register** on August 31, 2005 (70 FR 51863) and November 15, 2006 (71 FR 66431), respectively. The OMB guidance can be found in 2 CFR Part 180, Subtitle A, Chapter I. These actions by the Department implement OMB initiatives to streamline and consolidate all federal regulations on nonprocurement suspension and debarment into one part of the CFR. In addition, this rule removes 49 CFR Part 29, regulations that reflect the Department's implementation of the government-wide common rule on nonprocurement suspension and debarment. These changes are non-substantive in nature and constitute an administrative simplification that would make no substantive change in Department policy or procedures for nonprocurement suspension and debarment.

DATES: This final rule is effective on June 2, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Shields, Office of the Senior Procurement Executive, Office of Administration (M–61), (202) 366–4268, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Background

On May 11, 2004, OMB established title 2 of the CFR with two subtitles (69 FR 26275). Subtitle A, ''Government-wide Grants and Agreements,'' contains OMB policy guidance to Federal agencies on grants and agreements. Subtitle B, ''Federal Agency Regulations for Grants and Agreements,'' contains Federal agencies' regulations implementing the OMB guidance, as it applies to grants and other financial assistance agreements and nonprocurement transactions.

On August 31, 2005, OMB published interim final guidance for government-wide nonprocurement suspension and debarment in the **Federal Register** (70 FR 51863). The guidance is located in title 2 of the CFR as new subtitle A, Chapter 1, part 180. The interim final guidance updated previous OMB guidance that was issued pursuant to Executive Order 12549, ''Suspension and debarment'' (February 18, 1986), which have government-wide effect on each agency's nonprocurement suspension and debarment actions. Section 6 of the Executive Order authorized OMB to issue guidance to Executive agencies on nonprocurement suspension and debarment, including provisions describing government-wide criteria and minimum due process. Section 3 directed Executive agencies to issue regulations implementing the Executive Order that are consistent with the OMB guidelines. On November 15, 2006, OMB published a final rule adopting the final guidance with changes (71 FR 66431).

This final rule places DOT's nonprocurement suspension and debarment regulations in subtitle B of title 2 of the CFR, along with other agencies' nonprocurement suspension and debarment rules. The new 2 CFR part 1200 adopts the OMB guidelines with additions and clarifications that the Department made to the common rule on nonprocurement suspension and debarment in November 2003 (68 FR 66643) and October 2006 (71 FR 62394).

DOT is not soliciting public comment on this rule and is instead issuing this rule as a final rule. Under 5 U.S.C. 553(b)(3)(A) agencies are not required to undergo notice and comment procedure for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.'' Because this rule adopts OMB's published guidelines, which followed notice and comment procedures, and colocates DOT's specific nonprocurement suspension and debarment rules to title 2 of the CFR, we believe that it falls under the exception cited above. In addition, the Department believes that there would not be meaningful public comment on this rule, which is purely administrative in nature.

Executive Order 12866

The Department has determined that this rule is nonsignificant. It is purely administrative in nature and does not impose new burdens on any parties.

Regulatory Flexibility Act of 1980

The Department certifies that this rule will not have a significant effect on a substantial number of small entities. That is because, as a purely administrative rule, it does not create economic effects on anyone.

Unfunded Mandates Act of 1995

This regulatory action does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector of $100 million or more in any one year, as adjusted for inflation.

Paperwork Reduction Act of 1995

This regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

Executive Order 13132 (Federalism)

This regulatory action does not have Federalism implications, as set forth in Executive Order 13132. 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.

List of Subjects

2 CFR Part 1200

Administrative practice and procedure, Suspension and debarment, Grant programs, Reporting and recordkeeping requirements.

49 CFR Part 29

Administrative practice and procedure, Government contracts, Grant programs, Loan programs, Reporting and recordkeeping requirements.

Issued on April 14, 2008.

Mary E. Peters,

Secretary of Transportation.

■ For the reasons stated in the preamble, under the authority of Sec. 2455, Public Law 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 11738 (3 CFR, 1973 Comp., p. 799); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR 1989 Comp., p. 235), the Department of Transportation amends Title 2, subtitle B and title 49, subtitle A, of the Code of Federal Regulations as follows:

Title 2—Grants and Agreements

■ 1. Add Chapter 12, consisting of part 1200 to Subtitle B to read as follows:

Chapter 12—Department of Transportation

PART 1200—NONPROCUREMENT SUSPENSION AND DEBARMENT

Sec.

1200.10 What does this part do?
1200.20 Does this part apply to me?
1200.30 What policies and procedures must I follow?

Subpart A—General

1200.137 Who in the Department of Transportation may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

1200.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

1200.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

1200.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

Subparts E Through J—[Reserved]

Authority: 49 U.S.C. 322; Sec. 2455, Public Law 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235).

§ 1200.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) guidance in Subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Transportation policies and procedures for nonprocurement suspension and debarment. It thereby gives regulatory effect for the Department of Transportation to the OMB guidance as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, ''Supension and Debarment'' (3 CFR 1986 Comp., p. 189), Executive Order 12689, ''Suspension and Debarment'' (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Public Law 103–355, 108 Stat. 3327).

§ 1200.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB guidance in Subparts A through I of 2 CFR part 180 (see table at 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a ''covered transaction'' (see Subpart B of 2 CFR part 180 and the definition of ''nonprocurement transaction'' at 2 CFR 180.970;

(b) Respondent in a Department of Transportation suspension or debarment action;

(c) Department of Transportation debarment or suspension official;

(d) Department of Transportation grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 1200.30 What policies and procedures must I follow?

The Department of Transportation policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in Subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by section 220 of the OMB guidance (i.e., 2 CFR 180.220), as supplemented by section 220 in this part (i.e., § 1200.220). For any section of OMB guidance in Subparts A through I of 2 CFR 180 that has no corresponding section in this part, Department of Transportation policies and procedures are those in the OMB guidance.

Subpart A—General

§ 1200.137 Who in the Department of Transportation may grant an exception to let an excluded person participate in a covered transaction?

Within the Department of Transportation, Office of the Secretary, the Secretary or an official designated by the Secretary may grant an exception permitting an excluded person to participate in a particular covered transaction. Within an Operating Administration of the Department of Transportation, the head of the operating administration may grant an exception permitting an excluded person to participate in a particular covered transaction. The head of an operating administration may delegate this function and authorize successive delegations.

Subpart B—Covered Transactions

§ 1200.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b) of the OMB guidance, this part applies to any contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the contract is to be funded or provided by the Department of Transportation under a covered nonprocurement transaction and the amount of the contract is expected to equal or exceed $25,000. This extends the coverage of the Department of Transportation nonprocurement suspension and debarment requirements to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB guidance at 2 CFR 180.220(c) (see optional lower-tier coverage in the figure in the appendix to 2 CFR part 180).

Subpart C—Responsibilities of Participants Regarding Transactions

§ 1200.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with Subpart C of the OMB guidance in 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 1200.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435 of the OMB guidance, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180 and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subpart E Through J—[Reserved]

Title 49—Transportation

PART 29—[REMOVED]

■ 2. Remove part 29.

[FR Doc. E8–8788 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0248 Directorate Identifier 2007–CE–084–AD; Amendment 39–15500; AD 2008–09–19]

RIN 2120–AA64

Airworthiness Directives; De Havilland Support Limited Model Beagle B.121 Series 1, 2, and 3 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:

The Type Certificate Holder (TCH) has received several reports of failed Rudder torque tube assemblies. The torque tube assemblies are subject to repetitive inspection in accordance with Airworthiness Directive 2060 PRE 80. The recent failures occurred in service after the inspections required by AD 2060 PRE 80 had been performed. In the event of such failures, loss of directional control through both the Rudder and Nosewheel Steering may occur. The TCH has also received reports of loose rivets attaching the inboard Anchor Assembly to the Starboard Torque Tube.

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

DATES: This AD becomes effective June 6, 2008.

On June 6, 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 November 27, 2007 (72 FR 66087). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

The Type Certificate Holder (TCH) has received several reports of failed Rudder torque tube assemblies. The torque tube assemblies are subject to repetitive inspection in accordance with Airworthiness Directive 2060 PRE 80. The recent failures occurred in service after the inspections required by AD 2060 PRE 80 had been performed. In the event of such failures, loss of directional control through both the Rudder and Nosewheel Steering may occur. The TCH has also received reports of loose rivets attaching the inboard Anchor Assembly to the Starboard Torque Tube.

The MCAI requires the inspection of the rudder torque tube assemblies and hubs for cracking and loose rivets with conditional correction or replacement following De Havilland Support Limited Service Bulletin B121/65, Issue 2, dated August 10, 2005.

Comments

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

Comment Issue: Reference the Correct TC Holder in the AD

Trevor A. Wood requests that the FAA reference De Havilland Support Ltd. (DHSL) in the proposed AD instead of British Aerospace Aircraft Group, Scottish Division. The commenter points out that DHSL is the organization that has published the service information, and he believes that the current type certificate data sheet for the Beagle B.121 series 1, 2, and 3 airplanes incorrectly references the type certificate holder. The commenter points out that the British Aerospace Aircraft Group, Scottish Division, relinquished responsibility for these airplanes in November 2002 when the type certificate was transferred to DHSL.

The FAA does not agree that the NPRM incorrectly referenced British Aerospace Aircraft Group, Scottish Division, as the type certificate holder. We cannot change the type certificate data sheet without approval and request from the State of Design, in this case the United Kingdom Civil Aviation Authority (CAA) and the European Aviation Safety Agency (EASA). However, since issuance of the NPRM, the FAA has received such approval and request. We have revised the type certificate data sheet (A22EU, Revision 4, dated March 20, 2008) to reference the type certificate holder of the Beagle B.121 series 1, 2, and 3 airplanes as De Havilland Support Limited. We have made the appropriate changes in the final rule AD action to reflect this.

Conclusion

We reviewed the available data, including the comment 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 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 1 product of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with 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 $80, or $80 per product.

In addition, we estimate that any necessary follow-on actions would take about 12 work-hours and require parts costing $10,000 for a cost of $10,960 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:

2008–09–19 De Havilland Support Limited: Amendment 39–15500; Docket No. FAA–2007–0248; Directorate Identifier 2007–CE–084–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Beagle B.121 series 1, 2, and 3 airplanes, all serial numbers, certificated in any category.

Subject

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

Reason

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

The Type Certificate Holder (TCH) has received several reports of failed Rudder torque tube assemblies. The torque tube assemblies are subject to repetitive inspection in accordance with Airworthiness Directive 2060 PRE 80. The recent failures occurred in service after the inspections required by AD 2060 PRE 80 had been performed. In the event of such failures, loss of directional control through both the Rudder and Nosewheel Steering may occur. The TCH has also received reports of loose rivets attaching the inboard Anchor Assembly to the Starboard Torque Tube. The MCAI requires the inspection of the rudder torque tube assemblies and hubs for cracking and loose rivets with conditional correction or replacement in accordance with De Havilland Support Limited Service Bulletin B121/65, Issue 2, dated August 10, 2005.

Actions and Compliance

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

(1) Within 100 hours time-in-service (TIS) after June 6, 2008 (the effective date of this AD) and thereafter at intervals not to exceed 100 hours TIS, inspect the rudder torque tube assemblies following De Havilland Support Limited Service Bulletin B121/65, Issue 2, dated August 10, 2005.

(2) Before further flight, replace any cracked rudder torque tube assemblies and correct any loose rivets in the rudder torque tube assemblies that are found in the inspections required in paragraph (f)(1) of this AD, following De Havilland Support Limited Service Bulletin B121/65, Issue 2, dated August 10, 2005.

(3) After June 6, 2008 (the effective date of this AD), used rudder torque assemblies held as spares for De Havilland Support Limited Model Beagle B.121 series 1, 2, and 3 airplanes must be inspected following De Havilland Support Limited Service Bulletin B121/65, Issue 2, dated August 10, 2005, and found free of cracks prior to installation.

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 United Kingdom Civil Aviation Authority AD No: G–2005–0030, dated October 12, 2005; and De Havilland Support Limited Service Bulletin B121/65, Issue 2, dated August 10, 2005, for related information.

Material Incorporated by Reference

(i) You must use De Havilland Support Limited Service Bulletin B121/65, Issue 2, dated August 10, 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 De Havilland Support Limited, Building 123, Duxford Airfield, Cambridgeshire, CB2 4QR, England, telephone: +44 0 1223 830090; fax: +44 0 1223 830085; e-mail: *info@dhsupport.com*.

(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 April 24, 2008.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9588 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0267; Directorate Identifier 2008–NM–030–AD; Amendment 39–15505; AD 2008–09–24]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–400, DHC–8–401, and DHC–8–402 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 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 it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features 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 June 6, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 6, 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: Richard Fiesel, 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) 228–7304; 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 March 11, 2008 (73 FR 12907). 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 safety 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 it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features could result in a fuel tank explosion. Revisions have been made to Part 2 ''Airworthiness Limitations Items'' of the Maintenance Requirements Manual of the affected models to introduce the required CDCCL.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to include the CDCCL data. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 45 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 $3,600, 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:

2008–09–24 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–15505. Docket No. FAA–2008–0267; Directorate Identifier 2008–NM–030–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Bombardier Model DHC–8–400, DHC–8–401, and DHC–8–402 airplanes, certificated in any category, all serial numbers.

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 safety 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 it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features could result in a fuel tank explosion. Revisions have been made to Part 2 ''Airworthiness Limitations Items'' of the Maintenance Requirements Manual of the affected models to introduce the required CDCCL.

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to include the CDCCL data.

Actions and Compliance

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

(1) For all airplanes: Within 60 days 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 specified in Dash 8 Q400 (Bombardier) Temporary Revisions (TRs) ALI–55, dated April 19, 2006; and ALI–56, dated April 19, 2006; to Part 2, ''Airworthiness Limitations Items,'' of the Bombardier Dash 8 Q400 Maintenance Requirements Manual (MRM) PSM 1–84–7.

Note 1: The actions required by paragraph (f)(1) of this AD may be done by inserting a copy of the applicable TR into the maintenance requirements manual. When the TR has been included in the general revision of the maintenance program, the general revision may be inserted into the maintenance requirements manual, provided the relevant information in the general revision is identical to that in the applicable TR, and the temporary revision may be removed.

(2) After accomplishing the actions specified in paragraph (f)(1) of this AD, no alternative CDCCLs may be used unless the CDCCLs are part of a later revision of Part 2, Revision 4, dated October 30, 2003, of the Bombardier Dash 8 Q400 MRM PSM 1–84–7, Revision 4, that is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (or its delegated agent); or unless the CDCCLs are 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, 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: Richard Fiesel, 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) 228–7304; 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–2008–06, dated January 15,

2008; and Bombardier TRs ALI–55 and ALI–56, both dated April 19, 2006; for related information.

Material Incorporated by Reference

(i) You must use Dash 8 Q400 (Bombardier) Temporary Revision ALI–55, dated April 19, 2006, to Part 2, ''Airworthiness Limitations Items,'' of the Bombardier Dash 8 Q400 Maintenance Requirements Manual PSM 1–84–7; and Dash 8 Q400 (Bombardier) Temporary Revision ALI–56, dated April 19, 2006, to Part 2, ''Airworthiness Limitations Items,'' of the Bombardier Dash 8 Q400 Maintenance Requirements Manual PSM 1–84–7; 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., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, 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 April 24, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9571 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0268; Directorate Identifier 2008–NM–050–AD; Amendment 39–15504; AD 2008–09–23]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), 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 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 it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features 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 June 6, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 6, 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: Mazdak Hobbi, 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) 228–7330; 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 March 11, 2008 (73 FR 12905). 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 safety 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 it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features could result in a fuel tank explosion. Revision has been made to Bombardier CL–600–2C10, CL–600–2D15, CL–600–2D24 Maintenance Requirements Manual, CSP B–053, Part 2, Section 3, ''Fuel System Limitations'' to introduce the required CDCCL.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to include the CDCCL data. 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 of MCAI Reference

We have revised paragraph (h) of this AD to refer to MCAI Canadian Airworthiness Directive CF–2008–07, dated January 25, 2008.

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 this change 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 297 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 $23,760, 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:

2008–09–23 Bombardier, Inc. (Formerly Canadair): Amendment 39–15504. Docket No. FAA–2008–0268; Directorate Identifier 2008–NM–050–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 6, 2008.

Affected ADs

(b) None.

Applicability

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

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 safety 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 it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features could result in a fuel tank explosion. Revision has been made to Bombardier CL–600–2C10, CL–600–2D15, CL–600–2D24 Maintenance Requirements Manual, CSP B–053, Part 2, Section 3, ''Fuel System Limitations'' to introduce the required CDCCL.

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to include the CDCCL data.

Actions and Compliance

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

(1) Within 60 days 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 CDCCL data specified in CRJ 700/900 Series Regional Jet (Bombardier) Temporary Revision 2–222, dated March 30, 2006, to 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.

Note 1: The actions required by paragraph (f)(1) of this AD may be done by inserting a copy of the TR into the maintenance requirements manual. When the TR has been included in the general revision of the maintenance program, the general revision may be inserted into the maintenance requirements manual, provided the relevant information in the general revision is identical to that in the TR, and the temporary revision may be removed.

(2) After accomplishing the actions specified in paragraph (f)(1) of this AD, no alternative CDCCLs may be used unless the CDCCLs are part of a later revision of Section 3, ''Fuel System Limitations,'' of Part 2, Revision 9, dated July 20, 2007, of Bombardier CL–600–2C10, CL–600–2D15 and CL–600–2D24 Maintenance Requirements Manual CSP B–053, that is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (or its delegated agent); or unless the CDCCLs are 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 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: Mazdak Hobbi, 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) 228–7330; 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–2008–07, dated January 25, 2008, and CRJ 700/900 Series Regional Jet (Bombardier) Temporary Revision 2–222, dated March 30, 2006, for related information.

Material Incorporated by Reference

(i) You must use CRJ 700/900 Series Regional Jet (Bombardier) Temporary Revision 2–222, dated March 30, 2006, to 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, 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 April 24, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9570 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0262; Directorate Identifier 2008–NM–021–AD; Amendment 39–15493; AD 2008–09–12]

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 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 it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features 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 June 6, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 6, 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: James Delisio, 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) 228–7321; 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 March 6, 2008 (73 FR 12032). 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 safety 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 it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features 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 CDCCL.

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to include the CDCCL data. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S.

operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

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

Costs of Compliance

We estimate that this AD will affect about 700 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 $56,000, 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:

2008–09–12 Bombardier, Inc. (Formerly Canadair): Amendment 39–15493. Docket No. FAA–2008–0262; Directorate Identifier 2008–NM–021–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 6, 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.

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 safety 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 it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features 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 CDCCL.

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to include the CDCCL data.

Actions and Compliance

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

(1) Within 60 days 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 include the CDCCLs specified in Canadair Temporary Revision (TR) 2D–2, dated March 31, 2006, to Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' of the Bombardier CL–600–2B19 Maintenance Requirements Manual CSP A–053.

Note 1: The revision required by paragraph (f)(1) of this AD may be done by inserting a copy of the TR into the maintenance requirements manual. When the TR has been included in the general revision of the maintenance program, the general revision may be inserted into the maintenance requirements manual, provided the relevant information in the general revision is identical to that in the TR, and the temporary revision may be removed.

(2) After accomplishing the action specified in paragraph (f)(1) of this AD, no alternative CDCCLs may be used unless the CDCCLs are part of a later revision of Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' Revision 7, dated May 10, 2007, of the Bombardier CL–600–2B19 Maintenance Requirements Manual CSP A–053, that is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (TCCA) (or its delegated agent); or unless the CDCCLs are 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, 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: James Delisio, 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) 228–7321; 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–2007–35, dated December 21, 2007, and Canadair Temporary Revision 2D–2, dated March 31, 2006, for related information.

Material Incorporated by Reference

(i) You must use Canadair Temporary Revision 2D–2, dated March 31, 2006, to Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' of the Bombardier CL–600–2B19 Maintenance Requirements Manual CSP A–053, 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 April 18, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9196 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28355; Directorate Identifier 2007–NM–062–AD; Amendment 39–15495; AD 2008–09–14]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800 and –900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 737–600, –700, –700C, –800 and –900 series airplanes. This AD requires inspecting ground blocks GD261 and GD264 for corrosion, measuring the electrical bond resistance between the ground blocks and the airplane structure, separating the ground wires for the fuel boost pump circuit between ground blocks GD261 and GD264, and doing corrective actions if necessary. This AD results from a report of random flashes of the six fuel pump low pressure lights and intermittent operation of the fuel boost pumps. We are issuing this AD to prevent the simultaneous malfunction of all six fuel boost pumps, which could cause the engines to operate on suction feed and potentially flame out.

DATES: This AD is effective June 6, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 6, 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: Binh Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6485; 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 737–600, –700, –700C, –800 and –900 series airplanes. That NPRM was published in the **Federal Register** on June 6, 2007 (72 FR 31202). That NPRM proposed to require inspecting ground blocks GD261 and GD264 for corrosion, measuring the electrical bond resistance between the ground blocks and the airplane structure, separating the ground wires for the fuel boost pump circuit between ground blocks GD261 and GD264, and doing corrective actions if necessary.

Comments

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

Support for the NPRM

AirTran Airways supports the NPRM.

Request to Incorporate Revised Service Bulletin

The NPRM referred to Boeing Special Attention Service Bulletin 737–28–1257, dated February 26, 2007, as the appropriate source of service information for the proposed requirements. Boeing requests that we revise the NPRM to refer to Revision 1 of the service bulletin, which Boeing issued after we issued the NPRM.

We have reviewed the revised service bulletin. In Revision 1, dated November 28, 2007, Boeing removed certain annunciator checks, updated temperature control operational test instructions, and removed certain wire separation requirements. Revision 1 provides no substantive changes or additional work. We agree to revise the final rule to require Revision 1, and to provide credit for the original version.

Conclusion

We reviewed the relevant data, considered the comments received, 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.

Costs of Compliance

There are about 1,871 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

Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
1	$80	None	$80	702	$56,160

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:

2008–09–14 Boeing: Amendment 39–15495. Docket No. FAA–2007–28355; Directorate Identifier 2007–NM–062–AD.

Effective Date

(a) This airworthiness directive (AD) is effective June 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–600, –700, –700C, –800 and –900 series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–28–1257, Revision 1, dated November 28, 2007.

Unsafe Condition

(d) This AD results from a report of random flashes of the six fuel pump low pressure lights and intermittent operation of the fuel boost pumps. We are issuing this AD to prevent the simultaneous malfunction of all six fuel boost pumps, which could cause the engines to operate on suction feed and potentially flame out.

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.

Inspection

(f) Within 24 months after the effective date of this AD: Do a general visual inspection of ground blocks GD261 and GD264 for corrosion, measure the electrical bond resistance, and separate the ground wires for the fuel boost pump circuit between ground blocks GD261 and GD264. Do these actions in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–28–1257, Revision 1, dated November 28, 2007. Do applicable corrective actions before further flight in accordance with the service bulletin.

Credit for Actions in Accordance With Previous Service Information

(g) Actions accomplished before the effective date of this AD in accordance with Boeing Special Attention Service Bulletin 737–28–1257, dated February 26, 2007, are acceptable for compliance with the corresponding requirements of this AD.

Alternative Methods of Compliance (AMOCs)

(h)(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

(i) You must use Boeing Special Attention Service Bulletin 737–28–1257, Revision 1, dated November 28, 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 April 18, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9310 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0046; Directorate Identifier 2007–NM–173–AD; Amendment 39–15496; AD 2008–09–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This AD requires repetitive inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows and corrective actions if necessary. This AD results from reports of in-flight departure and separation of the flight deck windows. We are issuing this AD to detect and correct cracking in the vinyl interlayer or damage to the structural inner glass panes of the flight deck No. 2, No. 4, and No. 5 windows, which could result in loss of a window and rapid loss of cabin pressure. Loss of cabin pressure could cause crew communication difficulties or crew incapacitation.

DATES: This AD is effective June 6, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 6, 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: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6447; 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 all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. That NPRM was published in the **Federal Register** on October 17, 2007 (72 FR 58766). That NPRM proposed to require repetitive inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows and corrective actions if necessary.

Changes Made to This AD

We have deleted paragraph (h)(4) of the NPRM and added a new paragraph (h) to this AD specifying that installation of metallic window blanks at cockpit eyebrow windows No. 4 and No. 5 in accordance with Supplemental Type Certificate (STC) ST01630SE terminates the initial and repetitive inspections for the flight deck No. 4 and No. 5 windows required by paragraph (f) of this AD. Incorporation of STC ST01630SE is considered a terminating action, not an alternative method of compliance (AMOC), since an AMOC can only be issued after an AD has been issued. We have also reidentified the AMOC paragraph of the NPRM as paragraph (i) in this AD.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received from the three commenters.

Support for the NPRM

Boeing and Continental Airlines support the NPRM.

Request to Expand Applicability

North Star Aerospace states that the affected window panels are also installed on Boeing Model 707 and 727 airplanes and Model 737–600, –700, –800, and –900 series airplanes, and that it has witnessed failure of the windows on these airplanes. North Star Aerospace believes the inspections should be extended to include all airplanes equipped with window panels having part numbers (P/Ns) 5–89355–( ), 5–89357–( ), and 5–89358–( ).

We infer the commenter requests that we revise the applicability to add Model 707 and 727 airplanes and Model 737–600, –700, –800, and –900 series airplanes. Since the affected windows are interchangeable, we agree that the windows might be installed on all Model 707, 727, and 737 airplanes. However, we do not agree to expand the applicability of this AD, since we have issued separate rulemaking actions to address the unsafe condition on Model 707 and 727 airplanes and Model 737–600, –700, –800, and –900 series airplanes. Please refer to Docket Nos. FAA–2007–0264, FAA–2007–0265, and FAA–2007–0263, respectively, at *http://www.regulations.gov*. No change to this AD is necessary in this regard.

Request To Revise the Compliance Time

Continental Airlines requests that we revise the compliance time for the initial inspection of the flight deck No. 2 window to within 36 months or 7,500 flight hours, whichever occurs first, after the window installation. Continental Airlines states that the NPRM, which proposes to require the initial inspection within 24 months after the effective date of this AD regardless of the age or flight time of the window, unnecessarily penalizes operators who proactively inspect and replace the No. 2 window before the AD is issued. Continental Airlines also states that, according to the wording in the NPRM, a window replaced one day before the effective date of the AD would need to be re-inspected within 24 months, but a window inspected and replaced one day after the effective date of the AD would not need to be re-inspected until 36 months or 7,500 window flight hours, whichever is first.

We do not agree to revise the compliance time for the initial inspection of the flight deck No. 2 window. According to paragraph (e) of this AD, an operator is responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done. If the initial inspection of the No. 2 window was done before the effective date of this AD in accordance with Boeing Alert Service Bulletin 737–56A1023, dated May 24, 2007, then the initial inspection does not need to be accomplished again; only the repetitive inspections would need to be accomplished in accordance with the service bulletin at the applicable

interval specified in the service bulletin. If the initial and repetitive inspections of the No. 2 window are done before the effective date of this AD, but are not done in accordance with the service bulletin, then those inspections are not acceptable for compliance with this AD unless an AMOC is issued for those prior inspections. Under the provisions of paragraph (i) of this AD, we will consider requests for approval of an AMOC if sufficient data are submitted to substantiate that prior inspections incorporate similar criteria to what is provided for in the service bulletin. Therefore, no change to this AD is necessary in this regard.

Request for an AMOC for a Parts Manufacturer Approval (PMA) Equivalent Part

Continental Airlines states that the FAA has approved a new, improved flight deck No. 2 window designed by GKN Aerospace Transparency Systems, under PMA Holder No. PQ1250NM, Supplement 10, dated September 17, 2007. Continental Airlines states that the new, improved No. 2 window was designed to prevent the premature failure of the window, and that new, improved window addresses the unsafe condition of the NPRM. Continental Airlines, therefore, requests that we add a new AMOC paragraph to this AD, which would exempt the new, improved No. 2 window from the required inspections.

We do not agree to allow the PMA equivalent No. 2 window as an AMOC to the required inspections. Although the window has been approved as a PMA equivalent part, the commenter has not provided data showing that the PMA equivalent window is not susceptible to the same vinyl interlayer cracking. However, under the provisions of paragraph (i) of this AD, we will consider requests for approval of an AMOC if sufficient data are submitted to substantiate that the design change would provide an acceptable level of safety. No change to this AD is necessary in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, 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.

Costs of Compliance

There are about 2,685 airplanes of the affected design in the worldwide fleet. This AD affects about 799 airplanes of U.S. registry. The required inspections take 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 $127,840, 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:

2008–09–15 Boeing: Amendment 39–15496. Docket No. FAA–2007–0046; Directorate Identifier 2007–NM–173–AD.

Effective Date

(a) This airworthiness directive (AD) is effective June 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from reports of in-flight departure and separation of flight deck windows. We are issuing this AD to detect and correct cracking in the vinyl interlayer or damage to the structural inner glass panes of the flight deck No. 2, No. 4, and No. 5 windows, which could result in loss of a window and rapid loss of cabin pressure. Loss of cabin pressure could cause crew communication difficulties or crew incapacitation.

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 and Replacement

(f) At the applicable times specified in Tables 1, 2, and 3 of paragraph 1.E. of Boeing Alert Service Bulletin 737–56A1023, dated May 24, 2007, except as provided by paragraph (g) of this AD: Do the internal and external detailed inspections for any cracking of or damage to the left side and right side flight deck No. 2, No. 4, and No. 5 windows and do the applicable corrective actions before further flight, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of the service bulletin. Repeat the inspections thereafter at the applicable interval specified in paragraph 1.E. of the service bulletin.

Exception to Compliance Times

(g) Where Tables 1, 2, and 3 of paragraph 1.E. of Boeing Alert Service Bulletin 737–56A1023, dated May 24, 2007, specify counting the compliance time from ''* * * the date on this service bulletin,'' this AD requires counting the compliance time from the effective date of this AD.

Optional Terminating Action

(h) Installation of metallic window blanks at cockpit eyebrow windows No. 4 and No. 5 in accordance with Supplemental Type Certificate ST01630SE terminates the initial and repetitive inspections for the flight deck No. 4 and No. 5 windows required by paragraph (f) of this AD. All other applicable actions required by paragraph (f) of this AD must be fully complied with.

Alternative Methods of Compliance (AMOCs)

(i)(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

(j) You must use Boeing Alert Service Bulletin 737–56A1023, dated May 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 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 April 18, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9312 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28664; Directorate Identifier 2007–NM–007–AD; Amendment 39–15492; AD 2008–09–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200, –300, and –300ER Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Boeing Model 777–200, –300, and –300ER series airplanes. This AD requires a one-time inspection to determine the material of the forward and aft gray water drain masts. For airplanes having composite gray water drain masts, this AD also requires installation of a bonding jumper between a ground and the clamp on the tube of the forward and aft gray water composite drain masts. This AD results from a report of charred insulation blankets and burned wires around the forward gray water composite drain mast found during an inspection of the forward cargo compartment on a Model 767–300F airplane. We are issuing this AD to prevent a fire near a composite drain mast and possible disruption of the electrical power system due to a lightning strike on a composite drain mast, which could result in the loss of several functions essential for safe flight.

DATES: This AD is effective June 6, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 6, 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: Nicholas Wilson, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6476; 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 all Boeing Model 777–200, –200LR, –300, and –300ER series airplanes. That NPRM was published in the **Federal Register** on July 10, 2007 (72 FR 37475). That NPRM proposed to require a one-time inspection to determine the material of the forward and aft gray water drain masts. For airplanes having composite gray water drain masts, that NPRM also proposed to require installation of a bonding jumper between a ground and the clamp on the tube of the forward and aft gray water composite drain masts.

Comments

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

Request To Remove Airplanes From the Applicability Statement of the Proposed AD

Boeing requests that we revise the applicability statement of the NPRM to remove certain airplanes. Boeing states that Model 777 airplanes beginning with line number 525 have a ground bracket and copper bonding jumper installed in production for the aft composite gray water drain mast, and an aluminum drain mast installed in the forward drain mast position. Additionally, Boeing points out that all Model 777–200LR series airplanes produced prior to line number 525 have a bonding jumper installed on the aft composite gray water drain mast and an aluminum forward gray water drain mast. Therefore, Boeing asserts that these airplanes should not be subject to this AD.

We partially agree. For the reasons Boeing stated, we have determined that these airplanes should not be subject to this AD. However, we do not agree to revise the applicability statement of this AD as suggested by Boeing. Instead, we have revised the applicability statement of this final rule to state, ''This AD

applies to Boeing Model 777–200, –300, and –300ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 777–30–0014, dated July 24, 2006.'' We have confirmed that the effectivities of these service bulletins match the applicability suggested by Boeing.

Explanation of Changes Made to This AD

We have confirmed with the airplane manufacturer that the composite and aluminum drain mast can be interchangeable. Therefore, we have added a new paragraph (i), ''Parts Installation,'' to this final rule to prohibit installation of a composite gray water drain mast, unless a bonding jumper is also installed, as specified in paragraph (g) of this AD. We have also re-identified subsequent paragraphs accordingly.

Conclusion

We reviewed the relevant data, considered the comment received, 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.

Costs of Compliance

There are about 164 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 to determine gray water drain mast material.	1	$80	None	$80	20	$1,600.
Installation of bonding jumper	4	80	Between $132 and $274, depending on kit and number of kits needed (1 or 2).	Between $452 and $594.	Up to 20	Between $9,040 and $11,880.

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:

2008–09–11 Boeing: Amendment 39–15492. Docket No. FAA–2007–28664; Directorate Identifier 2007–NM–007–AD.

Effective Date

(a) This airworthiness directive (AD) is effective June 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 777–200, –300, and –300ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 777–30–0014, dated July 24, 2006.

Unsafe Condition

(d) This AD results from a report of charred insulation blankets and burned wires around the forward gray water composite drain mast found during an inspection of the forward cargo compartment on a Model 767–300F airplane. We are issuing this AD to prevent a fire near a composite drain mast and possible disruption of the electrical power system due to a lightning strike on a composite drain mast, which could result in the loss of several functions essential for safe flight.

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.

Inspection To Determine Material of Gray Water Drain Mast

(f) Within 60 months after the effective date of this AD, inspect the forward and aft gray water drain masts to determine whether the drain mast is made of aluminum or composite material. A review of airplane maintenance records is acceptable in lieu of this inspection if the material of the forward and aft gray water drain masts can be conclusively determined from that review.

(1) For any aluminum gray water drain mast identified during the inspection or records check required by paragraph (f) of this AD, no further action is required by this AD for that drain mast only.

(2) For any composite gray water drain mast identified during the inspection or records check required by paragraph (f) of this AD, do the actions specified in paragraph (g) of this AD.

Installation of Bonding Jumper

(g) For any composite gray water drain mast identified during the inspection or records check required by paragraph (f) of this AD: Within 60 months after the effective date of this AD, install a bonding jumper between a ground and the clamp on the tube of the gray water composite drain mast, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–30–0014, dated July 24, 2006.

Installation of Bonding Jumper Not Necessary for Aluminum Drain Masts

(h) For airplanes on which the forward composite drain mast has been replaced with an aluminum drain mast per Boeing Service Bulletin 777–38–0026: Installation of the bonding jumper specified in paragraph (g) of this AD is not required for the forward gray water drain mast, as specified in Part 1 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–30–0014, dated July 24, 2006.

Parts Installation

(i) As of the effective date of this AD, no person may install, on any airplane, a composite gray water drain mast, unless a bonding jumper is also installed, as specified in paragraph (g) of this AD.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Seattle Aircraft Certification Office, 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

(k) You must use Boeing Special Attention Service Bulletin 777–30–0014, dated July 24, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, 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 April 17, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9113 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0015; Directorate Identifier 2007–NM–328–AD; Amendment 39–15498; AD 2008–09–17]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, and MD–10–10F Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, and MD–10–10F airplanes. This AD requires repetitive inspections for the presence of stray nickel or chrome plating deposits on the air filler valve bore of certain main landing gear (MLG) shock strut cylinders, and if necessary, related investigative and corrective actions. Doing the corrective action terminates the repetitive inspections. This AD results from a report of a left MLG collapse during landing rollout. We are issuing this AD to detect and correct stray nickel and chrome plating deposits, corrosion, and cracking of the air filler valve bore on the MLG cylinder, which could result in landing gear failure, significant damage to the airplane, and injury to personnel.

DATES: This AD is effective June 6, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 6, 2008.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5238; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, and MD–10–10F airplanes. That NPRM was published in the **Federal Register** on January 14, 2008 (73 FR 2206). That NPRM proposed to require repetitive inspections for the presence of stray nickel or chrome plating deposits on the air filler valve bore of certain main landing gear (MLG) shock strut cylinders, and if necessary, related investigative and corrective actions. Doing the corrective action would terminate the repetitive inspections.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International (ALPA), supports the intent of the NPRM.

Request To Reduce the Compliance Time

ALPA requests that we reduce the 24-month compliance time for the airplanes identified in paragraph (f)(2) of the NPRM. ALPA requests the reduction in compliance time due to the stated severity of a landing gear failure, the relatively short inspection times, and the low estimated inspection costs.

We do not agree to reduce the compliance time specified in paragraph (f)(2) of this AD. In developing the compliance time for this AD action, we considered not only the safety implications of the identified unsafe

condition, but the average utilization rate of the affected fleet, the practical aspects of an orderly inspection of the fleet during regular maintenance periods, and the availability of replacement parts. In addition, we also considered the manufacturer's recommendation for an appropriate compliance time. After considering all the available information, we determined that the 24-month compliance time represents an appropriate interval of time in which the required actions can be performed in a timely manner within the affected fleet, while still maintaining an adequate level of safety. However, if additional data are presented that would justify a shorter compliance time, we might consider further rulemaking on this issue. We have not changed this AD in this regard.

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

We estimate that this AD affects 75 airplanes of U.S. registry. 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	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Inspection	4	$80	$320, per inspection cycle	75	$24,000, 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:

2008–09–17 McDonnell Douglas: Amendment 39–15498. Docket No. FAA–2008–0015; Directorate Identifier 2007–NM–328–AD.

Effective Date

(a) This airworthiness directive (AD) is effective June 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, and MD–10–10F airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin DC10–32A259, dated October 30, 2007.

Unsafe Condition

(d) This AD results from a report of a left main landing gear (MLG) collapse during landing rollout. We are issuing this AD to detect and correct stray nickel and chrome plating deposits, corrosion, and cracking of the air filler valve bore on the MLG cylinder, which could result in landing gear failure, significant damage to the airplane, and injury to personnel.

Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

Inspections and Corrective Actions

(f) At the applicable time specified in paragraph (f)(1), (f)(2), or (f)(3) of this AD, do a video probe inspection for the presence of stray nickel or chrome plating deposits on the air filler valve bore of the MLG shock strut cylinders, and before further flight, do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin DC10–32A259, dated October 30, 2007. Repeat the video probe inspection thereafter at intervals not to exceed 2,400 flight cycles or 20 months, whichever occurs first. Accomplishment of the repair specified in Part 2 of the Accomplishment Instructions of the service bulletin or the replacement specified in Part 3 of the Accomplishment Instructions of the service bulletin terminates the repetitive inspections for that MLG shock strut cylinder.

(1) For passenger airplanes: Within 24 months after the effective date of this AD.

(2) For freighter airplanes with MLG cylinders that have accumulated fewer than 7,200 flight cycles in a freighter configuration as of the effective date of this AD: Within 24 months after the effective date of this AD.

(3) For freighter airplanes with MLG cylinders that have accumulated 7,200 flight cycles or more in a freighter configuration as of the effective date of this AD: Within 6 months after the effective date of this AD.

Parts Installation

(g) As of the effective date of this AD, no person may install a MLG shock strut cylinder assembly, part number ARG7002–1, –501, –503, or –505, on any airplane, unless the air filler valve bore hole has been oversized and closing action has been accomplished in accordance with Boeing Alert Service Bulletin DC10–32A259, dated October 30, 2007, and the MLG shock strut cylinder assembly has been permanently identified with part number SB10320259–3 adjacent to the existing ARG7002 part number.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, ATTN: Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–120L, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5238; fax (562) 627–5210; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Material Incorporated by Reference

(i) You must use Boeing Alert Service Bulletin DC10–32A259, dated October 30, 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, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024).

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

Issued in Renton, Washington, on April 18, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9439 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0266; Directorate Identifier 2008–NM–013–AD; Amendment 39–15506; AD 2008–09–25]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–102, DHC–8–103, DHC–8–106, DHC–8–201, DHC–8–202, DHC–8–301, DHC–8–311, and DHC–8–315 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 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 it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features 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 June 6, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 6, 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: Mazdak Hobbi, 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) 228–7330; 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 March 11, 2008 (73 FR 12912). 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 safety 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 it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features could result in a fuel tank explosion. Revisions have been made to Part 2 ''Airworthiness Limitations List'' of the Maintenance Program Manuals of the affected aircraft models to introduce the required CDCCL.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to include the CDCCL data. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI

to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

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

Costs of Compliance

We estimate that this AD will affect about 118 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 $9,440, 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:

2008–09–25 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–15506. Docket No. FAA–2008–0266; Directorate Identifier 2008–NM–013–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Bombardier Model DHC–8–102, DHC–8–103, DHC–8–106, DHC–8–201, DHC–8–202, DHC–8–301, DHC–8–311, and DHC–8–315 airplanes, certificated in any category, all serial numbers.

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 safety 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 it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features could result in a fuel tank explosion. Revisions have been made to Part 2 ''Airworthiness Limitations List'' of the Maintenance Program Manuals of the affected aircraft models to introduce the required CDCCL.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to include the CDCCL data.

Actions and Compliance

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

(1) For all airplanes: Within 60 days after the effective date of this AD, or before December 16, 2008, whichever occurs first, revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness to incorporate the CDCCL data specified in the applicable temporary revision (TR) to the applicable maintenance program manual (MPM). The TRs are listed in Table 1 of this AD.

TABLE 1.—TEMPORARY REVISIONS

Model	de Havilland TR	Maintenance program manual
DHC–8–102, DHC–8–103, and DHC–8–106 airplanes.	AWL–98, dated April 12, 2006	Part 2, ''Airworthiness Limitations List,'' of de Havilland Dash 8 Series 100 MPM, Product Support Manual (PSM) 1–8–7.
DHC–8–201, and DHC–8–202 airplanes	AWL 2–35, dated April 12, 2006	Part 2, ''Airworthiness Limitations List,'' of de Havilland Dash 8 Series 200 MPM, PSM 1–82–7.

TABLE 1.—TEMPORARY REVISIONS—Continued

Model	de Havilland TR	Maintenance program manual
DHC–8–301, DHC–8–311, and DHC–8–315 airplanes.	AWL 3–103, dated April 12, 2006	Part 2, ''Airworthiness Limitations List,'' of de Havilland Dash 8 Series 300 MPM, PSM 1–83–7.

Note 1: The revisions required by paragraph (f)(1) of this AD may be done by inserting a copy of the applicable TR into the applicable maintenance program manual. When the TR has been included in the general revision of the maintenance program, the general revision may be inserted into the maintenance program manual, provided the relevant information in the general revision is identical to that in the applicable TR, and the temporary revision may be removed.

(2) After accomplishing the actions specified in paragraph (f)(1) of this AD, no alternative CDCCLs may be used unless the CDCCLs are part of a later revision of Part 2, ''Airworthiness Limitations List,'' of the applicable de Havilland Dash 8 Series MPM listed in Table 2 of this AD, that is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (or its delegated agent); or unless the CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

TABLE 2.—MPMS

Model	MPM
DHC–8–102, DHC–8–103, and DHC–8–106 airplanes	Part 2, ''Airworthiness Limitations List,'' Revision 17, dated April 19, 2005, of de Havilland Dash 8 Series 100 MPM, PSM 1–8–7.
DHC–8–201, and DHC–8–202 airplanes	Part 2, ''Airworthiness Limitations List,'' Revision 5, dated August 15, 2001, of de Havilland Dash 8 Series 200 MPM, PSM 1–82–7.
DHC–8–301, DHC–8–311, and DHC–8–315 airplanes	Part 2, ''Airworthiness Limitations List,'' Revision 16, dated August 15, 2001, of de Havilland Dash 8 Series 300 MPM, PSM 1–83–7.

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 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: Mazdak Hobbi, 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) 228–7330; 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–2008–03, dated January 3, 2008, and the TRs specified in Table 1 of this AD, for related information.

Material Incorporated by Reference

(i) You must use the service information specified in Table 3 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 Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, 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.*

TABLE 3.—MATERIAL INCORPORATED BY REFERENCE

de Havilland temporary revision—	Dated—	To—
AWL–98	April 12, 2006	Part 2, ''Airworthiness Limitations List,'' of de Havilland Dash 8 Series 100 Maintenance Program Manual, Product Support Manual 1–8–7.
AWL 2–35	April 12, 2006	Part 2, ''Airworthiness Limitations List,'' of de Havilland Dash 8 Series 200 Maintenance Program Manual, Product Support Manual 1–82–7.
AWL 3–103	April 12, 2006	Part 2, ''Airworthiness Limitations List,'' of de Havilland Dash 8 Series 300 Maintenance Program Manual, Product Support Manual 1–83–7.

Issued in Renton, Washington, on April 24, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9567 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0081; Directorate Identifier 2007–NM–186–AD; Amendment 39–15497; AD 2008–09–16]

RIN 2120–AA64

Airworthiness Directives; Airbus A318, A319, A320, and A321 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:

A number of occurrences of an incorrect installation of the trimmable horizontal stabilizer actuator (THSA) have been found and reported during the accomplishment of the AIRBUS Service Bulletin (SB) A320–27–1164 mandated by EASA AD 2006–0223.

These issues could lead to a degradation of the integrity of the THSA primary load path and to secondary load path partial or full engagement.

* * * * *

Degradation of the THSA primary load path could result in latent (undetected) loading and eventual failure of the THSA secondary load path, with consequent uncontrolled movement of the horizontal stabilizer and loss of control of the airplane. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective June 6, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 6, 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: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; 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 October 25, 2007 (72 FR 60591). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

A number of occurrences of an incorrect installation of the trimmable horizontal stabilizer actuator (THSA) have been found and reported during the accomplishment of the AIRBUS Service Bulletin (SB) A320–27–1164 mandated by EASA AD 2006–0223.

These issues could lead to a degradation of the integrity of the THSA primary load path and to secondary load path partial or full engagement. This AD therefore mandates a one-time detailed visual inspection of specific parts of the THSA attachments.

Degradation of the THSA primary load path could result in latent (undetected) loading and eventual failure of the THSA secondary load path, with consequent uncontrolled movement of the horizontal stabilizer and loss of control of the airplane. The corrective actions include doing a one-time detailed visual inspection of the lower and the upper THSA attachments for correct installation and the presence of metallic particles, contacting Airbus for repair instructions if any installation deviations or metallic particles are found, and doing repairs. 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 Withdraw the NPRM

The Air Transport Association (ATA), on behalf of its member Northwest Airlines (NWA), requests that we reconsider the need for this proposed AD. NWA states that the proposed rule is based on reports from Airbus of a number of occurrences of incorrect THSA installations that resulted from published procedures not being followed either during aircraft production or by operators after delivery of the aircraft. NWA agrees that an incorrectly installed THSA could be a safety concern, but asserts that accomplishing a one-time inspection will not prevent improper THSA installations in the future, and does not understand what corrective action is being taken (or should be taken) to prevent similar installation problems in the future. Furthermore, NWA feels that the airplane maintenance manual (AMM) is clear and concise regarding THSA installation procedures and states that, unless incorrect installations were accomplished during production or the AMM installation instructions were incorrect, a one-time inspection mandated by an AD is unwarranted. NWA asserts that it has accomplished AD 2007–06–02, amendment 39–14983 (72 FR 12072, March 15, 2007), on all its Model A319 and A320 airplanes with no findings of note. (AD 2007–06–02, which corresponds to EASA AD 2006–0223, dated July 21, 2006, requires inspections of the upper and lower THSA attachments for proper clearances, and for the presence of cracking, damage, and metallic particles.) NWA concludes that incorrect installations due to operator error should be addressed by actions other than issuing an all-fleet AD.

Although we understand NWA's concern, we do not agree with this request. If incorrect THSA installation was limited to only one operator (an isolated case of not following maintenance instructions), an AD would not have been an appropriate method of dealing with the situation. However, as THSA installation errors have been reported at multiple operators, and installation errors could result in the identified unsafe condition that is likely to exist or develop on other airplanes, an AD is appropriate. Further, we have determined that, although technically correct, the maintenance instructions were insufficiently clear to ensure that no confusion could occur during installation of the THSA. In regard to future installations, Airbus has informed us that the maintenance instructions have been revised and clarified to prevent confusion during any future installation of the THSA. We have not changed the AD in this regard.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 721 products of U.S. registry. We also estimate that it will take about 3 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 $173,040, or $240 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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:

2008–09–16 Airbus: Amendment 39–15497. Docket No. FAA–2007–0081; Directorate Identifier 2007–NM–186–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus A318, A319, A320, and A321 series airplanes, certificated in any category, all certified models, all manufactured serial numbers (MSN) up to and including MSN 2860.

Subject

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

Reason

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

A number of occurrences of an incorrect installation of the trimmable horizontal stabilizer actuator (THSA) have been found and reported during the accomplishment of the AIRBUS Service Bulletin (SB) A320–27–1164 mandated by EASA AD 2006–0223.

These issues could lead to a degradation of the integrity of the THSA primary load path and to secondary load path partial or full engagement.

This AD therefore mandates a one-time detailed visual inspection of specific parts of the THSA attachments.

Degradation of the THSA primary load path could result in latent (undetected) loading and eventual failure of the THSA secondary load path, with consequent uncontrolled movement of the horizontal stabilizer and loss of control of the airplane. The corrective actions include doing a one-time detailed visual inspection of the lower and the upper THSA attachments for correct installation and the presence of metallic particles, contacting Airbus for repair instructions if any installation deviations or metallic particles are found, and doing repairs.

Actions and Compliance

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

(1) Within 600 flight hours or 750 flight cycles or 100 days after the effective date of this AD, whichever occurs first, inspect the lower and the upper THSA attachments for installation deviations and metallic particles, in accordance with Airbus Service Bulletin A320–27A1179, dated January 12, 2007; and, if any installation deviations or metallic particles are found, before further flight, contact Airbus for repair instructions and repair.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; 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 European Aviation Safety Agency (EASA) Airworthiness Directive 2007–0178, dated June 22, 2007; and Airbus Service Bulletin A320–27A1179, dated January 12, 2007; for related information.

Material Incorporated by Reference

(i) You must use Airbus Service Bulletin A320–27A1179, dated January 12, 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 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 April 18, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9441 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0177; Directorate Identifier 2007–CE–093–AD; Amendment 39–15499; AD 2008–09–18]

RIN 2120–AA64

Airworthiness Directives; Taylorcraft, Inc. Models A, B, and F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for certain Taylorcraft, Inc. Models A, B, and F series airplanes. This AD requires you to inspect the wing strut attach fittings for corrosion or cracks and requires repair or replacement if corrosion or cracks are found. This AD results from data collected from an accident involving a Taylorcraft Model BF12–65 airplane. The wing separated from the airplane after the wing strut attach fitting failed due to corrosion. We are issuing this AD to detect and correct corrosion or cracks in the wing strut attach fittings, which could result in failure of the wing strut attach fittings and lead to wing separation and loss of control.

DATES: This AD becomes effective on June 6, 2008.

On June 6, 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 Taylorcraft Aviation, LLC, 2124 North Central Avenue, Brownsville, Texas 78521; telephone: 956–986–0700.

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–2008–0177; Directorate Identifier 2007–CE–093–AD.

FOR FURTHER INFORMATION CONTACT: Andy McAnaul, Aerospace Engineer, SAT–MIDO–43, 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; fax: (210) 308–3370.

SUPPLEMENTARY INFORMATION:

Discussion

On February 12, 2008, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Taylorcraft, Inc. Models A, B, and F series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 20, 2008 (73 FR 9239). The NPRM proposed to require inspection of the wing strut attach fittings for corrosion or cracks and to require repair or replacement if corrosion or cracks are found.

Comments

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

Comment Issue No. 1: Additional Wording

The Experimental Aircraft Association and four other commenters ask for us to add wording to the final rule to allow repairing the fitting/fuselage structure in accordance with FAA Advisory Circular (AC) 43.13–1B. The commenters believe the Taylorcraft fuselage structure, comprised of welded steel tubing and flat plate fittings, is well within the scope of repair practice for an Airframe and Powerplant (A & P) mechanic experienced in maintaining aircraft of that vintage. They comment that it is reasonable to expect an experienced mechanic to have sufficient information and means available to rebuild the fitting area with guidance from AC 43.13–1B.

We agree that repair of the Taylorcraft fuselage welded structure is within the scope of repair criteria and guidance provided in AC 43.13–1B. We will add language in paragraph (e)(3) of the AD to allow for repair of the attach fitting and the associated fuselage structure in accordance with AC 43.13–1B.

Comment Issue No. 2: Requirements Already Exist

Marc Fries and four other commenters believe the AD is redundant and that requirements already exist to accomplish inspections of the attach fittings. The commenters believe that 14 CFR part 43, Appendix D already provides sufficient annual/100-hour inspection requirements to inspect the wing strut attach fittings. Some of the commenters cite poor maintenance practice as the root cause for the corrosion related fitting failure in the fatal accident airplane. One commenter additionally mentioned that AD 47–16–03 already covers inspection of Taylorcraft wing attach fittings.

We do not agree with the commenters. AD 47–16–03 only addressed inspection of wing strut attach fittings for cracks or evidence of poor welds in Taylorcraft Models BC, BF, and BL series aircraft. The AD was issued for a potential manufacturing quality issue. The AD did not address corrosion and required an immediate one-time compliance.

While 14 CFR part 43, Appendix D requires inspection of wing and center section components for general condition and security of attachment, the FAA has heard from Taylorcraft owners that they were unaware of the existence of drain holes in the bottom of the wing strut attach fittings. Also, some owners were unaware of the potential situation where fabric may cover the attach fitting and drain holes on re-covered airplanes. This condition was a contributing factor in the fatal accident, as it fostered the corrosion environment that led to eventual fitting failure. The FAA believes this condition is likely to exist in other Taylorcraft airplanes of

the same type design and inspection of all affected airplanes is warranted for continued operational safety.

We are not changing the 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 change previously discussed and minor editorial corrections. We have determined that this change and 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 3,119 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
2 work-hours × $80 per hour = $160	Not applicable	$160	$499,040

We estimate the following costs to do any necessary replacements 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 repair/replacement:

Labor cost per fitting	Parts cost per fitting	Total cost per airplane (for two fittings)
30 work-hours × $80 per hour = $2,400	$200	$5,200

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–2008–0177; Directorate Identifier 2007–CE–093–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:

2008–09–18 Taylorcraft, Inc.: Amendment 39–15499; Docket No. FAA–2008–0177; Directorate Identifier 2007–CE–093–AD.

Effective Date

(a) This AD becomes effective on June 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all serial numbers of Taylorcraft Models A, BC, BCS12–D, BCS, BC12–D1, BC–65, BCS12–D1, BCS–65, BC12D–85, BC12–65 (Army L–2H), BCS12D–85, BCS12–65, BC12D–4–85, BC12–D, BCS12D–4–85, (Army L–2G) BF, BFS, BF–60, BFS–60, BF–65, BFS–65, (Army L–2K) BF 12–65, BFS–65, BL, BLS, (Army L–2F) BL–65, BLS–65, (Army L–2J) BL12–65, BLS12–65, 19, F19, F21, F21A, F21B, F22, F22A, F22B, and F22C airplanes that are certificated in any category.

Note: This AD applies to all Taylorcraft models listed above, including those models not listed in Taylorcraft Aviation, LLC Service Bulletin No. 2007–002, dated November 8, 2007. If there are any other differences between this AD and the above service bulletin, this AD takes precedence.

Unsafe Condition

(d) This AD results from data collected from an accident involving a Taylorcraft Model BF12–65 airplane. The wing separated from the airplane after the wing strut attach fitting failed due to corrosion. We are proposing this AD to detect and correct corrosion or cracks in the wing strut attach fittings. This condition, if not corrected, could result in failure of the wing strut attach fittings and lead to wing separation and loss of control.

Compliance

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

(1) Initially inspect the left and right wing lift strut attach fittings, part number (P/N) A–A11, for corrosion or cracking following Taylorcraft Aviation, LLC Service Bulletin No. 2007–002, dated November 8, 2007, using the following compliance times:

(i) *For airplanes that have never been equipped with floats or snow skis:* Within the

next 90 days after June 6, 2008 (the effective date of this AD).

(ii) *For airplanes equipped with or that have ever been equipped with floats or snow skis:* Within the next 30 days after June 6, 2008 (the effective date of this AD).

(2) If the airplane is equipped with floats or snow skis at the time of the initial inspection required by paragraph (e)(1) of this AD or at any time after the initial inspection required by paragraph (e)(1) of this AD, you must repeat the inspection required in paragraph (e)(1) of this AD as follows:

If the following exists:	Then:
(i) The airplane is equipped with floats or snow skis at the time of the initial inspection required by paragraph (e)(1) of this AD.	Inspect no later than 48 months following the initial inspection and repetitively inspect thereafter at intervals not to exceed 48 months. Continue these repetitive inspections until removal of floats or snow skis, at which time you must follow paragraph (e)(2)(ii) of this AD.
(ii) You remove floats or snow skis at any time following the initial inspection required by paragraph (e)(1) of this AD.	Inspect no later than 48 months following the last inspection. After the inspection following removal of floats or snow skis, no further inspections are required unless floats or snow skis are re-installed at a later date, at which time you must follow paragraph (e)(2)(iii) of this AD.
(iii) You install floats or snow skis at any time since the initial inspection required by paragraph (e)(1) of this AD.	Inspect no later than 48 months following the last inspection or before further flight after installation of floats or snow skis, whichever occurs later, and repetitively inspect thereafter at intervals not to exceed 48 months. Continue these repetitive inspections until removal of floats or snow skis, at which time you must follow paragraph (e)(2)(ii) of this AD.

(3) If you find cracking or material loss due to corrosion during any of the inspections required in paragraph (e)(1) or (e)(2) of this AD, before further flight, do the following:

(i) Contact Taylorcraft Aviation, LLC at 2124 North Central Avenue, Brownsville, Texas 78521; telephone: 956–986–0700 to obtain an FAA-approved repair scheme or replacement procedure; or refer to FAA Advisory Circular AC 43.13–1B CHG 1, dated September 27, 2001; and

(ii) Repair or replace the left and/or right wing lift strut attach fitting(s), P/N A–A11.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Fort Worth Airplane Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Andy McAnaul, Aerospace Engineer, SAT–MIDO–43, 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; fax: (210) 308–3370. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Material Incorporated by Reference

(g) You must use Taylorcraft Aviation, LLC Service Bulletin No. 2007–002, dated November 8, 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 Taylorcraft Aviation, LLC, 2124 North Central Avenue, Brownsville, Texas 78521; telephone: 956–986–0700.

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

Issued in Kansas City, Missouri, on April 23, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9397 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29043; Directorate Identifier 2007–NM–177–AD; Amendment 39–15494; AD 2008–09–13]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Boeing Model 737–300, –400, and –500 series airplanes. This AD requires revising the FAA-approved maintenance inspection program to include inspections that will give no less than the required damage tolerance rating for each structural significant item (SSI), doing repetitive inspections to detect cracks of all SSIs, and repairing cracked structure. This AD results from a report of incidents involving fatigue cracking in transport category airplanes that are approaching or have exceeded their design service objective. We are issuing this AD to maintain the continued structural integrity of the entire fleet of Model 737–300, –400, and –500 series airplanes.

DATES: This AD is effective June 6, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 6, 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 all Boeing Model 737–300, –400, and –500 series airplanes. That NPRM was published in the **Federal Register** on August 24, 2007 (72 FR 48597). That NPRM proposed to require revising the FAA-approved maintenance inspection program to include inspections that will give no less than the required damage tolerance rating for each structural significant item (SSI), doing repetitive inspections to detect cracks of all SSIs, and repairing cracked structure.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received from the four commenters.

Requests To Allow Alternative Inspections for Previously Repaired/ Altered Structure

Boeing, Southwest Airlines, and United Airlines request that the NPRM be revised to include a provision for alternative inspections when a repair area prohibits operators from doing the inspections specified in paragraph (h) of the NPRM. The commenters request that the initial alternative inspection be done within 12 months after the repair is discovered during the initial inspection required by paragraph (h). Two of the commenters point out that there is a similar provision in paragraph (e) of AD 98–11–04 R1, amendment 39–10984 (64 FR 987, January 7, 1999). The commenters state that including such a provision will assist operators.

We agree. We have added a new paragraph (i) to this AD (and reidentified subsequent paragraphs) that provides alternative inspections to those in paragraph (h) of this AD.

Request To Allow Compliance With the Repair Assessment Program (RAP)

Southwest and United request that the RAP be considered an alternative method of compliance (AMOC) for the supplemental structural inspection document (SSID) inspections of any repaired or modified SSI specified in paragraph (h) of the NPRM. United States that the FAA approved the RAP as an AMOC for those areas of the fuselage covered by repairs for Models 737–100, –200, and –200C series airplanes. Southwest states that multiple requirements for an individual repaired or modified area will create confusion, and that eventually the alternate inspection procedures will either be duplicated or only approved for one program.

We partially agree. We agree with the commenters that some of the inspection areas subject to the requirements of this AD also may be included in the RAP. The owner/operator of an affected airplane or Boeing, on behalf of the owner/operator, will need to perform an evaluation of each of these areas of the airplane to determine if the actions performed in accordance with the RAP meet the requirements of the SSID inspection program. Our understanding is that Boeing is looking into this evaluation; however, we have not received any data supporting a request for an AMOC. Once the evaluation has been completed, the owner/operator or Boeing may submit the data to substantiate that those actions performed in accordance with the RAP would provide an acceptable level of safety, under the provisions of paragraph (l) of this AD. We have made no change to the AD in this regard.

Request To Delegate Approval of Structure Affected by Winglet Modifications

Southwest requests that the NPRM be revised to allow an Authorized Representative (AR) for the Boeing Commercial Airplanes Delegation Option Authorization Organization to approve AMOCs for modified or altered structure such as winglets. Without such a provision, Southwest states that operators of airplanes on which winglets have been installed in accordance with a supplemental type certificate (STC) will need to seek AMOCs directly from the FAA. Southwest believes that such a provision would reduce the workload for operators and the FAA.

We do not agree. At this time, we cannot authorize Boeing ARs to approve repair data or AMOCs for non-Boeing type design products such as STCs for which Boeing does not have access to the design data. We have made no change to the AD in this regard.

Request To Approve NPRM as a Method of Compliance With Aging Airplane Safety Final Rule (AASFR)

Southwest and United request that the NPRM be approved as a method of compliance for the AASFR for the relevant SSIs.

We partially agree. We agree with the commenters that compliance with this AD would be an acceptable means of compliance with the AASFR for the baseline structure of Model 737–300, –400, and –500 series airplanes. The Costs of Compliance section of the NPRM included such a statement, which is restated in this final rule. In addition, the Supplemental Inspections section of the AASFR states, ''The FAA will accept a SSID program for the baseline structure of an airplane developed by the OEM and approved by the FAA. If a SSID does not consider repairs, alterations, and modifications (RAMs), as required by this rule, the FAA would not accept it as a means to comply with this portion of the rule.'' Therefore, we find that no change to the final rule is necessary.

Request To Allow Zonal and Surveillance Inspections

British Airways requests that zonal and surveillance inspections be considered acceptable for the general visual inspection specified in Boeing Document D6–82669, ''Supplemental Structural Inspection Document Models 737–300/400/500 Airplanes,'' Original Release, dated May 2007 (hereafter ''the SSID'') (referred to in the NPRM as the appropriate source of service information for the proposed actions).

We do not agree. Each operator's maintenance inspection program defines inspection terminology. That maintenance inspection program might be defined by different revisions of the Maintenance Steering Group (MSG) procedures or other procedures accepted by the operator's Certificate Management Office. Because inspection definitions have changed over time, each operator must confirm that the maintenance inspections procedures (e.g., surveillance or general visual inspections) it performs are equivalent to those specified in section 5.0 of the SSID to take damage tolerance rating (DTR) credit for the SSID program. In addition, while zonal inspection programs include general visual inspections of an area, including the structure in that area, the zonal program might not include the same general visual inspection required by the SSID such as the specific structural detail, the frequency to do the inspection, and the requirement to do the inspection in the direction specified. Therefore, we have made no change to the AD in this regard.

Request To Extend Compliance Time of Reporting Requirement

Southwest and United also request that the compliance time for the reporting requirement in Section 6.0, ''SSI Discrepancy Reporting,'' of the SSID be revised from 5 to 30 days. The commenters state that 5 days is insufficient time for reviewing documentation from various maintenance bases.

We do not agree. In developing an appropriate compliance time for this action, we considered the urgency associated with cracks involving an SSI or related structure in close vicinity to the SSI as well as the recommendations

of the manufacturer. In consideration of these items, we have determined that a 5-day compliance time for reporting discrepant inspection findings will enable the manufacturer to obtain better insight into the nature, cause, and extent of the cracking, and eventually to develop a final action to address the unsafe condition. However, according to the provisions of paragraph (l) of this AD, we might approve requests to adjust the compliance time if the request includes data that prove that the new compliance time would provide an acceptable level of safety.

Request To Identify Differences Between the AD and the SSID

British Airways requests that all differences between the AD and the SSID be identified. British Airways states that such differences were identified in other SSID ADs.

We partially agree. We agree with the commenter to identify differences between the AD and the SSID and did so in the Differences Between the Proposed AD and Service Information section of the NPRM. However, we find that no change to the final rule is necessary, since that section of the NPRM does not reappear in the final rule.

Request To Clarify a Certain Section of the Preamble of the NPRM

Boeing requests that the Issuance of Advisory Circular (AC) section in the preamble of the NPRM be clarified. Boeing states that AC No. 91–56, ''Supplemental Structural Inspection Program for Large Transport Category Airplanes,'' dated May 6, 2001, applies to airplanes certified under the fail-safe and fatigue requirements of Civil Air Regulations (CAR) 4b or part 25 of the Federal Aviation Regulations (14 CFR part 25), not damage tolerance structural requirements as stated in the Issuance of AC section of the NPRM.

We agree with Boeing that the identified section could be clarified. However, no change has been made to the final rule since the identified sections of the NPRM do not reappear in the final rule.

Explanation of Change to Reported Incidents

We have revised the AD to specify that this AD results from a report of incidents involving fatigue cracking only.

Explanation of Change to Costs of Compliance

The requirements for the baseline structure of Model 737–300, –400, and –500 series airplanes are currently described in 14 CFR 121.1109(c)(1) and 129.109(b)(1), not in 14 CFR 121.370(a) and 129.16 as indicated in the third paragraph of the Cost of Compliance section of the NPRM. Therefore, we have revised the Costs of Compliance section of the AD accordingly.

Explanation of Editorial Changes

We have revised references to the title of Boeing Document D6–82669 from ''Supplemental Structural Inspection Document,'' to ''Supplemental Structural Inspection Document Models 737–300/400/500 Airplanes'' in this AD.

Conclusion

We reviewed the relevant data, considered the comments received, 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.

Costs of Compliance

There are about 1,961 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	Cost	Number of U.S.-registered airplanes	Fleet cost
Revision of maintenance inspection program.	1,200 per operator (26 U.S. operators).	$80	$96,000 per operator	599	$2,496,000.
Inspections	600 per airplane	80	$48,000, per airplane, per inspection cycle.	599	$28,752,000 per inspection cycle.

The number of inspection work hours, as indicated above, is presented as if the accomplishment of the actions in this AD are to be conducted as ''stand alone'' actions. However, in actual practice, these actions for the most part will be done coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional inspection work hours will be minimal in many instances. Additionally, any costs associated with special airplane scheduling will be minimal.

Further, compliance with this AD will be a means of compliance with the AASFR for the baseline structure of Model 737–300, –400, and –500 series airplanes. The AASFR requires certain operators to incorporate damage tolerance inspections into their maintenance inspection programs. These requirements are described in 14 CFR 121.1109(c)(1) and 129.109(b)(1). Accomplishment of the actions required by this AD will meet the requirements of these CFR sections for the baseline structure. The costs for accomplishing the inspection portion of this AD were accounted for in the regulatory evaluation of the AASFR final rule.

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:

2008–09–13 Boeing: Amendment 39–15494. Docket No. FAA–2007–29043; Directorate Identifier 2007–NM–177–AD.

Effective Date

(a) This airworthiness directive (AD) is effective June 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 737–300, –400, and –500 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of incidents involving fatigue cracking in transport category airplanes that are approaching or have exceeded their design service objective. We are issuing this AD to maintain the continued structural integrity of the entire fleet of Model 737–300, –400, and –500 series airplanes.

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 Information

(f) The term ''the SSID,'' as used in this AD, means Boeing Document D6–82669, ''Supplemental Structural Inspection Document Models 737–300/400/500 Airplanes,'' Original Release, dated May 2007.

Revision of the FAA-Approved Maintenance Inspection Program

(g) Before the accumulation of 66,000 total flight cycles, or within 12 months after the effective date of this AD, whichever occurs later, incorporate a revision into the FAA-approved maintenance inspection program that provides no less than the required damage tolerance rating (DTR) for each structural significant item (SSI) listed in the SSID. (The required DTR value for each SSI is listed in the SSID.) The revision to the maintenance inspection program must include and must be implemented in accordance with the procedures in Section 5.0, ''Damage Tolerance Rating (DTR) System Application,'' and Section 6.0, ''SSI Discrepancy Reporting'' of the SSID. 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.

Initial and Repetitive Inspections

(h) Except as provided by paragraph (i) of this AD: Before the accumulation of 66,000 total flight cycles, or within 4,000 flight cycles measured from 12 months after the effective date of this AD, whichever occurs later, do the applicable initial inspections to detect cracks of all SSIs, in accordance with the SSID. Repeat the applicable inspections thereafter at the intervals specified in Section 3.0, ''Implementation'' of the SSID.

(i) For any SSI that has been repaired or altered before the effective date of this AD such that the repair or design change affects your ability to accomplish the actions required by paragraph (h) of this AD: You must request FAA approval of an alternative method of compliance (AMOC) in accordance with section 39.17 of the Federal Aviation Regulations (14 CFR 39.17), at the initial compliance time specified in paragraph (h) of the AD; or do the actions specified in paragraphs (i)(1) and (i)(2) of this AD, at the times specified in those paragraphs, as an approved means of compliance with the requirements of paragraph (h) of this AD.

(1) At the initial compliance time specified in paragraph (h) of the AD, identify each repair or design change to that SSI.

(2) Within 12 months after the identification of a repair or design change required by paragraph (i)(1) of this AD, assess the damage tolerance characteristics of each SSI affected by each repair or design change to determine the effectiveness of the applicable SSID inspection for that SSI and if not effective, incorporate a revision into the FAA-approved maintenance inspection program to include a damage-tolerance based alternative inspection program for each affected SSI. Thereafter, inspect the affected structure in accordance with the alternative inspection program. The inspection method and compliance times (i.e., threshold and repeat intervals) of the alternative inspection program must be approved in accordance with the procedures specified in paragraph (l) of this AD.

Repair

(j) If any cracked structure is found during any inspection required by paragraph (h) or (i) of this AD, before further flight, repair the cracked structure using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

Inspection Program for Transferred Airplanes

(k) Before any airplane that is subject to this AD and that has exceeded the applicable compliance times specified in paragraph (h) of this AD can be added to an air carrier's operations specifications, a program for the accomplishment of the inspections required by this AD must be established in accordance with paragraph (k)(1) or (k)(2) of this AD, as applicable.

(1) For airplanes that have been inspected in accordance with this AD: The inspection of each SSI must be done by the new operator in accordance with the previous operator's schedule and inspection method, or the new operator's schedule and inspection method, at whichever time would result in the earlier accomplishment for that SSI inspection. The compliance time for accomplishment of this inspection must be measured from the last inspection accomplished by the previous operator. After each inspection has been done once, each subsequent inspection must be performed in accordance with the new operator's schedule and inspection method.

(2) For airplanes that have not been inspected in accordance with this AD: The inspection of each SSI required by this AD must be done either before adding the airplane to the air carrier's operations specification, or in accordance with a schedule and an inspection method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. After each inspection has been done once, each subsequent inspection must be done in accordance with the new operator's schedule.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle ACO, 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 approval must specifically refer to this AD.

Material Incorporated by Reference

(m) You must use Boeing Document D6–82669, ''Supplemental Structural Inspection Document Models 737–300/400/500 Airplanes,'' Original Release, dated May 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The document contains the following errors:

(i) Pages 8.0.3 and 8.0.4 of Section 8.0, as specified in the List of Effective Pages, do not exist.

(ii) There are two sets of pages (four pages total) with the same page numbers in Section 11.3 (i.e., pages E.30.1 and E.30.2). The first set of page numbers (i.e., DTR Check Form for Item E–30 and the following blank page) is correct. The second set of page numbers (i.e., DTR Check Form for Item E–31 and the following blank page) is incorrect. Those pages should be identified as page numbers 31.1 and 31.2, as specified in the List of Effective Pages.

(iii) None of the pages are dated. The issue date for those pages is May 2007, as specified in the Revision Highlights section.

(2) 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.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

(4) 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 April 8, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9316 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0471; Directorate Identifier 2008–CE–025–AD; Amendment 39–15508; AD 2008–10–02]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company 172, 175, 180, 182, 185, 206, 207, 208, 210, and 303 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna) 172, 175, 180, 182, 185, 206, 207, 208, 210, and 303 series airplanes. This AD requires you to inspect the alternate static air source selector valve to assure that the part number identification placard does not obstruct the alternate static air source selector valve port. If the part number identification placard obstructs the port, this AD requires you to remove the placard, assure that the port is unobstructed, and report to the FAA if obstruction is found. This AD results from reports of improper installation of the part number identification placard on the alternate static air source selector valve. The actions specified by this AD are intended to prevent erroneous indications from the altimeter, airspeed, and vertical speed indicators, which could cause the pilot to react to incorrect flight information and possibly result in loss of control.

DATES: This AD becomes effective on May 12, 2008.

We must receive any comments on this AD by July 1, 2008.

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

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

To view the comments to this AD, go to *http://www.regulations.gov*. The docket number is FAA–2008–0471; Directorate Identifier 2008–CE–025–AD.

FOR FURTHER INFORMATION CONTACT: David Fairback, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: 316–946–4154; fax: 316–946–4107; e-mail address: *david.fairback@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We recently received reports of improper installation of the part number identification placard on alternate static air source selector valves of certain Cessna 172, 175, 180, 182, 185, 206, 207, 208, 210, and 303 series airplanes. The part number identification placard refers to alternative air source selector valves, part number 2013142–18 that were manufactured between November 20, 2007, and February 18, 2008. The part number identification placard was installed on the valve body in a location that covers the port, which is the inlet for static air reference into the valve. The problem was discovered during a quality control check.

All parts held in stock at Cessna have been corrected. Cessna has no way of verifying how many of these assemblies were manufactured and sent to the field with the part number identification placard installed over the alternate static air source selector valve port.

We have no way of determining which airplanes have the remaining problem alternate static air source selector valve assemblies installed without having all of the affected airplanes and spares stock inspected.

This condition, if not corrected, could result in the altimeter, airspeed, and vertical speed indicators displaying erroneous indications. This could cause the pilot to react to incorrect flight information and possibly result in loss of control.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD requires inspecting the alternate static air source selector valve to assure that the part number identification placard does not obstruct the alternate static air source selector valve port. If the part number identification obstructs the port, this AD requires you to remove the placard, assure that the port is unobstructed, and report to the FAA if obstruction is found.

In preparing this rule, we contacted type clubs and aircraft operators to get technical information and information on operational and economic impacts. We have included a discussion of information that may have influenced this action in the rulemaking docket.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because erroneous indications from

the altimeter, airspeed, and vertical speed indicators could cause the pilot to react to incorrect flight information and possibly result in loss of control. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number ''FAA–2008–0471; Directorate Identifier 2008–CE–025–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–10–02 Cessna Aircraft Company: Amendment 39–15508; Docket No. FAA–2008–0471; Directorate Identifier 2008–CE–025–AD.

Effective Date

(a) This AD becomes effective on May 12, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to airplanes listed in Table 1 and Table 2 of this AD that:

(1) Have a part number (P/N) 2013142–18 alternate static air source selector valve installed after November 19, 2007; and

(2) Are certificated in any category:

TABLE 1.—APPLICABILITY FOR AIRPLANES THAT HAD THE AFFECTED PART INSTALLED AT MANUFACTURE

Model	Serial Nos. (S/Ns)
172S	172S10672 through 172S10674, 172S10676, 172S10678 through 172S10680, 172S10682, 172S10683, and 172S10685.
182T	18282062 and 18282065.
T182T	T18208822 and T18208828.
208	20800417, 20800418, and 20800419.
208B	208B1294 through 208B1310.

Note 1: Airplanes listed in Table 1 may have also had the affected part installed as a replacement part.

TABLE 2.—APPLICABILITY FOR AIRPLANES THAT COULD HAVE HAD THE AFFECTED PART INSTALLED AS A REPLACEMENT PART OR FROM PARTS HELD AS SPARES

Model	S/Ns
172	All S/Ns.
172R	All S/Ns beginning with 17280001.
172S	172S8001 through 172S10671.
F172D	All S/Ns.
F172E	All S/Ns.
F172F	All S/Ns.
F172G	All S/Ns.
F172H	All S/Ns.
F172K	All S/Ns.
F172L	All S/Ns.
F172M	All S/Ns.
F172N	All S/Ns.
F172P	All S/Ns.
FR172E ...	All S/Ns.
FR172F	All S/Ns.
FR172G ...	All S/Ns.
FR172H ...	All S/Ns.
FR172J	All S/Ns.
FR172K ...	All S/Ns.
P172D	All S/Ns.
R172E (USAF T–41B) (USAF T–41C and D).	All S/Ns.
R172F (USAF T–41).	All S/Ns.
R172G (USAF T–41C or D).	All S/Ns.
R172H (USAF T–41D).	All S/Ns.
R172J	All S/Ns.
R172K	All S/Ns.
172RG	All S/Ns.

TABLE 2.—APPLICABILITY FOR AIRPLANES THAT COULD HAVE HAD THE AFFECTED PART INSTALLED AS A REPLACEMENT PART OR FROM PARTS HELD AS SPARES—Continued

Model	S/Ns
175	All S/Ns.
180	All S/Ns.
182	All S/Ns.
182S	18280001 through 18280944.
182T	18280945 through 18282061.
R182	All S/Ns.
T182	All S/Ns.
TR182	All S/Ns.
T182T	T18208001 through T18208821.
F182P	All S/Ns.
F182Q	All S/Ns.
FR182	All S/Ns.
185	All S/Ns.
206	All S/Ns.
206H	All S/Ns beginning with 20608001.
P206	All S/Ns.
U206	All S/Ns.
T206H	All S/Ns beginning with T20608001.
TU206A	All S/Ns.
TU206B	All S/Ns.
TU206C	All S/Ns.
TU206D	All S/Ns.
TU206E	All S/Ns.
TU206F	All S/Ns.
TU206G	All S/Ns
207	All S/Ns.
208	20800001 through 20800416.
208B	208B0001 through 208B1293.
210	All S/Ns.
210–5 (205).	All S/Ns.
T210F	All S/Ns.
T210G	All S/Ns.
T210H	All S/Ns.
T210J	All S/Ns.
T210K	All S/Ns.
T210L	All S/Ns.
T210M	All S/Ns.
T210N	All S/Ns.
T210R	All S/Ns.
T303	All S/Ns.

Note 2: P/N 2013142–18 replaced P/Ns 2013142–9, –13, and –17.

Unsafe Condition

(d) This AD is the result of reports of improper installation of the part number identification placard on the alternate static air source selector valve. We are issuing this AD to prevent erroneous indications from the altimeter, airspeed, and vertical speed indicators, which could cause the pilot to react to incorrect flight information and possibly result in loss of control.

Compliance

(e) For all affected airplanes, to address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
(1) Inspect the alternate static air source selector valve to assure that the part number identification placard is not obstructing the port.	(i) *For static air source selector valves installed before May 12, 2008 (The effective date of this AD):* Before further flight after May 12, 2008 (the effective date of this AD), and (ii) *For static air source selector valves installed as modification or replacement parts on or after May 12, 2008 (the effective date of this AD):* Before further flight after installation of a P/N 2013142–18 alternate static air source selector valve. Inspection of the part before installation is acceptable.	(A) Adjust the pilot and copilot seats as far aft as possible. (B) Use a flashlight and mirror to inspect the alternate static air source selector valve to assure the port on the forward end of the valve is clearly visible and not covered by the part number identification placard.
(2) If the alternate static air source selector valve port is found obstructed by the part number identification placard during any inspection required by paragraph (e)(1) of this AD, remove the placard from the valve body, discard the placard, and assure that the port is open and unobstructed.	Before further flight after any inspection required in paragraph (e)(1) of this AD where the port is found obstructed.	Make an entry in the aircraft records showing compliance with this portion of the AD following 14 CFR 43.9.

(f) Report the results of the inspection required by this AD where an obstruction was found to the FAA.

(1) Submit this report within 10 days after the inspection or 10 days after the effective date of this AD, whichever occurs later.

(2) Use the form in Figure 1 of this AD and submit it to FAA, Manufacturing Inspection District Office, Mid-Continent Airport, 1804 Airport Road, Room 101, Wichita, Kansas, 67209; or fax to (316) 946–4189.

(3) The Office of Management and Budget (OMB) approved the information collection requirements contained in this regulation under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and assigned OMB Control Number 2120–0056.

AD 2008-10-02 INSPECTION REPORT **(REPORT ONLY IF A PART NUMBER IDENTIFICATION PLACARD IS OBSTRUCTING THE STATIC AIR SOURCE SELECTOR VALVE PORT)**	
1. Inspection Performed By:	*2. Phone:*
3. Airplane Model:	*4. Airplane Serial Number:*
5. Airplane Total Hours TIS:	
6. Date of AD inspection:	
*7. Inspection Results: (Note: Report **only** if a part number identification placard is obstructing static air source valve port.)*	*8. Corrective Action Taken:*

Mail report to: Wichita Manufacturing Inspection District Office, Mid-Continent Airport, 1804 Airport Road, Room 101, Wichita, Kansas, 67209; or fax to (316) 946-4189.

Figure 1

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to: *Attn:* David Fairback, Aerospace Engineer, FAA, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: 316–946–4154; fax: 316–946–4107; e-mail address: *david.fairback@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9719 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30604; Amdt. No 3266]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Rule establishes, amends, suspends, or revokes STANDARD Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at

certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective May 2, 2008. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 2, 2008.

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

For Examination—

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

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

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

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

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

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

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

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

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

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

The Rule

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on April 18, 2008.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, under Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

** * * Effective 8 May 2008*

Smithville, TN, Smithville Muni, RNAV (GPS) RWY 6, Amdt 1
Smithville, TN, Smithville Muni, RNAV (GPS) RWY 24, Amdt 1
Smithville, TN, Smithville Muni, Takeoff Minimums and Obstacle DP, Orig

** * * Effective 5 June 2008*

Mojave, CA, Mojave, Takeoff Minimums and Obstacle DP, Amdt 1
Rifle, CO, Garfield County Regional, Takeoff Minimums and Obstacle DP, Amdt 8
Walden, CO, Walden-Jackson County, RNAV (GPS)-A, Orig
Walden, CO, Walden-Jackson County, Takeoff Minimums and Obstacle DP, Orig
Washington, DC, Washington Dulles Intl, ILS OR LOC RWY 1R, ILS RWY 1R (CAT II); ILS RWY 1R (CAT III), Amdt 23A
Washington, DC, Washington Dulles Intl, ILS OR LOC RWY 19L, Amdt 13A
Washington, DC, Washington Dulles Intl, ILS OR LOC/DME RWY 1C, Orig-A
Washington, DC, Washington Dulles Intl, ILS OR LOC/DME RWY 19C, ILS RWY 19C (CAT II); ILS RWY 19C (CAT III) Amdt 24A
Washington, DC, Washington Dulles Intl, CONVERGING ILS RWY 12, Amdt 5A
Washington, DC, Washington Dulles Intl, CONVERGING ILS RWY 19C, Amdt 7A
Washington, DC, Washington Dulles Intl, RNAV (GPS) Y RWY 1C, Orig-A
Washington, DC, Washington Dulles Intl, RNAV (GPS) Y RWY 19C, Amdt 2A
Washington, DC, Washington Dulles Intl, RNAV (RNP) Z RWY 1C, Orig-B
Washington, DC, Washington Dulles Intl, RNAV (RNP) Z RWY 19C, Orig-A
Washington, DC, Washington Dulles Intl, Takeoff Minimums and Obstacle DP, Orig
St Petersburg-Clearwater, FL, St. Petersburg-Clearwater Intl, RNAV (GPS)–A, Amdt 1
St Petersburg-Clearwater, FL, St. Petersburg-Clearwater Intl, Takeoff Minimums and Obstacle DP, Amdt 1
Metter, GA, Metter Muni, RNAV (GPS) RWY 10, Orig
Metter, GA, Metter Muni, RNAV (GPS) RWY 28, Orig
Metter, GA, Metter Muni, NDB OR GPS RWY 10, Amdt 2A, CANCELLED
Metter, GA, Metter Muni, Takeoff Minimums and Obstacle DP, Orig
Reidsville, GA, Swinton Smith Fld at Reidsville Muni, RNAV (GPS) RWY 11, Orig
Reidsville, GA, Swinton Smith Fld at Reidsville Muni, NDB RWY 11, Amdt 7
Arco, ID, Arco-Butte County, Takeoff Minimums and Obstacle DP, 1
Driggs, ID, Driggs-Reed Memorial, Takeoff Minimums and Obstacle DP, Amdt 2
Pocatello, ID, Pocatello Regional, Takeoff Minimums and Obstacle DP, Amdt 6
Glasgow, KY, Glasgow Muni, RNAV (GPS) RWY 7, Amdt 1
Glasgow, KY, Glasgow Muni, RNAV (GPS) RWY 25, Amdt 1
Glasgow, KY, Glasgow Muni, VOR/DME RWY 7, Amdt 8
Easton, MD, Easton/Newnam Field, RNAV (GPS) RWY 15, Orig
Easton, MD, Easton/Newnam Field, RNAV (GPS) RWY 22, Orig
Easton, MD, Easton/Newnam Field, RNAV (GPS) RWY 33, Orig
Easton, MD, Easton/Newnam Field, NDB OR GPS RWY 22, Amdt 8A, CANCELLED
Bangor, ME, Bangor Intl, ILS OR LOC RWY 15, ILS RWY 15 (CAT II); ILS RWY 15 (CAT III), Amdt 6
Bangor, ME, Bangor Intl, ILS OR LOC RWY 33, Amdt 12
Bangor, ME, Bangor Intl, VOR–A, Amdt 3
Bangor, ME, Bangor Intl, VOR/DME RWY 15, Amdt 4
Bangor, ME, Bangor Intl, VOR/DME RWY 33, Amdt 7
Bangor, ME, Bangor Intl, RADAR–1, Amdt 4
Bangor, ME, Bangor Intl, RNAV (GPS) RWY 15, Orig
Bangor, ME, Bangor Intl, RNAV (GPS) RWY 33, Orig
Bangor, ME, Bangor Intl, GPS RWY 15, Orig-A, CANCELLED
Bangor, ME, Bangor Intl, GPS RWY 33, Orig-A, CANCELLED
Portland, ME, Portland Intl Jetport, Takeoff Minimums and Obstacle DP, Amdt 4
Minneapolis, MN, Flying Cloud, Takeoff Minimums and Obstacle DP, Amdt 4
St Paul, MN, St Paul Downtown Holman FLD, Takeoff Minimums and Obstacle DP, Amdt 7
Colstrip, MT, Colstrip, Takeoff Minimums and Obstacle DP, Amdt 2
Ocracoke, NC, Ocracoke Island, Takeoff Minimums and Obstacle DP, Orig
Devils Lake, ND, Devils Lake Rgnl, RNAV (GPS) RWY 3, Orig
Devils Lake, ND, Devils Lake Rgnl, VOR RWY 3, Orig
Devils Lake, ND, Devils Lake Rgnl, VOR RWY 21, Orig
Teterboro, NJ, Teterboro, RNAV (GPS) RWY 6, Amdt 1
Binghamton, NY, Greater Binghamton/Edwin A. Link Field, Takeoff Minimums and Obstacle DP, Orig
Cincinnati, OH, Cincinnati Muni Airport—Lunken Field, Takeoff Minimums and Obstacle DP, Amdt 12
Springfield, OH, Springfield-Backley Muni, Takeoff Minimums and Obstacle DP, Orig
Greenville, SC, Donaldson Center, ILS OR LOC RWY 5, Amdt 5
Pine Ridge, SD, Pine Ridge, RNAV (GPS) RWY 30, Orig
Pine Ridge, SD, Pine Ridge, GPS RWY 30, ORIG-B, CANCELLED
Alice, TX, Alice Intl, LOC/DME RWY 31, Orig
Alice, TX, Alice Intl, LOC RWY 31, Amdt 6, CANCELLED
Borger, TX, Hutchinson County, RNAV (GPS) RWY 17, Orig
Borger, TX, Hutchinson County, RNAV (GPS) RWY 35, Orig
Borger, TX, Hutchinson County, VOR RWY 17, Amdt 9
Borger, TX, Hutchinson County, VOR/DME RWY 35, Amdt 4
Borger, TX, Hutchinson County, Takeoff Minimums and Obstacle DP, Amdt 1
Decatur, TX, Decatur Muni, RNAV (GPS) RWY 17, Orig
Decatur, TX, Decatur Muni, RNAV (GPS) RWY 35, Orig
Decatur, TX, Decatur Muni, Takeoff Minimums and Obstacle DP, Amdt 2
La Grange, TX, Fayette Rgnl Air Center, RNAV (GPS) RWY 16, Amdt 1
La Grange, TX, Fayette Rgnl Air Center, RNAV (GPS) RWY 34, Amdt 1
La Grange, TX, Fayette Rgnl Air Center, Takeoff Minimums and Obstacle DP, Orig
Marfa, TX, Marfa Muni, Takeoff Minimums and Obstacle DP, Orig
Richfield, UT, Richfield Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Louisa, VA, Louisa County/Freeman Field, RNAV (GPS) RWY 27, Orig
Louisa, VA, Louisa County/Freeman Field, NDB OR GPS RWY 27, Orig-B, CANCELLED
Louisa, VA, Louisa County/Freeman Field, Takeoff Minimums and Obstacle DP, Orig
Newport News, VA, Newport News/Williamsburg Intl, ILS OR LOC RWY 7, Amdt 32
Newport News, VA, Newport News/Williamsburg Intl, RNAV (GPS) RWY 7, Amdt 2
Newport News, VA, Newport News/Williamsburg Intl, RNAV (GPS) RWY 20, Amdt 1
West Point, VA, Middle Peninsula Rgnl, VOR–A, Amdt 4
West Point, VA, Middle Peninsula Rgnl, RNAV (GPS) RWY 10, Orig
West Point, VA, Middle Peninsula Rgnl, Takeoff Minimums and Obstacle DP, Orig
Bremerton, WA, Bremerton National, RNAV (GPS) RWY 1, Orig-A
Philippi, WV, Philippi/Barbour County Rgnl, RNAV (GPS) RWY 8, Orig
Philippi, WV, Philippi/Barbour County Rgnl, RNAV (GPS) RWY 26, Orig
Philippi, WV, Philippi/Barbour County Rgnl, Takeoff Minimums and Obstacle DP, Orig

On April 14, 2008 (73 FR 19998) the FAA published an Amendment in Docket No. 30600, Amdt No. 3262 to Part 97 of the Federal Aviation Regulations under sections 97.23 effective June 5, 2008 which are hereby rescinded:

Monticello, NY, Sullivan County Intl, VOR/DME OR GPS RWY 1, Amdt 3, CANCELLED
Monticello, NY, Sullivan County Intl, Takeoff Minimums and Obstacle DP, Amdt 2, CANCELLED

On April 16, 2008 (73 FR 20527) the FAA published an Amendment in Docket No. 30602, Amdt No. 3264 to Part 97 of the Federal Aviation Regulations under sections 97.27 effective June 5, 2008 which is hereby rescinded:

Burlington/Mount Vernon, WA, Skagit Rgnl, GPS RWY 28, Orig-A, CANCELLED

[FR Doc. E8–9288 Filed 5–1–08; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS FREEDOM (LCS 1) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective May 2, 2008 and is applicable beginning March 10, 2008.

FOR FURTHER INFORMATION CONTACT: Commander Robb Hyde, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This rule will revise various sections of 32 CFR part 706 previously amended by 72 FR 72946 on December 26, 2007.

This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS FREEDOM (LCS 1) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(a)(i), pertaining to the location of the forward masthead light at a height not less than 12 meters above the hull; Annex I, paragraph 3 (a), pertaining to the location of the forward masthead light in the forward quarter of the ship and the horizontal distance between the masthead lights shall not be less than one-half of the length of the vessel; Annex I, paragraph 2(i)iii, pertaining to the three lights in the task light array being equally spaced. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

■ For the reasons set forth in the preamble, the Navy Department amends part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706–CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended by removing paragraphs 22 and 23 following Table Five and adding a new paragraph 22 under Table Four, to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

22. On the following ships the vertical separation of the task lights do not meet the vertical spacing requirements described by Annex I, 2(i)(iii).

TABLE FOUR

Vessel	No.	Vertical separation of the task light array is not equally spaced, the separation between the middle and lower task light exceed the separation between the upper and middle light by
* * *	* *	* *
USS FREEDOM	LCS 1	0.39 meter.
* * *	* *	* *

Approved: April 22, 2008.

M. Robb Hyde,

Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

[FR Doc. E8–9669 Filed 5–1–08; 8:45 am]

BILLING CODE 3810–FF–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 70, and 71

[EPA–HQ–OAR–2006–0089; FRL–8560–9]

RIN 2060–AN77

Treatment of Certain Ethanol Production Facilities Under the ''Major Emitting Facility'' Definition; Notice of Action Denying Petition for Reconsideration and Denying Request for Stay

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Action Denying Petition for Reconsideration and Request for a Stay.

SUMMARY: The EPA is providing notice that it has responded to a petition for reconsideration of the final rule published May 1, 2007, entitled ''Prevention of Significant Deterioration, Nonattainment New Source Review and Title V: Treatment of Certain Ethanol Production Facilities Under the 'Major Emitting Facility' Definition.'' (''ethanol rule'') The final ethanol rule changed the effect of the applicability provisions of two separate permitting programs

under the Clean Air Act (CAA): the major New Source Review (NSR) program and the Title V programs. The final rule changed the ''major stationary source'' and ''major source'' definitions by amending the definition of ''chemical process plants'' under the regulatory definition of ''major emitting facility'' to exclude ethanol manufacturing facilities that produce ethanol by natural fermentation processes. On July 2, 2007, EPA received a petition for reconsideration pursuant to 307(d)(7)(B) of the CAA from the Natural Resources Defense Council (''NRDC''). The NRDC petition also requested that EPA stay implementation of the final rule pending reconsideration of the rule.

The NRDC petition for reconsideration can be found in the rulemaking docket under Docket ID No. EPA–HQ–OAR–2006–0089. The EPA considered the petition and the information in the rulemaking docket in reaching a decision on the petition. The EPA Administrator Stephen L. Johnson denied the petition for reconsideration and the request for a stay of the rule in a letter to the petitioner dated March 27, 2008. The letter documents EPA's reasons for the denial and can be found in the rulemaking docket.

FOR FURTHER INFORMATION CONTACT: Ms. Joanna Swanson, Air Quality Policy Division, (C339–03), Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number: (919) 541–5282; fax number: (919) 541–5509; e-mail address: *swanson.joanna@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. How Can I Obtain Copies of this Document and Other Related Information?

This **Federal Register** notice, the petition for reconsideration, and the letter denying the petition for reconsideration and the request for a stay of the rule during the reconsideration are available in the docket that EPA established for the ''Prevention of Significant Deterioration, Nonattainment New Source Review, and Title V: Treatment of Certain Ethanol Production Facilities Under the 'Major Emitting Facility' Definition'' rulemaking (Docket number EPA–HQ–OAR–2006–0089). The table below identifies the petitioner, the date EPA received the petition, the document identification number for the petition, the date of EPA's response, and the document identification number for EPA's response. Note that all the document numbers listed in the table are in the form of ''EPA–HQ–OAR–2006–0089–xxxx.'')

Petitioner	Date of petition to EPA	Petition: Document No. in docket	Date of EPA response	EPA response: Document No. in docket
Natural Resources Defense Council	7/2/2007	–0153.1	3/27/2008	–0155

The docket for EPA's denial of NRDC's petition for reconsideration is Docket ID No. EPA–HQ–OAR–2006–0089. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, i.e., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Docket ID No. EPA–HQ–OAR–2006–0089, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

In addition to being available in the docket, an electronic copy of today's notice of EPA's decision denying NRDC's petition for reconsideration and request for a stay of the rule pending reconsideration and of EPA's response letter to NRDC outlining the reasons for the denial will also be available on the World Wide Web. Following signature by the Principal Deputy Assistant Administrator, Office of Air and Radiation, a copy of this notice will be posted on EPA's New Source Review Web site, under Regulations & Standards, at *http://www.epa.gov/nsr.*

Dated: April 24, 2008.

Robert J. Meyers,

Principal Deputy Assistant Administrator, Office of Air and Radiation.

[FR Doc. E8–9749 Filed 5–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2007–1146; FRL–8561–2]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia: Transportation Conformity Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the West Virginia State Implementation Plan (SIP). The revisions establish State transportation conformity requirements. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on July 1, 2008 without further notice, unless EPA receives adverse written comment by June 2, 2008. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2007–1146 by one of the following methods:

A. *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *E-mail: febbo.carol@epa.gov*.

C. *Mail:* EPA–R03–OAR–2007–1146, Carol Febbo, Chief, Energy, Radiation and Indoor Environment Branch, Mailcode 3AP23, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the listed EPA Region III address. 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–R03–OAR–2007–

1146. 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.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, (*i.e.*, CBI or other information), disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, WV 25304.

FOR FURTHER INFORMATION CONTACT: Martin Kotsch, (215) 814–3335, or by e-mail at *kotsch.martin@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we'', ''us'', or ''our'' is used, we mean EPA.

I. What Is Transportation Conformity?
II. What Is the Background for This Action?
III. What Did the State Submit and How Did We Evaluate It?
IV. What Action Is EPA Taking Today?
V. Statutory and Executive Order Reviews

I. What Is Transportation Conformity?

Transportation conformity is required under section 176(c) of the Clean Air Act to ensure that Federally supported highway, transit projects, and other activities are consistent with (conform to) the purpose of the approved SIP. Conformity currently applies to areas that are designated nonattainment, and those areas redesignated to attainment after 1990 (maintenance areas), with plans developed under section 175A of the Clean Air Act for the following transportation related criteria pollutants: Ozone, particulate matter ($PM_{2.5}$ and PM_{10}), carbon monoxide (CO), and nitrogen dioxide (NO_2). Conformity with the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant National Ambient Air Quality Standards (NAAQS). The Federal transportation conformity regulations (Federal Rule) are found in 40 CFR part 93 and provisions related to conformity SIPs are found in 40 CFR 51.390.

II. What Is the Background for This Action?

On August 10, 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) was signed into law. SAFETEA–LU revised certain provisions of section 176(c) of the Clean Air Act, related to transportation conformity. Prior to SAFETEA–LU, states were required to address all of the Federal Rule's provisions in their conformity SIPs. After SAFETEA–LU, state's SIPs were required to contain all or portions of only the following three sections of the Federal Rule, modified as appropriate to each state's circumstances: 40 CFR 93.105 (consultation procedures); 40 CFR 93.122(a)(4)(ii) (written commitments to implement certain kind of control measures); and 40 CFR 93.125(c) (written commitments to implement certain kinds of mitigation measures). Pursuant to SAFETEA–LU, States are no longer required to submit conformity SIP revisions that address the other sections of the Federal conformity rule.

III. What Did the State Submit and How Did We Evaluate It?

On April 12, 2007, the West Virginia Department of Environmental Protection submitted a revision to its State Implementation Plan (SIP) for Transportation Conformity purposes. The SIP revision consists of six executed Memorandums of Understanding (MOUs) which will constitute the State of West Virginia SIP for transportation conformity purposes. The six MOUs were executed among the State of West Virginia and the various Metropolitan Planning Organizations within the State of West Virginia which have responsibility for undertaking transportation conformity in conjunction with transportation planning activities along with the three Federal Agencies (EPA, Federal Highway Administration, and Federal Transit Administration) who are participating members in the conformity consultation process. These MOUs which make up the SIP revision address the three provisions of the EPA Conformity Rule required under SAFETEA–LU: 40 CFR 93.105 (consultation procedures); 40 CFR 93.122(a)(4)(ii) (certain control measures), and 40 CFR 93.125(c) (mitigation measures).

We reviewed the submittal to assure consistency with the February 14, 2006, ''Interim Guidance for Implementing the Transportation Conformity provisions in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU)''. The guidance document can be found at *http://epa.gov/otaq/stateresources/transconf/policy.htm*. The guidance document states that each state is only required to address and tailor the afore-mentioned three sections of the Federal Conformity Rule in their state conformity SIPs.

EPA's review of West Virginia's Transportation Conformity SIP revision indicates that it is consistent with EPA's guidance in that it included the three elements specified by SAFETEA–LU and EPA's guidance. Consistent with the EPA Conformity Rule at 40 CFR 93.105 (consultation procedures), paragraph (a)(2) of each of the executed MOUs establishes the requirements for the appropriate agencies, procedures and allocation of responsibilities as required under 40 CFR 93.105 for consultation procedures. In addition, the executed MOUs provide for appropriate public consultation/public involvement consistent with 40 CFR 93.105. With respect to 40 CFR 93.122(a)(4)(ii) and 40 CFR 93.125(c), paragraphs (a)(3) and (a)(4) of the executed MOUs specifies

that written commitments for control measures and mitigation measures for meeting these requirements will be provided as needed.

IV. Final Action

EPA is hereby approving the West Virginia SIP revision for Transportation Conformity, which was submitted on April 12, 2007. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on July 1, 2008, without further notice unless EPA receives adverse comment by June 2, 2008. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state rule as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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 action 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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 1, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action to approve the West Virginia Transportation Conformity SIP may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 15, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for State of West Virginia Transportation Conformity Requirements at the end of the table to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	*	*	*	*
State of West Virginia Transportation Conformity Requirements.	Entire State	04/12/2007	05/02/2008 [*Insert page number where the document begins*].	Memoranda of Understanding between EPA, FHWA, FTA, State of West Virginia, and six Metropolitan Planning Organizations.

[FR Doc. E8–9608 Filed 5–1–08; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–8021]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you want to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office.

FOR FURTHER INFORMATION CONTACT: David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of

information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Virginia:				
Rural Retreat, Town of, Wythe County	510212	May 8, 2007, Emerg; May 8, 2007, Reg; May 02, 2008, Susp.	May 2, 2008	May 2, 2008.
Wytheville, Town of, Wythe County	510181	November 29, 1973, Emerg; April 3, 1978, Reg; May 02, 2008, Susp.	.....do*	do.
Wythe County, Unincorporated Areas ...	510180	March 15, 1974, Emerg; February 1, 1979, Reg; May 02, 2008, Susp.	.....do	do.
Region IV				
Kentucky: Elkhorn City, City of, Pike County	210356	September 1, 1979, Emerg; November 1, 1985, Reg; May 02, 2008, Susp.	.....do	do.
Region V				
Illinois:				
Carbondale, City of, Jackson County	170298	January 14, 1975, Emerg; November 1, 1979, Reg; May 02, 2008, Susp.	.....do	do.
Dowell, Village of, Jackson County	170875	April 20, 1979, Emerg; December 5, 1989, Reg; May 02, 2008, Susp.	.....do	do.
Elkville, Village of, Jackson County	170876	April 15, 1976, Emerg; December 18, 1984, Reg; May 02, 2008, Susp.	.....do	do.
Gorham, Village of, Jackson County	170954	August 2, 1993, Emerg;—,Reg; May 02, 2008, Susp.	.....do	do.
Jackson County, Unincorporated Areas	170927	August 4, 1993, Emerg;—, Reg; May 02, 2008, Susp.	.....do	do.
Makanda, Village of, Jackson County ...	170301	March 17, 1980, Emerg; March 15, 1982, Reg; May 02, 2008, Susp.	.....do	do.
Mill Creek, Village of, Union County	170659	September 6, 1974, Emerg; October 5, 1984, Reg; May 02, 2008, Susp.	.....do	do.
Murphysboro, City of, Jackson County	170302	April 11, 1975, Emerg; September 29, 1978, Reg; May 02, 2008, Susp.	.....do	do.
Union County, Unincorporated Areas ...	170656	May 1, 1974, Emerg; February 19, 1986, Reg; May 02, 2008, Susp.	.....do	do.
Vergennes, Village of, Jackson County.	170973	December 16, 2002, Emerg;—, Reg; May 02, 2008, Susp.	.....do	do.
Region VI				
Louisiana:				
Baker, City of, East Baton Rouge Parish.	225193	September 11, 1970, Emerg; September 11, 1970, Reg; May 02, 2008, Susp.	.....do	do.
Central, City of, East Baton Rouge Parish.	220060	April 6, 2007, Emerg; April 6, 2007, Reg; May 02, 2008, Susp.	.....do	do.
East Baton Rouge Parish, Unincorporated Areas.	220058	June 12, 1970, Emerg; July 2, 1979, Reg; May 02, 2008, Susp.	.....do	do.
Zachary, City of, East Baton Rouge Parish.	220061	July 2, 1973, Emerg; September 15, 1977, Reg; May 02, 2008, Susp.	.....do	do.

*.....do = Ditto.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: April 28, 2008.

Michael K. Buckley,

Deputy Assistant Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E8–9691 Filed 5–1–08; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 24 and 27

[WT Docket No. 03–264; FCC 08–85]

Amendment of Various Rules Affecting Wireless Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts certain amendments to its rules governing radiated power limits for broadband Personal Communications Services in the 1850–1915/1930–1995 MHz bands (PCS) and certain Advanced Wireless Services (AWS) in the 1710–1755/2110–2155 MHz bands. The rule changes offer greater flexibility to PCS and AWS operators, are more technologically neutral, will better accommodate broadband technologies, and will fulfill the Commission's statutory mandate under section 11 of the Communications Act of 1934, as amended (the Act). *See* 47 U.S.C. 161.

DATES: Effective June 2, 2008.

FOR FURTHER INFORMATION CONTACT: Nina Shafran, Wireless Telecommunications Bureau, at *Nina.Shafran@fcc.gov*, or (202) 418–2781.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Third Report and Order*, in WT Docket No. 03–264, FCC No. 08–85, adopted March 18, 2008 and released March 21, 2008. The full text of the document is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 488–5300, facsimile (202) 488–5563, or via e-mail at *FCC@BCPIWEB.COM*. The full text may also be downloaded at *http://www.fcc.gov*. Alternative formats are available to persons with disabilities (Braille, large print, electronic files and audio format) by e-mailing *fcc504@fcc.gov*, or calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), or (202) 418–0432 (TTY).

Synopsis of the Third Report and Order

In this *Third Report and Order*, the Commission adopts certain amendments to the PCS and AWS radiated power rules, consistent with actions previously taken by the Commission in the 700 MHz Commercial Services Band *Report and Order and Further Notice of Proposed Rulemaking* (*April 700 MHz Order*) at 72 FR 27688, May 16, 2007 (*Report and Order*), and at 72 FR 24238, May 2, 2007 (*FNPRM*), and the *700 MHz Second Report and Order* (*August 700 MHz Order*) at 72 FR 48814, August 24, 2007. On July 22, 2005, the Commission adopted a *Report and Order and Further Notice of Proposed Rulemaking* in a Biennial Review proceeding commenced in 2004 to streamline and harmonize certain licensing provisions in the wireless radio services (WRS) (as defined in the Commission's rules) at 70 FR 61049, October 20, 2005 (*Report and Order*), and at 70 FR 60770, October 19, 2005 (*FNPRM*) (*Streamlining FNPRM*). In that document, the Commission sought comment on certain proposed amendments—particularly the proposed changes introduced into the record by CTIA-The Wireless Association (CTIA)—to the Commission's radiated power rules for PCS and AWS. The Commission also sought comment on whether the changes proposed by CTIA for PCS and AWS (CTIA Proposal) should be applicable to other services, such as part 22 cellular, additional part 27 services, including the 700 MHz Commercial Services Band, as well as, other services specifically addressed in certain parties' submissions in this docket, such as the 1670–1675 MHz band. Additionally, the Commission considered whether changes to other technical rules might be warranted in conjunction with changes to the radiated power rules. In the *April 700 MHz Order*, in which the Commission combined various proceedings regarding the 700 MHz band, the Commission also incorporated issues raised in the instant proceeding (WT Docket No. 03–264) as they pertain to the 700 MHz band, and extended certain relief requested by CTIA to the 700 MHz Commercial Services Band. Relief included (1) implementation of a power spectral density (PSD) model for measuring radiated power, based on ''watts per megahertz of spectrum bandwidth'' rather than on ''watts per emission,'' and (2) permitting radiated power to be measured using ''average'' rather than ''peak'' values. In the *August 700 MHz Order*, the Commission specified power limits in terms of PSD for 700 MHz public safety broadband operations, and also specified that power for 700 MHz public safety broadband operations must be measured in terms of average rather than peak values. In the *Third Report and Order*, the Commission maintains regulatory parity and extends similar relief to the PCS and AWS bands. Specifically, in the PCS and AWS radiated power rules, the Commission: (1) Adds a PSD model for licensees operating with bandwidth greater than one megahertz; and (2) modifies the rules to permit radiated power to be measured and expressed using average rather than peak values. Also in the PCS and AWS radiated power rules, the Commission specifies certain coordination requirements for licensees that operate at higher power levels permissible in rural areas.

I. Discussion

A. Power Spectral Density Model

1. Consistent with its decision in the *April 700 MHz Order*, and based on the record developed in response to the *Streamlining FNPRM*, the Commission adopts a PSD model for defining equivalent isotropically radiated power (EIRP) limits for PCS and AWS base stations, thereby establishing EIRP caps on a ''per megahertz of spectrum bandwidth'' basis rather than on a ''per emission'' basis. The Commission agrees with CTIA and other commenters that application of this watts-per-megahertz approach to radiated power in these flexible bands is more likely to encourage innovation and will not require modifications as new technologies emerge.

2. The Commission also finds that narrowband licensees should not be required to operate below current EIRP limits, and therefore establishes a bandwidth dividing line for purposes of applying PSD in the modified rule. Systems using emissions that have a bandwidth wider than 1 megahertz generally use their entire spectrum contiguously in each cell, whereas systems using emissions with a bandwidth less than 1 megahertz use, at each cell, a number of narrower channels separated by several channels not used in that cell. If a technology is developed using 500 kilohertz–1 megahertz bandwidth, the technology is more likely to use different channels at different cells like other narrowband systems, rather than a spread-spectrum approach as is typically used in wideband systems. Consistent with recent amendments to the radiated

power rules in the *April 700 MHz Order* (regarding the 700 MHz Commercial Services band) and the *August 700 MHz Order* (regarding public safety broadband operations), the Commission will allow PCS and AWS licensees employing bandwidths greater than 1 megahertz to meet a base station power limit of 1640 watts/MHz EIRP (that is, no more than 1640 watts EIRP in any 1 megahertz band segment). PCS and AWS licensees operating with bandwidths of 1 megahertz or less will, however, continue to be permitted to operate at power levels up to 1640 watts EIRP over their bandwidth. Thus, for example, a licensee transmitting a signal with a bandwidth of 5 megahertz could employ a power level of 8200 watts EIRP over the 5 megahertz bandwidth, with each 1 megahertz band segment within the 5 megahertz bandwidth being limited to 1640 watts EIRP; and a licensee transmitting a signal with a bandwidth of 200 kilohertz could employ a power level of 1640 watts EIRP over the 200 kilohertz bandwidth. Consistent with the current PCS and AWS rules, and pursuant to amendments via a *Report and Order and Further Notice of Proposed Rulemaking* (*Rural R&O*) at 69 FR 75144 (*Report and Order*), and 69 FR 75174 (*FNPRM*) at December 15, 2004, in WT Docket No 02–381, licensees will be permitted in rural areas to operate at double the non-rural power limit, subject to the new PSD model; that is, the rural radiated power limit is increased from 3280 watts EIRP to 3280 watts/MHz EIRP for PCS and AWS licensees operating with bandwidth wider than 1 megahertz.

3. *Coordination*. In order to balance the need for licensee flexibility with the Commission's concern for limiting potential increased interference from higher power wideband operations, the Commission will, consistent with the Commission's current rules, require rural PCS and AWS licensees operating at greater than 1640 watts EIRP and greater than 1640 watts/MHz EIRP to coordinate with adjacent block licensees in their respective services that are authorized to operate within 75 miles of the transmitting base station. Further, consistent with current rules: (1) PCS rural operation greater than 1640 watts EIRP and greater than 1640 watts/MHz EIRP will be limited to base stations located more than 120 kilometers (75 miles) from the Canadian border and more than 75 kilometers (45 miles) from the Mexican border; and (2) AWS rural stations operating at greater than 1640 watts EIRP and greater than 1640 watts/MHz EIRP will be required to coordinate in advance with all Government and non-Government satellite entities in the 2025–2110 MHz band and with all Broadband Radio Service (BRS) licensees authorized under part 27 in the 2155–2160 MHz band.

B. Peak vs. Average Radiated Power Limits

4. The Commission's PCS and AWS rules currently limit permissible EIRP on a peak basis. A number of the newer technologies, such as Orthogonal Frequency Division Multiplexing (OFDM) and Wideband Code Division Multiple Access (WCDMA), produce an emission with sub-microsecond power spikes. When measuring and expressing power levels in terms of peak EIRP, transient power spikes of extremely short duration might unnecessarily govern the operating power of stations that use the newer, wideband technologies. Consistent with the Commission's decision to permit licensees to meet radiated power limits on an average basis in the 700 MHz Commercial Services Band as well as for 700 MHz public safety broadband operations, the Commission finds that the public interest would be served by amending the rules to similarly treat PCS licensees and AWS licensees. The Commission agrees with CTIA that average measurement techniques should be permitted for PCS and AWS base stations, and also agrees with Ericsson that the same reasons for permitting average power measurements for base stations apply for mobile and portable units as well. Accordingly, the Commission adopts changes to its rules to permit average power limits for PCS and AWS base stations, mobiles and portables.[1]

5. Measurement of average power for PCS and AWS operations under the revised rules, for base stations as well as handsets, must be made during a period of continuous transmission based on a 1 MHz resolution bandwidth. The Commission directs parties to consult with the FCC Laboratory staff for guidance on the appropriate method of measuring average power for particular technologies. The Commission also clarifies that the calculation method that AWS licensees must use if they choose to continue measuring power in terms of peak, rather than average, values is the same method currently specified for PCS licensees. *See* 47 CFR 24.232(d).

6. The Commission also concludes that it serves the public interest to adopt a peak-to-average ratio (PAR) limit of 13 dB to mitigate the potential for undesirable interference that could result otherwise from the use of average values. As in the *April 700 MHz Order*, the Commission finds that limiting PAR to 13 dB for PCS and AWS licensees strikes the right balance between enabling such licensees to use modulation schemes with high PARs (such as OFDM) and protecting other licensees from high PAR transmissions.

C. No Doubling of Baseline Power Limits

7. Based on the record in this proceeding, and taking into account the Commission's adoption of the PSD model for wideband PCS and AWS operations, the Commission finds no justification for a baseline doubling of EIRP limits for PCS or AWS base stations at this time. Comments filed in response to the *Streamlining FNPRM* did not contain specific examples of problems caused by the current EIRP limits that could be solved by increasing the limits. Moreover, some commenters expressly recognize that today's technologies do not fully utilize the proposed higher power rates, and the record does not reflect that today's PCS systems, for example, use the full radiated power currently provided under the Commission's existing rules. With respect to rural operations, commenters did not demonstrate that rural systems have been deployed taking full advantage of the recently doubled rural radiated power limits and that, notwithstanding such increased power, rural coverage is inadequate. Commenters thus failed to justify a need for doubling radiated power levels independent of implementing a PSD model. The Commission emphasizes its conclusion that adoption of the PSD model is forward looking and will foster broadband development. It will permit licensees deploying WCDMA, for example, to operate at up to 8200 watts EIRP (non-rural) and 16,400 watts EIRP (rural), whereas under the Commission's existing rules, licensees deploying WCDMA systems are limited to 1640 watts EIRP (non-rural) and 3280 watts EIRP (rural). The Commission's decision declining to further increase PCS and AWS radiated power limits independent of a PSD model is consistent with the Commission's recent actions in the *April 700 MHz Order* and the *August 700 MHz Order*.

D. No Changes to Rules for Wireless Services Other Than PCS and AWS

8. In the *Streamlining FNPRM*, the Commission considered whether the

[1] Licensees will remain subject to existing environmental regulations. *See, e.g.*, 47 CFR 1.1307 and 1.1310; *id.* 2.1091 (governing RF radiation exposure evaluation specifically for mobile devices); *id.* 2.1093 (governing RF radiation exposure evaluation specifically for portable devices).

CTIA Proposal should be applicable to part 22 services and other part 27 services that operate under a flexible regulatory framework similar to PCS, as well as other services. In adopting or amending any technical rules, the Commission must take into account the potential for increased interference as well as other adverse effects on licensees. Certain factors at issue with one service may not be present or relevant with other services.

9. The Commission specifically sought comment on application of the CTIA Proposal to the 2.3 GHz band, but concludes that the record does not support such application to this band at this time. The Commission also specifically considered and sought comment on application of the CTIA Proposal to BRS and Educational Broadband Service (EBS) stations operating in the 2500 MHz bands, as well as stations operating in the 800 MHz cellular band. Because frequencies immediately adjacent to the 800 MHz cellular band and the 2500 MHz BRS/EBS band are still undergoing significant restructuring to support a mixture of technologies and services, the Commission decides to maintain the radiated power limits set forth in the current rules for those bands rather than implementing changes at this time. The Commission also concludes that this proceeding is not the appropriate forum in which to consider concerns raised by TerreStar about safeguards for the AWS H–Block systems; those concerns are more appropriately resolved in the relevant ongoing proceeding.

10. *1670–1675 MHz Band.* Section 27.50(f)(1) of the Commission's rules specifies a peak 2 kW EIRP limit for fixed and base station operations in the 1670–1675 MHz band. In the *Streamlining FNPRM*, the Commission sought comment on the request by OP LLC (a subsidiary of Crown Castle International Corp (Crown Castle)), the sole nationwide licensee in the 1670–1675 MHz band, to apply PSD to the entire 1670–1675 MHz band and to double the 2 kW power limit for rural markets to 4 kW EIRP. On the same date on which the Commission released the *Streamlining FNPRM* (August 9, 2005), Crown Castle separately filed a request for waiver of the 2 kW EIRP limit for the 1670–1675 MHz band and requested authority to operate in the band using a PSD model at increased power levels, specifically at 4 kW EIRP/MHz in non-rural areas and at 8 kW EIRP/MHz in rural areas. Crown Castle at that time planned to launch a new one-way (base-to-mobile) nationwide service (called Modeo) to wireless handsets with at least 10 video and 24 audio channels using the new Digital Video Broadcasting—Transmission System for Handheld Terminals (DVB–H) technology. Crown Castle later limited its request to thirty initial markets and stated that it would operate using a 5-MHz carrier bandwidth at each base station.

11. In February 2007, the Commission conditionally granted Crown Castle waiver relief, authorizing deployment of its proposed system using PSD at 4 kW/MHz and 8 kW/MHz for non-rural and rural areas, respectively, limited to thirty specified markets and the White Mountain Apache Reservation in Arizona, for which Crown Castle had been the recipient of a tribal lands bidding credit in the Commission's 2003 Auction No. 46 via *Memorandum Opinion and Order* at 22 FCC Rcd 4322 (rel. Feb. 26, 2007) (*Crown Castle Waiver Order*). In order to limit interference, the Commission expanded the geographic area currently set forth in its part 1 rules within which Crown Castle must coordinate its 1670–1675 MHz band operations with certain incumbent federal government users. The Commission also adopted detailed coordination and consultation conditions to protect vital National Weather Service and radio astronomy facilities from harmful interference. The waiver grant was subject to several other conditions.

12. In July 2007, Crown Castle announced that it would not deploy a nationwide DVB–H system to provide Modeo service for which it had sought increased power levels. Rather, effective July 23, 2007, Crown Castle leased, via a *de facto* transfer lease, its spectrum in the 1670–1675 MHz band to TVCC One Six Holdings, LLC (TVCC).

13. In the *Third Report and Order*, the Commission declines to apply the PSD model by rule to the entire nationwide 1670–1675 MHz band as Crown Castle requested. Because Crown Castle has chosen not to deploy a DVB–H system in the band, the record is insufficient for the Commission to determine whether the public interest would be served by granting additional power for other markets for the 1670–1675 MHz band. TVCC is entitled to avail itself of the relief granted through waiver for the 30 markets specified in Crown Castle's Initial Market Deployment Plan, subject to the conditions in the *Crown Castle Waiver Order*. In addition, TVCC may submit a waiver request, with appropriate justification, for similar relief in additional markets.

14. Accordingly, the rule changes that the Commission adopts in this document are limited to those governing PCS and AWS stations, as defined at the outset of this document.

II. Procedural Matters

A. Regulatory Flexibility Act

1. Final Regulatory Flexibility Certification

15. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Streamlining FNPRM* in this Biennial Review proceeding, which the Commission launched in 2004 to fulfill its mandate to conduct biennial reviews under section 11 of the Act. With the goal of streamlining and harmonizing certain WRS licensing provisions, the Commission sought written comment on certain proposed amendments to its radiated power rules. The Commission also requested written comment on whether changes to other technical rules might be warranted in conjunction with changes to the radiated power rules. Additionally, the Commission sought written public comment on the IRFA. No comments specifically addressed the IRFA.

16. In the *Third Report and Order*, the Commission takes further steps to streamline and harmonize its rules related to WRS by adopting modifications to the rules governing radiated power limits for PCS and AWS (as defined above). Specifically, whereas the existing rules set the radiated power limits in terms of watts-per-emission regardless of bandwidth size, the Commission will now permit use of a PSD model, with radiated power levels calculated on a watts-per-megahertz basis, when operating with greater than 1 megahertz bandwidth. The PSD approach offers more flexibility, is more technologically neutral, and will better accommodate newer technologies employing wider bandwidths. Also, the PSD model will potentially reduce infrastructure costs, thus enabling rural service providers to offer enhanced service in these areas. The Commission also will now permit PCS and AWS licensees to measure and express radiated power on an average rather than peak basis. This approach is more realistic and more appropriate for newer wireless technologies producing emissions with sub-microsecond power spikes.

17. Because of interference concerns, the Commission is declining to double the baseline radiated power limits for PCS/AWS. In addition, to mitigate the potential for increased interference to other licensees that could result from measuring average (rather than peak) radiated power, the Commission is

adopting a PAR limit of 13 dB. At this time, the Commission is not adopting similar changes to the radiated power rules for other services, but maintains the February, 2007 waiver relief granted to Crown Castle in the 1670–1675 MHz band. As Crown Castle is the sole national licensee of spectrum in that band, the waiver relief does not directly affect any other licensees.

18. The above-described rule changes are generally supported by the commenting parties. None of the modifications imposes increased reporting burdens on PCS or AWS licensees, nor does the Commission expect the rule changes to result in increased costs for such licensees. As noted above, infrastructure costs potentially will be reduced, particularly in rural areas. The changes are designed to improve flexibility for licensees employing wideband technologies used to provide advanced, high speed services, while maintaining interference control. The Commission believes they will prove beneficial to such PCS and AWS licensees and not have any adverse economic impact on them. Therefore, the Commission certifies that the rule changes adopted in the *Third Report and Order* will not have a significant economic impact on a substantial number of small entities. This Final Regulatory Flexibility Certification conforms to the RFA. *See* 5 U.S.C. 605(b).

2. Report to Congress

19. The Commission will send a copy of this *Third Report and Order*, including the Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. *See* 5 U.S.C. 801(a)(1)(A). In addition, the *Third Report and Order* (including the Final Regulatory Flexibility Certification) will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**. *See* 5 U.S.C. 605(b).

B. Paperwork Reduction Act of 1995

20. This *Third Report and Order* does not contain any proposed, new, or modified information collection subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198. *See* 44 U.S.C. 3506(c)(4).

III. Ordering Clauses

21. Pursuant to the authority of sections 4(i), 7, 11, 303(c), 303(f), 303(g), 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(c), 303(f), 303(g), 303(r), and 332, the rule changes as set forth *are adopted*.

22. The rule changes as set forth *will become effective* June 2, 2008.

23. The Commission's Consumer and Governmental Affairs Bureau *shall send* a copy of this *Third Report and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 24

Communications common carriers, Communications equipment, Radio, Wireless radio services.

47 CFR Part 27

Communications common carriers, Radio, Wireless radio services.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rules Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 24 and 27 as follows:

PART 24—PERSONAL COMMUNICATIONS SERVICES

■ 1. The authority citation for part 24 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309 and 332.

■ 2. Revise § 24.232 to read as follows:

§ 24.232 Power and antenna height limits.

(a) (1) Base stations with an emission bandwidth of 1 MHz or less are limited to 1640 watts equivalent isotropically radiated power (EIRP) with an antenna height up to 300 meters HAAT, except as described in paragraph (b) below.

(2) Base stations with an emission bandwidth greater than 1 MHz are limited to 1640 watts/MHz equivalent isotropically radiated power (EIRP) with an antenna height up to 300 meters HAAT, except as described in paragraph (b) below.

(3) Base station antenna heights may exceed 300 meters HAAT with a corresponding reduction in power; *see* Tables 1 and 2 of this section.

(4) The service area boundary limit and microwave protection criteria specified in §§ 24.236 and 24.237 apply.

TABLE 1.—REDUCED POWER FOR BASE STATION ANTENNA HEIGHTS OVER 300 METERS, WITH EMISSION BANDWIDTH OF 1 MHZ OR LESS

HAAT in meters	Maximum EIRP watts
≤300	1640
≤500	1070
≤1000	490
≤1500	270
≤2000	160

TABLE 2.—REDUCED POWER FOR BASE STATION ANTENNA HEIGHTS OVER 300 METERS, WITH EMISSION BANDWIDTH GREATER THAN 1 MHZ

HAAT in meters	Maximum EIRP watts/MHz
≤300	1640
≤500	1070
≤1000	490
≤1500	270
≤2000	160

(b) (1) Base stations that are located in counties with population densities of 100 persons or fewer per square mile, based upon the most recently available population statistics from the Bureau of the Census, with an emission bandwidth of 1 MHz or less are limited to 3280 watts equivalent isotropically radiated power (EIRP) with an antenna height up to 300 meters HAAT.

(2) Base stations that are located in counties with population densities of 100 persons or fewer per square mile, based upon the most recently available population statistics from the Bureau of the Census, with an emission bandwidth greater than 1 MHz are limited to 3280 watts/MHz equivalent isotropically radiated power (EIRP) with an antenna height up to 300 meters HAAT.

(3) Base station antenna heights may exceed 300 meters HAAT with a corresponding reduction in power; *see* Tables 3 and 4 of this section.

(4) The service area boundary limit and microwave protection criteria specified in §§ 24.236 and 24.237 apply.

(5) Operation under this paragraph (b) at power limits greater than permitted under paragraph (a) of this section must be coordinated in advance with all broadband PCS licensees authorized to operate on adjacent frequency blocks within 120 kilometers (75 miles) of the base station and is limited to base stations located more than 120 kilometers (75 miles) from the Canadian border and more than 75 kilometers (45 miles) from the Mexican border.

TABLE 3.—REDUCED POWER FOR BASE STATION ANTENNA HEIGHTS OVER 300 METERS, WITH EMISSION BANDWIDTH OF 1 MHZ OR LESS

HAAT in meters	Maximum EIRP watts
≤300	3280
≤500	2140
≤1000	980
≤1500	540
≤2000	320

TABLE 4.—REDUCED POWER FOR BASE STATION ANTENNA HEIGHTS OVER 300 METERS, WITH EMISSION BANDWIDTH GREATER THAN 1 MHZ

HAAT in meters	Maximum EIRP watts/MHz
≤300	3280
≤500	2140
≤1000	980
≤1500	540
≤2000	320

(c) Mobile and portable stations are limited to 2 watts EIRP and the equipment must employ a means for limiting power to the minimum necessary for successful communications.

(d) Power measurements for transmissions by stations authorized under this section may be made either in accordance with a Commission-approved average power technique or in compliance with paragraph (e) of this section. In both instances, equipment employed must be authorized in accordance with the provisions of § 24.51. In measuring transmissions in this band using an average power technique, the peak-to-average ratio (PAR) of the transmission may not exceed 13 dB.

(e) Peak transmit power must be measured over any interval of continuous transmission using instrumentation calibrated in terms of an rms-equivalent voltage. The measurement results shall be properly adjusted for any instrument limitations, such as detector response times, limited resolution bandwidth capability when compared to the emission bandwidth, sensitivity, *etc.*, so as to obtain a true peak measurement for the emission in question over the full bandwidth of the channel.

Note to § 24.232: Height above average terrain (HAAT) is to be calculated using the method set forth in § 24.53 of this part.

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 3. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, and 337 unless otherwise noted.

■ 4. Revise § 27.50(d) to read as follows:

§ 27.50 Power and antenna height limits.

* * * * *

(d) The following power and antenna height requirements apply to stations transmitting in the 1710–1755 MHz and 2110–2155 MHz bands:

(1) The power of each fixed or base station transmitting in the 2110–2155 MHz band and located in any county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, is limited to:

(A) an equivalent isotropically radiated power (EIRP) of 3280 watts when transmitting with an emission bandwidth of 1 MHz or less;

(B) an EIRP of 3280 watts/MHz when transmitting with an emission bandwidth greater than 1 MHz.

(2) The power of each fixed or base station transmitting in the 2110–2155 MHz band and situated in any geographic location other than that described in paragraph (d)(1) is limited to:

(A) an equivalent isotropically radiated power (EIRP) of 1640 watts when transmitting with an emission bandwidth of 1 MHz or less;

(B) an EIRP of 1640 watts/MHz when transmitting with an emission bandwidth greater than 1 MHz.

(3) A licensee operating a base or fixed station in the 2110–2155 MHz band utilizing a power greater than 1640 watts EIRP and greater than 1640 watts/MHz EIRP must coordinate such operations in advance with all Government and non-Government satellite entities in the 2025–2110 MHz band. Operations with power greater than 1640 watts EIRP and greater than 1640 watts/MHz EIRP must be coordinated in advance with the following licensees authorized to operate within 120 kilometers (75 miles) of the base or fixed station operating in this band: all Broadband Radio Service (BRS) licensees authorized under part 27 in the 2155–2160 MHz band and all advanced wireless services (AWS) licensees authorized to operate on adjacent frequency blocks in the 2110–2155 MHz band.

(4) Fixed, mobile, and portable (hand-held) stations operating in the 1710–1755 MHz band are limited to 1 watt EIRP. Fixed stations operating in this band are limited to a maximum antenna height of 10 meters above ground. Mobile and portable stations operating in this band must employ a means for limiting power to the minimum necessary for successful communications.

(5) Equipment employed must be authorized in accordance with the provisions of § 24.51. Power measurements for transmissions by stations authorized under this section may be made either in accordance with a Commission-approved average power technique or in compliance with paragraph (d)(6) of this section. In measuring transmissions in this band using an average power technique, the peak-to-average ratio (PAR) of the transmission may not exceed 13 dB.

(6) Peak transmit power must be measured over any interval of continuous transmission using instrumentation calibrated in terms of an rms-equivalent voltage. The measurement results shall be properly adjusted for any instrument limitations, such as detector response times, limited resolution bandwidth capability when compared to the emission bandwidth, sensitivity, *etc.,* so as to obtain a true peak measurement for the emission in question over the full bandwidth of the channel.

* * * * *

[FR Doc. E8–9752 Filed 5–1–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106673-8011-02]

RIN 0648–XH62

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch by Vessels in the Bering Sea and Aleutian Islands Trawl Limited Access Fishery in the Eastern Aleutian District of the Bering Sea and Aleutian Islands Management Area

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 ocean perch by vessels participating in the Bering Sea and Aleutian Islands (BSAI) trawl

limited access fishery in the Eastern Aleutian District of the BSAI. This action is necessary to prevent exceeding the 2008 Pacific ocean perch allowable catch (TAC) allocated to vessels participating in the BSAI trawl limited access fishery in the Eastern Aleutian District of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 29, 2008, through 2400 hrs, A.l.t., December 31, 2008.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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 2008 Pacific ocean perch TAC allocated as a directed fishing allowance to vessels participating in the BSAI trawl limited access fishery in the Eastern Aleutian District of the BSAI is 214 metric tons (mt) as established by the 2008 and 2009 final harvest specifications for groundfish in the BSAI (73 FR 10160, February 26, 2008).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2008 Pacific ocean perch TAC allocated to vessels participating in the BSAI trawl limited access fishery in the Eastern Aleutian District of the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch by vessels participating in the BSAI trawl limited access fishery in the Eastern Aleutian District of the BSAI.

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 ocean perch by vessels participating in the BSAI trawl limited access fishery in the Eastern Aleutian District of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 28, 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 § 679.91 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 29, 2008.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 08–1206 Filed 4–29–08; 12:41 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 86
Friday, May 2, 2008

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

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–124590–07]

RIN 1545–BG11

Guidance Regarding Foreign Base Company Sales Income; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a correction to a notice of proposed rulemaking.

SUMMARY: This document contains corrections to a correction to a notice of proposed rulemaking (REG–124590–07) that was published in the **Federal Register** on Tuesday, April 15, 2008 (73 FR 20201) providing guidance relating to foreign base company sales income, as defined in section 954(d), in cases in which personal property sold by a controlled foreign corporation (CFC) is manufactured, produced, or constructed pursuant to a contract manufacturing arrangement or by one or more branches of the CFC.

FOR FURTHER INFORMATION CONTACT: Ethan Atticks at (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The correction notice that is the subject of this document is under section 954 of the Internal Revenue Code.

Need for Correction

As published, the correction notice to a notice of proposed rulemaking (REG–124590–07) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of a correction notice to a notice of proposed rulemaking (REG–124590–07), which was the subject of FR Doc. E8–8031, is corrected as follows:

§ 1.954–3 [Corrected]

1. On page 20203, column 2, second paragraph of the column, line 2, the language ''§ 1.954–3(b)(2)(ii)(*c*)(*2*) *Example 3*.(i),'' is corrected to read ''§ 1.954–3(b)(4) *Example 3*.(i),''.

2. On page 20203, column 2, third paragraph of the column, line 2, the language ''§ 1.954–3(b)(2)(ii)(*c*)(*2*) *Example 3*.(i),'' is corrected to read ''§ 1.954–3(b)(4) *Example 3*.(i),''.

3. On page 20203, column 2, fourth paragraph of the column, line 2, the language ''§ 1.954–3(b)(2)(ii)(*d*), line 10, the'' is corrected to read ''§ 1.954–3(d), line 10, the''.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. E8–9646 Filed 5–1–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–104946–07]

RIN 1545–BG36

Hybrid Retirement Plans; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of public hearing on proposed regulations providing guidance relating to sections 411(a)(13) and 411(b)(5) of the Internal Revenue Code concerning certain hybrid defined benefit plans.

DATES: The public hearing is being held on Friday, June 6, 2008, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by Friday, May 16, 2008.

ADDRESSES: The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC 20224.

Send Submissions to CC:PA:LPD:PR (REG–104946–07), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG–104946–07), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC or sent electronically via the Federal erulemaking Portal at *http://www.regulations.gov* (IRS–REG–104946–07).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Lauson Green or Linda S.F. Marshall at (202) 622–6090; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Funmi Taylor at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–104946–07) that was published in the **Federal Register** on Friday, December 28, 2007 (72 FR 73680).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing that submitted written comments by March 27, 2008, must submit an outline of the topics to be addressed and the amount of time to be denoted to each topic (Signed original and eight copies).

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue, NW., entrance, 1111 Constitution Avenue, NW., Washington, DC.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

LaNita VanDyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. E8–9647 Filed 5–1–08; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2007–1146; FRL–8561–3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Transportation Conformity Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by West Virginia for Transportation Conformity Requirements. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by June 2, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2007–1046 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. E-mail: febbo.carol@epa.gov.

C. *Mail:* EPA–R03–OAR–2007–1146, Carol Febbo, Chief, Energy, Radiation and Indoor Environment, Mailcode 3AP23, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously listed EPA Region III address. 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–R03–OAR–2007–1146. 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.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, WV 25304.

FOR FURTHER INFORMATION CONTACT: Martin Kotsch, (215) 814–3335, or by e-mail at *kotsch.martin@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: April 15, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E8–9611 Filed 5–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 704, 720, 721, and 723

[EPA–HQ–OPPT–2007–0392; FRL–8360–7]

RIN 2070–AJ21

Proposed Clarification for Chemical Identification Describing Activated Phosphors for TSCA Inventory Purposes; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed clarification; reopening of comment period.

SUMMARY: EPA issued a document in the **Federal Register** of January 16, 2008, concerning chemical identification of activated phosphors for Toxic Substances Control Act (TSCA) Inventory purposes. EPA received a request to reopen the comment period to provide more time to prepare comments. EPA is reopening the comment period for 30 days, allowing additional comments to be submitted by June 2, 2008.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPPT–2007–0392, must be received on or before June 2, 2008.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of January 16, 2008.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: David Schutz, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–9262; e-mail address: *schutz.david@epa.gov*.

SUPPLEMENTARY INFORMATION: This document reopens the public comment period established in a proposed

clarification document published in the **Federal Register** issue of January 16, 2008 (73 FR 2854) (FRL–8131-8). In that document, EPA proposed a clarification under which activated phosphors that are not on the TSCA section 8(b) Chemical Substance Inventory (TSCA Inventory) would be considered to be new chemical substances under TSCA section 5, and thus would be subject to the notification requirements under TSCA section 5(a) new chemical notification requirements. EPA is hereby reopening the comment period for 30 days, allowing additional comments to be submitted by June 2, 2008.

To submit comments, or access the public docket, please follow the detailed instructions as provided under **ADDRESSES** in the January 16, 2008 **Federal Register** document. If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects 40 CFR Parts 704, 720, 721, and 723

Environmental protection, Chemicals, Electric lighting industry, Hazardous substances, Reporting and recordkeeping requirements.

Dated: April 24, 2008.

James B. Gulliford,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E8–9740 Filed 5–1–08; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Parts 18 and 19

[Docket OST–2005–22602]

RIN 2105–AD60

Grants and Cooperative Agreements to State and Local Governments; Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations

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

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: This proposal would amend Department of Transportation regulations on uniform administrative requirements for grants and agreements with institutions of higher education, hospitals and other non-profit organizations. Specifically, the DOT proposes to make requirements for these grants and agreements consistent with the uniform administrative requirements for grants and cooperative agreements to state and local governments. In addition, this proposal would update references to applicable cost principles for grants and cooperative agreements with state and local governments and for grants and other agreements with institutions of higher education, hospitals and other non-profit organizations that appear in current Department of Transportation regulations.

DATES: Comments must be received on or before June 16, 2008

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

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

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

FOR FURTHER INFORMATION CONTACT: Ellen Shields, Office of the Senior Procurement Executive, Office of Administration (M–61), (202) 366–4268, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: *http://www.regulations.gov.* Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). This site is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may also be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may also reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's Web page at: *http://www.access.gpo.gov/nara.*

Background

Regulations governing two types of U.S. Department of Transportation grant and cooperative agreement recipients are found in Parts 18 and 19 of Title 49 of the Code of Federal Regulations:

1. *49 CFR Part 18:* Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
2. *49 CFR Part 19:* Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

Both of these parts contain a provision that governs allowable costs. However, while 49 CFR 18.22(a) identifies certain specific limitations on the use of grant or cooperative agreement funds by state or local governments receiving financial assistance from the U.S. Department of Transportation, 49 CFR 19.27 does not contain similar limitations. Specifically, under 49 CFR 18.22(a), grant funds may only be used for:

(1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and

(2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.

This proposal would impose the same limitation on the use of funds used for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations as there are on the use of funds used for uniform administrative requirements for grants and cooperative agreements to state and local governments, which are set forth above.

In addition, this proposal would update references to applicable cost principles for grants and cooperative agreements with state and local governments that appear in 49 CFR 18.22(b) and include comparable updated references in 49 CFR 19.27(b) with regard to grants and agreements awarded to institutions of higher education, hospitals, and other non-

profit organizations. These updated references are necessary in light of the establishment of title 2 of the Code of Federal Regulations in 2004. Subtitle A of title 2 of the Code of Federal Regulations consists of government-wide guidance from the Office of Management and Budget (OMB) to Federal agencies for grants and other financial assistance and nonprocurement agreements that previously had been contained in seven separate OMB circulars and other OMB policy documents. Currently, 49 CFR 18.22(b) references three specific OMB circulars that are now codified in several Parts in chapter II, subtitle A of title 2 of the Code of Federal Regulations. This proposal would amend 49 CFR 18.22(b) by replacing the citations to these former OMB circulars with the appropriate references in title 2 of the Code of Federal Regulations and would reflect these same changes in 49 CFR 19.27(b).

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the DOT will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

Executive Order 12866

The Department has determined that this rule is nonsignificant. It is purely administrative in nature and does not impose new burdens on any parties.

Regulatory Flexibility Act of 1980

The Department certifies that this rule will not have a significant effect on a substantial number of small entities. This is because, as a purely administrative rule, it does not create economic effects on anyone. The amendment would not change or limit the potential eligibility of any small entity.

Unfunded Mandates Reform Act of 1995

This regulatory action does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector of $100 million or more in any one year, as adjusted for inflation.

Paperwork Reduction Act of 1995

This regulatory action will not impose any additional reporting or recordkeeping requirements covered under the Paperwork Reduction Act.

Executive Order 13132 (Federalism)

This regulatory action does not have Federalism implications, as set forth in Executive Order 13132. 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.

List of Subjects in 49 CFR Parts 18 and 29

Administrative practice and procedure, Grant programs, Allowable costs, Cooperative agreements.

Issued on: April 14, 2008.

Mary E. Peters,

Secretary of Transportation.

In consideration of the foregoing, the DOT proposes to amend, title 49, Code of Federal Regulations, parts 18 and 19, as set forth below:

PART 18—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority citation for part 18 continues to read as follows:

Authority: 49 U.S.C. 322(a).

2. In § 18.22(b), revise the table to read as follows:

§ 18.22 Allowable costs.

* * * * *

(b) * * *

For the costs of a	Use the principles in—
State, local or federal-recognized Indian tribal government	2 CFR part 225.
Private non-profit organization other than an (1) institution of higher education, (2) hospital, or (3) organization named in 2 CFR part 230, Appendix C, as not subject to that part.	2 CFR part 230.
Institutions of higher education	2 CFR part 220.
For-profit organizations other than a hospital, commercial organization or a non-profit organization listed in 2 CFR part 230, Appendix C, as not subject to that part.	48 CFR part 31, Contract Cost Principles and Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the Federal agency.

* * * * *

PART 19—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGER EDUCATION, HOSPITALS, AND OTHER NON-PROFIT ORGANIZATIONS

3. The authority citation for part 19 continues to read as follows:

Authority: 49 U.S.C. 322(a).

4. Revise § 19.27 to read as follows:

§ 19.27 Allowable costs.

(a) *Limitation on use of funds.* Grant funds may be used only for:

(1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and

(2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.

(b) *Applicable cost principles.* For each kind of recipient, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined according to the cost principles applicable to the entity organization incurring the costs. The following chart lists the kinds of organization and the applicable cost principles:

For the costs of a	Use the principles in—
State, local or federal-recognized Indian tribal government	2 CFR part 225.

For the costs of a	Use the principles in—
Private non-profit organization other than an (1) institution of higher education, (2) hospital, or (3) organization named in 2 CFR part 230, Appendix C, as not subject to that circular.	2 CFR part 230.
Institutions of higher education	2 CFR part 220.
Hospitals	45 CFR part 74, Appendix E, ''Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals.''
For-profit organizations other than a hospital, commercial organization or a non-profit organization listed in 2 CFR part 230, Appendix C, as not subject to that part.	48 CFR part 31, Contract Cost Principles and Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the Federal agency.

[FR Doc. E8–8789 Filed 5–1–08; 8:45 am]
BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 531 and 533

[Docket No. NHTSA–2008–0069]

Passenger Car Average Fuel Economy Standards—Model Years 2008–2020 and Light Truck Average Fuel Economy Standards—Model Years 2008–2020; Request for Product Plan Information

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Request for comments.

SUMMARY: The purpose of this request for comments is to acquire new and updated information regarding vehicle manufacturers' future product plans to assist the agency in analyzing the proposed passenger car and light truck corporate average fuel economy (CAFE) standards as required by the Energy Policy and Conservation Act, as amended by the Energy Independence and Security Act (EISA) of 2007, Pub. L. 110–140. This proposal is discussed in a companion notice published today.

DATES: Comments must be received on or before July 1, 2008.

ADDRESSES: You may submit comments [identified by Docket No. NHTSA–2008–0069] by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail: Docket Management Facility:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Telephone: 1–800–647–5527.
- *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below.

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

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and follow the online instructions, or visit the Docket Management Facility at the street address listed above.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, call Ken Katz, Lead Engineer, Fuel Economy Division, Office of International Policy, Fuel Economy and Consumer Programs, at (202) 366–0846, facsimile (202) 493–2290, electronic mail *ken.katz@dot.gov*. For legal issues, call Rebecca Schade, Office of the Chief Counsel, at (202) 366–2992.

SUPPLEMENTARY INFORMATION:

I. Introduction

In December 1975, during the aftermath of the energy crisis created by the oil embargo of 1973–74, Congress enacted the Energy Policy and Conservation Act (EPCA). The Act established an automotive fuel economy regulatory program by adding Title V, ''Improving Automotive Efficiency,'' to the Motor Vehicle Information and Cost Saving Act. Title V has been amended from time to time and codified without substantive change as Chapter 329 of Title 49 of the United States Code. Chapter 329 provides for the issuance of average fuel economy standards for passenger automobiles (passenger cars) and automobiles that are not passenger automobiles (light trucks).

Section 32902(a) of Chapter 329 states that the Secretary of Transportation shall prescribe by regulation corporate average fuel economy (CAFE) standards for passenger cars for each model year. That section also states that ''[e]ach standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.'' The Secretary has delegated the authority to implement the automotive fuel economy program to the Administrator of NHTSA. 49 CFR 1.50(f). Section 32902(f) provides that, in determining the maximum feasible average fuel economy level, we shall consider four criteria: Technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy.

Congress enacted the Energy Independence and Security Act of 2007 (EISA) on December 18, 2007, which further amends Chapter 329 of Title 49. EISA made a number of important changes to EPCA, including:

- Replacing the old statutory default standard of 27.5 mpg for passenger automobiles with a mandate to establish passenger automobile and light truck standards, beginning with model year (MY) 2011, set sufficiently high to ensure that the average fuel economy of the combined industry wide fleet of all new passenger automobiles and light trucks sold in the United States during MY 2020 is at least 35 mpg.
- Limiting to five the number of years for which standards can be established in a single rulemaking.
- Mandating the reforming of CAFE standards for passenger cars by requiring that all CAFE standards be based on one or more vehicle attributes,

thus ensuring that the improvements in fuel economy do not come at the expense of safety.

• Requiring that for each model year, beginning with MY 2011, the domestic passenger cars of each manufacturer of those cars must achieve a measured average fuel economy that is not less than 92 percent of the average fuel economy of the combined fleet of domestic and non-domestic passenger cars sold in the United States in that model year.

• Providing greater flexibility for automobile manufacturers by (a) increasing from three to five the number of years that a manufacturer can carry forward the compliance credits it earns for exceeding CAFE standards, (b) allowing a manufacturer to transfer the credits it has earned from one class of automobiles to another, and (c) authorizing the trading of credits between manufacturers.

To assist the agency in analyzing the proposed CAFE standards, NHTSA has included a number of questions, found in an appendix to this notice, directed primarily toward vehicle manufacturers. In a companion document, which is being published today in the **Federal Register**, NHTSA is proposing passenger car and light truck average fuel economy standards for MYs 2011–2015. To facilitate our analysis, we are seeking detailed comments relative to the requests found in the appendices of this document. The appendices request information from manufacturers regarding their product plans—including data about engines and transmissions—from MY 2008 through MY 2020 for passenger cars and light trucks and the assumptions underlying those plans. Regarding light trucks, the agency is asking manufacturers to update the information it provided previously regarding MYs 2008 through 2011 product plans and to provide information regarding future product plans for MYs 2012 to 2020. The appendices also ask manufacturers to assist the agency with its estimates of the future vehicle population and the fuel economy improvement attributed to technologies.

To facilitate comments and to ensure the conformity of data received regarding manufacturers' product plans from MY 2008 through MY 2020, NHTSA has developed spreadsheet templates for manufacturers' use. The uniformity provided by these spreadsheets is intended to aid and expedite our review, integration, and analysis of the information provided. These templates are the preferred format for data submittal, and can be found on the Volpe National Transportation Systems Center (Volpe Center) Web site at: *ftp://ftpserver.volpe.dot.gov/pub/CAFE/templates/* or can be requested from Ken Katz at *ken.katz@dot.gov*. The templates include an automated tool (i.e., a macro) that performs some auditing to identify missing or potentially erroneous entries. The appendices also include sample tables that manufacturers may refer to when submitting their data to the agency.

II. Submission of Comments

How Do I Prepare and Submit Comments?

Comments should be submitted using the spreadsheet template described above. Please include the docket number of this document in your comments. Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**. Comments may also be submitted to the docket electronically by logging onto *http://www.regulations.gov*. Click on ''How to Use This Site'' and then ''User Tips'' to obtain instructions for filing the document electronically.

How Can I Be Sure That my Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. Due to the timeframe of the upcoming rulemaking, we will be very limited in our ability to consider comments filed after the comment closing date. If Docket Management receives a comment too late for us to consider it in developing a final rule, we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to *http://www.regulations.gov*.

(2) On that page, in the field marked ''search,'' type in the docket number provided at the top of this document.

(3) The next page will contain results for that docket number; it may help you to sort by ''Date Posted: Oldest to Recent.''

(4) On the results page, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments may not be word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Accordingly, we recommend that you periodically check the Docket for new material.

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 *http://www.dot.gov/privacy.html*.

Authority: 15 U.S.C. 2007; delegation of authority at 49 CFR 1.50.

Issued on: April 22, 2008.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

Appendix A

I. Definitions

As used in these appendices—

1. ''Automobile,'' ''fuel economy,'' ''manufacturer,'' and ''model year,'' have the meaning given them in Section 32901 of Chapter 329 of Title 49 of the United States Code, 49 U.S.C. 32901.

2. ''Cargo-carrying volume,'' ''gross vehicle weight rating'' (GVWR), and ''passenger-carrying volume'' are used as defined in 49 CFR 523.2.

3. ''Basic engine'' has the meaning given in 40 CFR 600.002–93(a)(21). When identifying a basic engine, respondent should provide the following information:

(i) Engine displacement (in liters). If the engine has variable displacement (*i.e.*, cylinder deactivation) the respondent should provide both the minimum and maximum engine displacement.

(ii) Number of cylinders or rotors.

(iii) Number of valves per cylinder.

(iv) Cylinder configuration (V, in–line, etc.).

(v) Other engine characteristics, abbreviated as follows:

A—Atkinson cycle
AM—Atkinson/Miller cycle
D—Diesel cycle
M—Miller cycle
O—Otto cycle
OA—Otto/Atkinson cycle
V—V–shaped
I—Inline
R—Rotary
DI—Direct injection
IDI—Indirect injection
MPFI—Multipoint fuel injection
PFI—Port fuel injection
SEFI—Sequential electronic fuel injection
SIDI—Stoichiometric spark ignition direct injection
TBI—Throttle body fuel injection
NA—Naturally aspirated
T—Turbocharged
S—Supercharged
FFS—Feedback fuel system
2S—Two-stroke engines
C—Camless
OHV—Overhead valve
SOHC—Single overhead camshaft
DOHC—Dual overhead camshafts
VVT—Variable valve timing
ICP—Intake cam phasing
CCP—Coupled cam phasing
DCP—Dual cam phasing
VVLT—Variable valve lift and timing
VVLTD—Discrete variable valve lift and timing
VVLTC—Coupled variable valve lift and timing
VCT—Variable cam timing
CYDA—Cylinder deactivation
IVT—Intake valve throttling
CVA—Camless valve actuation
VCR—Variable compression ratio
LBFB—lean burn-fast burn combustion
E—Exhaust continuous phasing
EIE—Equal continuous intake and exhaust phasing
IIE—Independent continuous intake and exhaust
CV—Continuously variable valve lift
F—Fixed valve lift
SVI—Stepped variable intake with 2 or more fixed profiles

4. ''Domestically manufactured'' is used as defined in Section 32904(b)(2) of Chapter 329, 49 U.S.C. 32904(b)(2).

5. ''Footprint'' means the product of average track width (measured in inches and rounded to the nearest tenth of an inch) times wheelbase (measured in inches and rounded to the nearest tenth of an inch) divided by 144 and then rounded to the nearest tenth of a square foot.

6. ''Passenger car'' means an automobile of the type described in 49 CFR Part 523.3 and 523.4.

7. ''Light truck'' means an automobile of the type described in 49 CFR Part 523.3 and 523.5.

8. A ''model'' of passenger car is a line, such as the Chevrolet Impala, Ford Fusion, Honda Accord, etc., which exists within a manufacturer's fleet.

9. ''Model Type'' is used as defined in 40 CFR 600.002–93(a)(19).

10. ''Percent fuel economy improvements'' means that percentage which corresponds to the amount by which respondent could improve the fuel economy of vehicles in a given model or class through the application of a specified technology, averaged over all vehicles of that model or in that class which feasibly could use the technology. Projections of percent fuel economy improvement should be based on the assumption of maximum efforts by respondent to achieve the highest possible fuel economy increase through the application of the technology. The baseline for determination of percent fuel economy improvement is the level of technology and vehicle performance with respect to acceleration and gradeability for respondent's 2008 model year passenger cars or light trucks in the equivalent class.

11. ''Percent production implementation rate'' means that percentage which corresponds to the maximum number of passenger cars or light trucks of a specified class, which could feasibly employ a given type of technology if respondent made maximum efforts to apply the technology by a specified model year.

12. ''Production percentage'' means the percent of respondent's passenger cars or light trucks of a specified model projected to be manufactured in a specified model year.

13. ''Project'' or ''projection'' refers to the best estimates made by respondent, whether or not based on less than certain information.

14. ''Redesign'' means any change, or combination of changes, including powertrain changes, to a vehicle that would change its weight by 50 pounds or more or change its frontal area or aerodynamic drag coefficient by 2 percent or more.

15. ''Refresh'' means any change, or combination of changes, including powertrain changes, to a vehicle that would change its weight by less than 50 pounds and would not change its frontal area or aerodynamic drag coefficient.

16. ''Relating to'' means constituting, defining, containing, explaining, embodying, reflecting, identifying, stating, referring to, dealing with, or in any way pertaining to.

17. ''Respondent'' means each manufacturer (including all its divisions) providing answers to the questions set forth in this appendix, and its officers, employees, agents or servants.

18. ''Test Weight'' is used as defined in 40 CFR 86.082–2.

19. ''Track Width'' means the lateral distance between the centerlines of the base tires at ground, including the camber angle.

20. ''Transmission class'' is used as defined in 40 CFR 600.002–93(a)(22). When identifying a transmission class, respondent also must indicate whether the type of transmission is equipped with a lockup torque converter (LUTC), a split torque converter (STC), and/or a wide gear ratio range (WR) and specify the number of forward gears or whether the transmission is a continuously variable design (CVT). If the transmission is of a hybrid type, that should also be indicated. Other descriptive information may also be added, as needed.

21. ''Truckline'' means the name assigned by the Environmental Protection Agency to a different group of vehicles within a make or car division in accordance with that agency's 2001 model year pickup, van (cargo vans and passenger vans are considered separate truck lines), and special purpose vehicle criteria.

22. ''Variants of existing engines'' means versions of an existing basic engine that differ from that engine in terms of displacement, method of aspiration, induction system or that weigh at least 25 pounds more or less than that engine.

23. ''Wheelbase'' means the longitudinal distance between front and rear wheel centerlines.

II. Assumptions

All assumptions concerning emission standards, damageability regulations, safety standards, etc., should be listed and described in detail by the respondent.

III. Specifications—Passenger Car Data

Go to *ftp://ftpserver.volpe.dot.gov/pub/CAFE/templates/* for spreadsheet templates.

1. Identify all passenger car models currently offered for sale in MY 2008 whose production you project discontinuing before MY 2010 and identify the last model year in which each will be offered.

2. Identify all basic engines offered by respondent in MY 2008 passenger cars which respondent projects it will cease to offer for sale in passenger cars before MY 2010, and identify the last model year in which each will be offered.

3. For each model year 2008–2020, list all projected car lines and provide the information specified below for each model type. Model types that are essentially identical except for their nameplates (e.g., Ford Fusion/Mercury Milan) may be combined into one item. Engines having the same displacement but belonging to different engine families are to be grouped separately. Within the fleet, the vehicles are to be sorted first by car line, second by basic engine, and third by transmission type. For each model type, a specific indexed engine and transmission are to be identified. As

applicable, an indexed predecessor model type is also to be identified. Spreadsheet templates can be found at *ftp://ftpserver.volpe.dot.gov/pub/CAFE/templates/*. These templates include codes and definitions for the data that the Agency is seeking, including, but not limited to the following:

a. General Information

1. Number—a unique number assigned to each model.
2. Manufacturer—manufacturer abbreviation (e.g., TOY).
3. Model—name of model (e.g., Camry).
4. Nameplate—vehicle nameplate (e.g., Camry Solara).
5. Fuel Economy—measured in miles per gallon; weighted (FTP + highway) fuel economy.
6. Actual FE (FFVs)—measured in miles per gallon; for flexible fuel vehicles, fuel economy when vehicle is operated on gasoline only.
7. Energy Consumption [1]—of total fuel energy (higher heating value) consumed over FTP and highway tests (each weighted as for items 5 and 6 above), shares attributable to the following loss mechanisms, such that the sum of the shares equals one.

A. System irreversibility governed by the Second Law of Thermodynamics.

B. Heat lost to the exhaust and coolant streams.

C. Engine friction (*i.e.*, the part of mechanical efficiency lost to friction in such engine components as bearings and rods, as could be estimated from engine dynamometer test results).

D. Pumping losses (*i.e.*, the part of mechanical efficiency lost to work done on gases inside the cylinder, as could be estimated from engine dynamometer test results).

E. Accessory losses (*i.e.*, the part of fuel efficiency lost to work done by engine-driven accessories, as could be estimated from bench test results for the individual components).

F. Transmission losses (*i.e.*, the part of driveline efficiency lost to friction in such transmission components as gears, bearings, and hydraulics, as could be estimated from chassis dynamometer test results).

G. Aerodynamic drag of the body, as could be estimated from coast-down test results.

H. Rolling resistance in the tires, as could be estimated from coast-down test results.

I. Work done on the vehicle itself, as could be estimated from the vehicle's inertia mass and the fuel economy driving cycles.

8. Engine Code—unique number assigned to each engine.

A. Manufacturer—manufacturer abbreviation (e.g., GMC, FMC, HON).

B. Name—name of engine.

C. Configuration–classified as V = V4, V6, V8, V10 or V12; I = inline; R = rotary.

D. Fuel—classified as CNG = compressed natural gas, D = diesel, E = electricity, E85 = ethanol flexible-fuel, E100 = neat ethanol, G = gasoline, H = hydrogen, LNG = liquefied natural gas, LPG = propane, M85 = methanol flexible-fuel, M100 = neat methanol.

E. Engine's country of origin.

F. Engine Oil Viscosity—typical values as text include 0W20, 5W20, etc.; ratio between the applied shear stress and the rate of shear, which measures the resistance of flow of the engine oil (as per SAE Glossary of Automotive Terms).

G. Cycle—combustion cycle of engine. Classified as A = Atkinson, AM = Atkinson/Miller, D = Diesel, M = Miller, O = Otto, OA = Otto/Atkinson.

H. Air/Fuel Ratio—the weighted (FTP + highway) air/fuel ratio (mass): A number generally around 14.7.

I. Fuel System—mechanism that delivers fuel to engine. Classified as DI = direct injection, IDI = indirect injection, MPFI = multipoint fuel injection, PFI = port fuel injection, SEFI = sequential electronic fuel injection, SIDI = Stoichiometric spark ignition direct injection, TBI = throttle body fuel injection.

J. Aspiration—based on breathing or induction process of engine (as per SAE Automotive Dictionary). Classified as NA = naturally aspirated, S = supercharged, T = turbocharged, TT = twin turbocharged.

K. Valvetrain Design—describes design of the total mechanism from camshaft to valve of an engine that actuates the lifting and closing of a valve (as per SAE Glossary of Automotive Terms). Classified as C = camless, DOHC = dual overhead cam, OHV = overhead valve, SOHC = single overhead cam.

L. Valve Actuation/Timing—based on valve opening and closing points in the operating cycle (as per SAE J604). Classified as CC = continuously controlled, EIE = equal continuous intake and exhaust phasing, E = exhaust continuous phasing, F = fixed, IIE = independent continuous intake and exhaust phasing, or other designation, VCT = variable cam timing, VVTE = variable valve timing, exhaust, ICP = intake cam phasing, CCP = coupled cam phasing, DCP = dual cam phasing.

M. Valve Lift—describes the manner in which the valve is raised during combustion (as per SAE Automotive Dictionary). Classified as CV = continuously variable (throttled), F = fixed, SVI = stepped variable intake with 2 or more fixed profiles, VVLTD = discrete variable valve lift and timing, VVLTC = coupled variable valve lift and timing.

N. Cylinders—the number of engine cylinders. An integer equaling 3, 4, 5, 6, 8, 10 or 12.

O. Valves/Cylinder—the number of valves per cylinder. An integer from 2 through 5.

P. Deactivation—weighted (FTP + highway) aggregate degree of deactivation. For example, enter 0.25 for deactivation of half the cylinders over half the drive cycle, and enter 0 for no valve deactivation.

Q. Displacement—total volume displaced by a piston in a single stroke, measured in liters, also commonly referred to as engine size.

R. Compression Ratio (min)—typically a number around 8; for fixed CR engines, should be identical to maximum CR.

S. Compression Ratio (max)—a number between 8 and 1420; for fixed CR engines, should be identical to minimum CR.

T. Horsepower—the maximum power of the engine combined with the associated engine speed when horsepower is maximum, measured as horsepower per revolutions per minute (hp @ rpm).

U. Torque—the maximum torque of the engine, measured as ft-lb.

9. Transmission Code—an integer; unique number assigned to each transmission.

A. Manufacturer—manufacturer abbreviation (e.g., GMC, FMC, HON).

B. Name—name of transmission.

C. Country of origin—where the transmission is manufactured.

D. Type—type of transmission. Classified as C = clutch, CVT1 = belt or chain CVT, CVT2 = other CVT, T = torque converter.

E. Number of Forward Gears—integer indicating number of forward gears (or blank or ''CVT'' for CVT).

F. Control—classified as A = automatic, M = manual; automatic shift manual transmission (ASMT) would be coded as Type = C, Control = A.

G. Logic—indicates aggressivity of automatic shifting. Classified as A = aggressive, C = conventional U.S. Provide rationale for selection in the transmission notes column.

10. Origin—classification (under CAFE program) as domestic or import, listed as D = domestic, I = import.

b. Sales—Actual and Projected U.S. Production for MY 2008 to MY 2020 Inclusive, Measured in Number of Vehicles

c. Vehicle Information

1. Style—classified as Sedan; Coupe; Hatchback; Wagon; or Convertible.
2. Class—classified as Two-Seater Car; Mini-Compact Car; Subcompact Car; Compact Car; Midsize Car; Large Car; Small Station Wagon; Midsize Station Wagon; or Large Station Wagon.
3. Structure—classified as either Ladder or Unibody.
4. Drive—classified as A = all-wheel drive; F = front-wheel drive; R = rear-wheel-drive; 4 = 4-wheel drive.
5. Axle Ratio—ratio of the speed in revolutions per minute of the drive shaft to that of the drive wheels.
6. Length—measured in inches; defined per SAE J1100, L103 (Sept. 2005).
7. Width—measured in inches; defined per SAE J1100, W116 (Sept. 2005).
8. Wheelbase—measured to the nearest tenth of an inch; as defined above.
9. Track Width (front)—measured to the nearest tenth of an inch; defined per SAE J1100, W101–1 (Sept. 2005), and clarified above.
10. Track Width (rear)—measured to the nearest tenth of an inch; defined per SAE J1100, W101–2 (Sept. 2005), and clarified above.
11. Footprint—as defined above.
12. Curb Weight—total weight of vehicle including batteries, lubricants, and other expendable supplies but excluding the driver, passengers, and other payloads, measured in pounds; per SAE J1100 (Sept. 2005).

[1] This information is sought in order to account for a given vehicle model's fuel economy as partitioned into nine energy loss mechanisms. The agency may use this information to estimate the extent to which a given technology reduces losses in each mechanism.

13. Test Weight—weight of vehicle as tested, including the driver, operator (if necessary), and all instrumentation (as per SAE J1263); measured in pounds.

14. GVWR—Gross Vehicle Weight Rating; as defined per 49 CFR 523.2 measured in pounds.

15. Towing Capacity (Standard)—measured in pounds.

16. Towing Capacity (Maximum)—measured in pounds.

17. Payload—measured in pounds.

18. Cargo volume behind the front row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005).

19. Cargo volume behind the second row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005).

20. Cargo volume behind the third row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005).

21. Enclosed Volume—measured in cubic feet.

22. Passenger Volume—measured in cubic feet; the volume measured using SAE J1100 as per EPA Fuel Economy regulations (40 CFR 600.315–82, ''Classes of Comparable Automobiles''). This is the number that manufacturers calculate and submit to EPA.

23. Cargo Volume Index—defined per Table 28 of SAE J1100 (Sept. 2005).

24. Luggage Capacity—measured in cubic feet; defined per SAE J1100, V1 (Sept. 2005).

25. Seating (max)—number of usable seat belts before folding and removal of seats (where accomplished without special tools); provided in integer form.

26. Number of Standard Rows of Seating—number of rows of seats that each vehicle comes standardly equipped with; provided in integer form, e.g. 1,2,3,4, or 5.

27. Frontal Area—a measure of the wind profile of the vehicle, typically calculated as the height times width of a vehicle body, e.g. 35 square feet.

28. Aerodynamic Drag Coefficient, C_d—a dimensionless coefficient that relates the motion resistance force created by the air drag over the entire surface of a moving vehicle to the force of dynamic air pressure acting only over the vehicle's frontal area e.g., 0.25.

29. Tire Rolling Resistance, C_{rr}—a dimensionless coefficient that relates the motion resistance force force due to tire energy losses (e.g., deflection, scrubbing, slip, and air drag) to a vehicle's weight e.g., 0.0012.

30. Fuel Capacity—measured in gallons of diesel fuel or gasoline; MJ (LHV) of other fuels (or chemical battery energy).

31. Electrical System Voltage—measured in volts, e.g., 12 volt, 42 volts 2005).

d. MSRP—Measured in Dollars (2008); Actual and Projected Average MSRP (Sales-Weighted, Including Options) for MY 2008 to MY 2020 Inclusive

e. Hybridization

1. Type of hybridization of the vehicle, if any—classified as E = electric, H = hydraulic.

2. Voltage (volts) or, for hydraulic hybrids, pressure (psi).

3. Energy storage capacity—measured in MJ.

4. Battery type—Classified as NiMH = Nickel Metal Hydride; Li-ion = Lithium Ion.

5. Percentage of breaking energy recovered and stored over the FTP and HFET (weighted 55/45) recovered and stored.

6. Percentage of maximum motive power provided by stored energy system.

f. Planning and Assembly

1. US/Canadian/Mexican Content—measured as a percentage; overall percentage, by value, that originated in U.S., Canada and Mexico.

2. Final Assembly City.

3. Final Assembly State/Province (if applicable).

4. Final Assembly Country.

5. Predecessor—number and name of model upon which current model is based, if any.

6. Last Freshening—model year.

7. Next Freshening—model year.

8. Last Redesign—model year; where redesign means any change, including powertrain changes, or combination of changes to a vehicle that would change its weight by 50 pounds or more or change its frontal area or aerodynamic drag coefficient by 2 percent or more.

9. Next Redesign—model year.

10. Employment Hours Per Vehicle—number of hours of U.S. labor applied per vehicle produced.

g. The agency also requests that each manufacturer provide an estimate of its overall passenger car CAFE for each model year. This estimate should be included as an entry in the spreadsheets that are submitted to the agency.

4. Does respondent project introducing any variants of existing basic engines or any new basic engines, other than those mentioned in your response to Question 3, in its passenger car fleets in MYs 2008–2020? If so, for each basic engine or variant indicate:

a. The projected year of introduction,

b. Type (e.g., spark ignition, direct injection diesel, 2-cycle, alternative fuel use),

c. Displacement (If engine has variable displacement, please provide the minimum and maximum displacement),

d. Type of induction system (e.g., fuel injection with turbocharger, naturally aspirated),

e. Cylinder configuration (e.g., V–8, V–6, I–4),

f. Number of valves per cylinder (e.g., 2, 3, 4),

g. Valvetrain design (e.g., overhead valve, overhead camshaft),

h. Valve technology (e.g., variable valve timing, variable valve lift and timing, intake valve throttling, camless valve actuation, etc.),

i. Horsepower and torque ratings,

j. Models in which engines are to be used, giving the introduction model year for each model if different from ''a,'' above.

5. Relative to MY 2008 levels, for MYs 2008–2020 please provide information, by carline and as an average effect on a manufacturer's entire passenger car fleet, on the weight and/or fuel economy impacts of the following standards or equipment:

a. Federal Motor Vehicle Safety Standard (FMVSS No. 208) Automatic Restraints.

b. FMVSS No. 201 Occupant Protection in Interior Impact.

c. Voluntary installation of safety equipment (e.g., antilock brakes).

d. Environmental Protection Agency regulations.

e. California Air Resources Board requirements.

f. Other applicable motor vehicle regulations affecting fuel economy.

6. For each of the model years 2008–2020, and for each passenger car model projected to be manufactured by respondent (if answers differ for the various models), provide the requested information on new technology applications for each of items ''6a'' through ''6r'' listed below:

(i) Description of the nature of the technological improvement;

(ii) The percent fuel economy improvement averaged over the model;

(iii) The basis for your answer to 6(ii), (e.g., data from dynamometer tests conducted by respondent, engineering analysis, computer simulation, reports of test by others);

(iv) The percent production implementation rate and the reasons limiting the implementation rate;

(v) A description of the 2008 baseline technologies and the 2008 implementation rate; and

(vi) The reasons for differing answers you provide to items (ii) and (iv) for different models in each model year. Include as a part of your answer to 6(ii) and 6(iv) a tabular presentation, a sample portion of which is shown in Table III–A.

a. Improved automatic transmissions. Projections of percent fuel economy improvements should include benefits of lock-up or bypassed torque converters, electronic control of shift points and torque converter lock-up, and other measures which should be described.

b. Improved manual transmissions. Projections of percent of fuel economy improvement should include the benefits of increasing mechanical efficiency, using improved transmission lubricants, and other measures (specify).

c. Overdrive transmissions. If not covered in ''a'' or ''b'' above, project the percentage of fuel economy improvement attributable to overdrive transmissions (integral or auxiliary gear boxes), two-speed axles, or other similar devices intended to increase the range of available gear ratios. Describe the devices to be used and the application by model, engine, axle ratio, etc.

d. Use of engine crankcase lubricants of lower viscosity or with additives to improve friction characteristics or accelerate engine break-in, or otherwise improved lubricants to lower engine friction horsepower. When describing the 2008 baseline, specify the viscosity of and any fuel economy-improving additives used in the factory-fill lubricants.

e. Reduction of engine parasitic losses through improvement of engine-driven accessories or accessory drives. Typical engine-driven accessories include water pump, cooling fan, alternator, power steering pump, air conditioning compressor, and vacuum pump.

f. Reduction of tire rolling losses, through changes in inflation pressure, use of

materials or constructions with less hysteresis, geometry changes (e.g., reduced aspect ratio), reduction in sidewall and tread deflection, and other methods. When describing the 2008 baseline, include a description of the tire types used and the percent usage rate of each type.

g. Reduction in other driveline losses, including losses in the non-powered wheels, the differential assembly, wheel bearings, universal joints, brake drag losses, use of improved lubricants in the differential and wheel bearing, and optimizing suspension geometry (e.g., to minimize tire scrubbing loss).

h. Reduction of aerodynamic drag.

i. Turbocharging or supercharging.

j. Improvements in the efficiency of 4-cycle spark ignition engines including (1) increased compression ratio; (2) leaner air-to-fuel ratio; (3) revised combustion chamber configuration; (4) fuel injection; (5) electronic fuel metering; (6) interactive electronic control of engine operating parameters (spark advance, exhaust gas recirculation, air-to-fuel ratio); (8) variable valve timing or valve lift; (9) multiple valves per cylinder; (10) cylinder deactivation; (11) friction reduction by means such as low tension piston rings and roller cam followers; (12) higher temperature operation; and (13) other methods (specify).

k. Direct injection gasoline engines, with and without turbocharging/supercharging.

l. Naturally aspirated diesel engines, with direct or indirect fuel injection.

m. Turbocharged or supercharged diesel engines with direct or indirect fuel injection.

n. Stratified-charge reciprocating or rotary engines, with direct or indirect fuel injection.

o. Two cycle spark ignition engines.

p. Use of hybrid drivetrains.

q. Use of fuel cells; provide a thorough description of the fuel cell technology employed, including fuel type and power output.

r. Other technologies for improving fuel economy or efficiency.

7. For each model of respondent's passenger car fleet projected to be manufactured in each of MYs 2008–2020, describe the methods used to achieve reductions in average test weight. For each specified model year and model, describe the extent to which each of the following methods for reducing vehicle weight will be used. Separate listings are to be used for 4x2 passenger cars and 4x4 passenger cars.

a. Substitution of materials.

b. ''Downsizing'' of existing vehicle design to reduce weight while maintaining interior roominess and comfort for passengers, and utility, *i.e.*, the same or approximately the same, payload and cargo volume, using the same basic body configuration and driveline layout as current counterparts.

c. Use of new vehicle body configuration concepts, which provides reduced weight for approximately the same payload and cargo volume.

8. Indicate any MY 2008–2020 passenger car model types that have higher average test weights than comparable MY 2007 model types. Describe the reasons for any weight increases (e.g., increased option content, less use of premium materials) and provide supporting justification.

9. For each new or redesigned vehicle identified in response to Question 3 and each new engine or fuel economy improvement identified in your response to Questions 3, 4, 5, and 6, provide your best estimate of the following, in terms of constant 2008 dollars:

a. Total capital costs required to implement the new/redesigned model or improvement according to the implementation schedules specified in your response. Subdivide the capital costs into tooling, facilities, launch, and engineering costs.

b. The maximum production capacity, expressed in units of capacity per year, associated with the capital expenditure in (a) above. Specify the number of production shifts on which your response is based and define ''maximum capacity'' as used in your answer.

c. The actual capacity that is planned to be used each year for each new/redesigned model or fuel economy improvement.

d. The increase in variable costs per affected unit, based on the production volume specified in (b) above.

e. The equivalent retail price increase per affected vehicle for each new/redesigned model or improvement. Provide an example describing methodology used to determine the equivalent retail price increase.

10. Please provide respondent's actual and projected U.S. passenger car sales, 4x2 and 4x4, 0–8,500 lbs. GVWR for each model year from 2008 through 2020, inclusive. Please subdivide the data into the following vehicle categories:

i. Two-Seater Car (e.g., Chevrolet Corvette, Honda S2000, Porsche Boxster)

ii. Mini-Compact Car (e.g., Audi TT, Mitsubishi Eclipse, Mini Cooper)

iii. Compact Car (e.g., Ford Focus, VW Golf, Kia Rio)

iv. Midsize Car (e.g., Chevrolet Malibu, Honda Accord, Toyota Camry)

v. Large Car (e.g., Ford Crown Victoria, Cadillac DTS, Mercedes Maybach)

vi. Small Station Wagon (e.g., BMW 325 Sport Wagon, Subaru Impreza Wagon, Pontiac Vibe/Toyota Matrix)

vii. Midsize Station Wagon (e.g., Saab 9–5 Wagon, Volvo V70 Wagon, Jaguar X-Type Wagon)

viii. Large Station Wagon (e.g., Mercedes E-Class Wagon, Dodge Magnum, BMW 530 XiT Wagon)

See Table III–B for a sample format.

11. Please provide your estimates of projected *total industry* U.S. passenger car sales for each model year from 2008 through 2020, inclusive. Please subdivide the data into 4x2 and 4x4 sales and into the vehicle categories listed in the sample format in Table III–C.

12. Please provide your company's assumptions for U.S. gasoline and diesel fuel prices during 2008 through 2020.

13. Please provide projected production capacity available for the North American market (at standard production rates) for each of your company's passenger carline designations during MYs 2008–2020.

14. Please provide your estimate of production lead-time for new models, your expected model life in years, and the number of years over which tooling costs are amortized.

Note: The parenthetical numbers in Table III–A refer to the items in Section III, Specifications.

TABLE III–A.—SAMPLE TECHNOLOGY IMPROVEMENTS

Technological improvement	Baseline technology	Percent fuel economy improvement, %	Basis for improvement estimate	Models on which technology is applied	Production share of model with technological improvement				
					2008	2009	2010	2011	2012
(6a.) Improved Auto Trans.:									
A5		4.0			20	35	50	60	80
A6		4.5			15	20	30	40	55
A7		5.0			0	0	15	25	35
(6b) Improved Manual Trans.:									
M5		1.0			12	15	20	25	32
M6		0.7			0	0	0	8	10

TABLE III–B.—SAMPLE ACTUAL AND PROJECTED U.S. PASSENGER CAR SALES

Amalgamated Motors Passenger Car Sales Projections						
Model line	Model year					
	2008	2009	2010	2011	2012	2013
Two-Seater	43,500					
Mini-Compact	209,340					
Subcompact	120,000					
Compact	60,000					
Midsize	20,000					
Large	29,310					
Small Station Wagon	54,196					
Midsize Station Wagon	38,900					
Large Station Wagon	24,000					
Total	599,246					

TABLE III–C.—SAMPLE TOTAL U.S. PASSENGER CAR SALES

Model type	2008	2009	2010	2011	2012	2013
Two-Seater						
Mini-Compact						
Subcompact						
Compact						
Midsize						
Large						
Small Station Wagon						
Midsize Station Wagon						
Large Station Wagon						
Total						

IV. Specifications—Light Truck Data

Go to *ftp://ftpserver.volpe.dot.gov/pub/CAFE/templates/* for spreadsheet templates.

1. Identify all light truck models currently offered for sale in MY 2008 whose production you project discontinuing before MY 2010 and identify the last model year in which each will be offered.

2. Identify all basic engines offered by respondent in MY 2008 light trucks which respondent projects it will cease to offer for sale in light trucks before MY 2010, and identify the last model year in which each will be offered.

3. For each model year 2008–2020, list all projected light truck lines and provide the information specified below for each model type. Model types that are essentially identical except for their nameplates (e.g., Chrysler Town & Country/Dodge Caravan) may be combined into one item. Engines having the same displacement but belonging to different engine families are to be grouped separately. Within the fleet, the vehicles are to be sorted first by light truck line, second by basic engine, and third by transmission type. For each model type, a specific indexed engine and transmission are to be identified. As applicable, an indexed predecessor model type is also to be identified. Spreadsheet templates can be found at *ftp://ftpserver.volpe.dot.gov/pub/CAFE/templates/*. These templates include codes and definitions for the data that the Agency is seeking, including, but not limited to the following:

a. General Information

1. Number—a unique number assigned to each model.

2. Manufacturer—manufacturer abbreviation (e.g., GMC).

3. Model—name of model (e.g., Escalade).

4. Nameplate—vehicle nameplate (e.g., Escalade ESV).

5. Fuel Economy—measured in miles per gallon; weighted (FTP + highway) fuel economy.

6. Actual FE (FFVs)—measured in miles per gallon; for flexible fuel vehicles, fuel economy when vehicle is operated on gasoline only.

7. Energy Consumption [2]—of total fuel energy (higher heating value) consumed over FTP and highway tests (each weighted as for items 5 and 6 above), shares attributable to the following loss mechanisms, such that the sum of the shares equals one.

A. Systems irreversibility governed by the Second Law of Thermodynamics.

B. Heat lost to the exhaust and coolant streams.

C. Engine friction (*i.e.*, the part of mechanical efficiency lost to friction in such engine components as bearings and rods, as could be estimated from engine dynamometer test results).

D. Pumping losses (*i.e.*, the part of mechanical efficiency lost to work done on gases inside the cylinder, as could be estimated from engine dynamometer test results).

[2] *See* supra note 2.

E. Accessory losses (*i.e.*, the part of fuel efficiency lost to work done by engine-driven accessories, as could be estimated from bench test results for the individual components).

F. Transmission losses (*i.e.*, the part of driveline efficiency lost to friction in such transmission components as gears, bearings, and hydraulics, as could be estimated from chassis dynamometer test results).

G. Aerodynamic drag of the body, as could be estimated from coast-down test results.

H. Rolling resistance in the tires, as could be estimated from coast-down test results.

I. Work done on the vehicle itself, as could be estimated from the vehicle's inertia mass and the fuel economy driving cycles.

8. Engine Code—unique number assigned to each engine.

A. Manufacturer—manufacturer abbreviation (e.g., GMC, FMC, HON.)

B. Name—name of engine.

C. Configuration—classified as V = V4, V6, V8, V10 or V12; I = inline; R = rotary.

D. Fuel—classified as CNG = compressed natural gas, D = diesel, E = electricity, E85 = ethanol flexible-fuel, E100 = neat ethanol, G = gasoline, H = hydrogen, LNG = liquefied natural gas, LPG = propane, M85 = methanol flexible-fuel, M100 = neat methanol.

E. Engine's country of origin.

F. Engine Oil Viscosity—typical values as text include 0W20, 5W20, etc.; ratio between the applied shear stress and the rate of shear, which measures the resistance of flow of the engine oil (as per SAE Glossary of Automotive Terms).

G. Cycle—combustion cycle of engine. Classified as A = Atkinson, AM = Atkinson/

Miller, D = Diesel, M = Miller, O = Otto, OA = Otto/Atkinson.

H. Air/Fuel Ratio—the weighted (FTP + highway) air/fuel ratio (mass): a number generally around 14.7.

I. Fuel System—mechanism that delivers fuel to engine. Classified as DI = direct injection, IDI = indirect injection, MPFI = multipoint fuel injection, PFI = port fuel injection, SEFI = sequential electronic fuel injection, SIDI = Stoichiometric spark ignition direct injection, TBI = throttle body fuel injection.

J. Aspiration—based on breathing or induction process of engine (as per SAE Automotive Dictionary). Classified as NA = naturally aspirated, S = supercharged, T = turbocharged, TT = twin turbocharged.

K. Valvetrain Design—describes design of the total mechanism from camshaft to valve of an engine that actuates the lifting and closing of a valve (as per SAE Glossary of Automotive Terms). Classified as C = camless, DOHC = dual overhead cam, OHV = overhead valve, SOHC = single overhead cam.

L. Valve Actuation/Timing—based on valve opening and closing points in the operating cycle (as per SAE J604). Classified as CC=continuously controlled, EIE = equal continuous intake and exhaust phasing, E = exhaust continuous phasing, F = fixed, ICP = intake continuous phasing, IIE = independent continuous intake and exhaust phasing, or other designation, VCT = variable cam timing, VVTE = variable valve timing, exhaust, ICP = intake cam phasing, CCP = coupled cam phasing, DCP = dual cam phasing.

M. Valve Lift—describes the manner in which the valve is raised during combustion (as per SAE Automotive Dictionary). Classified as CV = continuously variable (throttled), F = fixed, SVI = stepped variable intake with 2 or more fixed profiles, or other designation, VVLTD = discrete variable valve lift and timing, VVLTC = coupled variable valve lift and timing.

N. Cylinders—the number of engine cylinders. An integer equaling 3, 4, 5, 6, 8, 10 or 12.

O. Valves/Cylinder—the number of valves per cylinder. An integer from 2 through 5.

P. Deactivation—weighted (FTP + highway) aggregate degree of deactivation. For example, enter 0.25 for deactivation of half the cylinders over half the drive cycle, and enter 0 for no valve deactivation.

Q. Displacement—total volume displaced by a piston in a single stroke, measured in liters, also commonly referred to as engine size.

R. Compression Ratio (min)—typically a number around 8; for fixed CR engines, should be identical to maximum CR.

S. Compression Ratio (max)—a number between 8 and 20; for fixed CR engines, should be identical to minimum CR.

T. Horsepower—the maximum power of the engine combined with the associated engine speed when horsepower is maximum, measured as horsepower per revolutions per minute (hp @ rpm).

U. Torque—the maximum torque of the engine, measured as ft-lb.

9. Transmission Code—an integer; unique number assigned to each transmission.

A. Manufacturer—manufacturer abbreviation (e.g., GMC, FMC, HON).

B. Name—name of transmission.

C. Country of origin—where the transmission is manufactured.

D. Type—type of transmission. Classified as C = clutch, CVT1 = belt or chain CVT, CVT2 = other CVT, T = torque converter.

E. Number of Forward Gears—integer indicating number of forward gears (or blank or ''CVT'' for CVT).

F. Control—classified as A = automatic, M = manual; automatic shift manual transmission (ASMT) would be coded as Type = C, Control = A.

G. Logic—indicates aggressivity of automatic shifting. Classified as A = aggressive, C = conventional U.S. Provide rationale for selection in the transmission notes column.

10. Origin—classification (under CAFE program) as domestic or import, listed as D = domestic, I = import.

11. Light Truck Indicator—an integer; a unique number assigned to each vehicle which represents the design feature(s) that classify it as a light truck. Classified as:

0. The vehicle neither has off-road design features (defined under 49 CFR 523.5(b) and described by numbers 1 and 2 below) nor has functional characteristics (defined under 49 CFR 523.5(a) and described by numbers 3 through 7 below) that would allow it to be properly classified as a light truck, thus the vehicle is properly classified as a passenger car.

1. The vehicle has 4-wheel drive (includes all wheel drive) and has at least four of the following characteristics:

(i) Approach angle of not less than 28 degrees;

(ii) Breakover angle of not less that 14 degrees;

(iii) Departure angle of not less than 20 degrees;

(iv) Running clearance of not less than 20 centimeters;

(v) Front and rear axle clearances are not less than 18 centimeters.

2. The vehicle is rated at more than 6000 lb gross vehicle weight (GVW), and has at least four of the following characteristics:

(i) Approach angle of not less than 28 degrees;

(ii) Breakover angle of not less that 14 degrees;

(iii) Departure angle of not less than 20 degrees;

(iv) Running clearance of not less than 20 centimeters;

(v) Front and rear axle clearances are not less than 18 centimeters.

3. The vehicle transports more that 10 persons;

4. The vehicle provides temporary living quarters;

5. The vehicle transports property on an open bed;

6. The vehicle, in its standard version without reference to options (or ''delete'' options), provides greater cargo-carrying than passenger-carrying volume; or

7. The vehicle permits expanded use of the automobile for cargo-carrying purposes or other nonpassenger-carrying purposes through:

(i) For light trucks manufactured prior to model year 2012, the removal of seats by means installed for that purpose by the automobile's manufacturer or with simple tools, such as screwdrivers and wrenches, so as to create a flat, floor level, surface extending from the forwardmost point of installation of those seats to the rear of the automobile's interior; or

(ii) For light trucks manufactured in model year 2008 and beyond, for vehicles equipped with at least 3 rows of designated seating positions as standard equipment, permit expanded use of the automobile for cargo-carrying purposes or other nonpassenger-carrying purposes through the removal or stowing of foldable or pivoting seats so as to create a flat-leveled cargo surface extending from the forwardmost point of installation of those seats to the rear of the automobile's interior.

b. Sales—Actual and Projected U.S. Production for MY 2008 to MY 2020 Inclusive, Measured in Number of Vehicles

c. Vehicle Information

1. Style—classified as Crossover; Pickup; Sport Utility; or Van.

2. Class—classified as Cargo Van; Crossover Vehicle; Large Pickup; Midsize Pickup; Minivan; Passenger Van; Small Pickup; Sport Utility Vehicle; or Sport Utility Truck.

3. Structure—classified as either Ladder or Unibody.

4. Drive—classified as A = all-wheel drive; F = front-wheel drive; R = rear-wheel-drive; 4 = 4-wheel drive.

5. Axle Ratio—ratio of the speed in revolutions per minute of the drive shaft to that of the drive wheels.

6. Length—measured in inches; defined per SAE J1100, L103 (Sept. 2005).

7. Width—measured in inches; defined per SAE J1100, W116 (Sept. 2005).

8. Wheelbase—measured to the nearest tenth of an inch; as defined above.

9. Track Width (front)—measured in inches; defined per SAE J1100, W101–1 (Sept. 2005), and clarified above.

10. Track Width (rear)—measured in inches; defined per SAE J1100, W101–2 (Sept. 2005), and clarified above.

11. Footprint—wheelbase times average track width; measured in square feet, clarified above.

12. Running Clearance—measured in centimeters; defined per 49 CFR 523.2.

13. Front Axle Clearance—measured in centimeters; defined per 49 CFR 523.2.

14. Rear Axle Clearance—measured in centimeters; defined per 49 CFR 523.2.

15. Approach Angle—measured in degrees; defined per 49 CFR 523.2.

16. Breakover Angle—measured in degrees; defined per 49 CFR 523.2.

17. Departure Angle—measured in degrees; defined per 49 CFR 523.2.

18. Curb Weight—total weight of vehicle including batteries, lubricants, and other expendable supplies but excluding the driver, passengers, and other payloads, measured in pounds; per SAE J1100 (Sept. 2005).

19. Test Weight—weight of vehicle as tested, including the driver, operator (if

necessary), and all instrumentation (as per SAE J1263); measured in pounds.

20. GVWR—Gross Vehicle Weight Rating; as defined per 49 CFR 523.2 measured in pounds.

21. Towing Capacity (Standard)—measured in pounds.

22. Towing Capacity (Maximum)—measured in pounds.

23. Payload—measured in pounds.

24. Cargo volume behind the front row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005).

25. Cargo volume behind the second row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005).

26. Cargo volume behind the third row—measured in cubic feet, defined per Table 28 of SAE J1100 (Sept. 2005).

27. Enclosed Volume—measured in cubic feet.

28. Passenger Volume—measured in cubic feet; the volume measured using SAE J1100 as per EPA Fuel Economy regulations (40 CFR 600.315–82, ''Classes of Comparable Automobiles''). This is the number that manufacturers calculate and submit to EPA.

29. Cargo Volume Index—defined per Table 28 of SAE J1100 (Sept. 2005).

30. Luggage Capacity—measured in cubic feet; defined per SAE J1100, V1 (Sept. 2005).

31. Seating (max)—number of usable seat belts before folding and removal of seats (where accomplished without special tools); provided in integer form.

32. Number of Standard Rows of Seating—number of rows of seats that each vehicle comes standardly equipped with; provided in integer form, e.g. 1, 2, 3, 4, or 5.

33. Frontal Area—a measure of the wind profile of the vehicle, typically calculated as the height times width of a vehicle body, e.g. 35 square feet.

34. Aerodynamic Drag Coefficient, C_d—a dimensionless coefficient that relates the motion resistance force created by the air drag over the entire surface of a moving vehicle to the force of dynamic air pressure acting only over the vehicle's frontal area e.g., 0.25.

35. Tire Rolling Resistance, C_{rr}—a dimensionless coefficient that relates the motion resistance force due to tire energy losses (e.g., deflection, scrubbing, slip, and air drag) to a vehicle's weight e.g., 0.0012.

36. Fuel Capacity—measured in gallons of diesel fuel or gasoline; MJ (LHV) of other fuels (or chemical battery energy).

37. Electrical System Voltage—measured in volts, e.g., 12 volt, 42 volts 2005).

d. MSRP—Measured in Dollars (2008); Actual and Projected Average MSRP (Sales-Weighted, Including Options) for MY 2008 to MY 2020 Inclusive

e. Hybridization

1. Type of hybridization of the vehicle, if any—classified as E = electric, H = hydraulic.

2. Voltage (volts) or, for hydraulic hybrids, pressure (psi).

3. Energy storage capacity—measured in MJ.

4. Battery type—Classified as NiMH = Nickel Metal Hydride; Li-ion = Lithium Ion.

5. Percentage of breaking energy recovered and stored over the FTP and HFET (weighted 55/45).

6. Percentage of maximum motive power provided by stored energy system.

f. Planning and Assembly

1. U.S./Canadian/Mexican Content—measured as a percentage; overall percentage, by value, that originated in U.S., Canada and Mexico.

2. Final Assembly City.

3. Final Assembly State/Province (if applicable).

4. Final Assembly Country.

5. Predecessor—number and name of model upon which current model is based, if any.

6. Last Freshening—model year.

7. Next Freshening—model year.

8. Last Redesign—model year; where redesign means any change, including powertrain changes, or combination of changes to a vehicle that would change its weight by 50 pounds or more or change its frontal area or aerodynamic drag coefficient by 2 percent or more.

9. Next Redesign—model year.

10. Employment Hours per Vehicle—number of hours of U.S. labor applied per vehicle produced.

g. The agency also requests that each manufacturer provide an estimate of its overall light truck CAFE for each model year. This estimate should be included as an entry in the spreadsheets that are submitted to the agency.

4. Does respondent project introducing any variants of existing basic engines or any new basic engines, other than those mentioned in your response to Question 3, in its light truck fleets in MYs 2008–2020? If so, for each basic engine or variant indicate:

a. The projected year of introduction,

b. Type (e.g., spark ignition, direct injection diesel, 2-cycle, alternative fuel use),

c. Displacement (If engine has variable displacement, please provide the minimum and maximum displacement),

d. Type of induction system (e.g., fuel injection with turbocharger, naturally aspirated),

e. Cylinder configuration (e.g., V–8, V–6, I–4),

f. Number of valves per cylinder (e.g., 2, 3, 4),

g. Valvetrain design (e.g., overhead valve, overhead camshaft),

h. Valve technology (e.g., variable valve timing, variable valve lift and timing, intake valve throttling, camless valve actuation, etc.),

i. Horsepower and torque ratings,

j. Models in which engines are to be used, giving the introduction model year for each model if different from ''a,'' above.

5. Relative to MY 2008 levels, for MYs 2008–2020, please provide information, by truckline and as an average effect on a manufacturer's entire light truck fleet, on the weight and/or fuel economy impacts of the following standards or equipment:

a. Federal Motor Vehicle Safety Standard (FMVSS No. 208) Automatic Restraints;

b. FMVSS No. 201 Occupant Protection in Interior Impact;

c. Voluntary installation of safety equipment (e.g., antilock brakes);

d. Environmental Protection Agency regulations;

e. California Air Resources Board requirements;

f. Other applicable motor vehicle regulations affecting fuel economy.

6. For each of the model years 2008–2020, and for each light truck model projected to be manufactured by respondent (if answers differ for the various models), provide the requested information on new technology applications for each of items ''6a'' through ''6r'' listed below:

(i) description of the nature of the technological improvement;

(ii) the percent fuel economy improvement averaged over the model;

(iii) the basis for your answer to 6(ii) (e.g., data from dynamometer tests conducted by respondent, engineering analysis, computer simulation, reports of test by others);

(iv) the percent production implementation rate and the reasons for limiting the implementation rate;

(v) a description of the 2008 baseline technologies and the 2008 implementation rate; and

(vi) the reasons for differing answers you provide to items (ii) and (iv) for different models in each model year. Include as a part of your answer to 6(ii) and 6(iv) a tabular presentation, a sample portion of which is shown in Table IV–A.

a. Improved automatic transmissions. Projections of percent fuel economy improvements should include benefits of lock-up or bypassed torque converters, electronic control of shift points and torque converter lock-up, and other measures which should be described.

b. Improved manual transmissions. Projections of percent of fuel economy improvement should include the benefits of increasing mechanical efficiency, using improved transmission lubricants, and other measures (specify).

c. Overdrive transmissions. If not covered in ''a'' or ''b'' above, project the percentage of fuel economy improvement attributable to overdrive transmissions (integral or auxiliary gear boxes), two-speed axles, or other similar devices intended to increase the range of available gear ratios. Describe the devices to be used and the application by model, engine, axle ratio, etc.

d. Use of engine crankcase lubricants of lower viscosity or with additives to improve friction characteristics or accelerate engine break-in, or otherwise improved lubricants to lower engine friction horsepower. When describing the 2008 baseline, specify the viscosity of and any fuel economy-improving additives used in the factory-fill lubricants.

e. Reduction of engine parasitic losses through improvement of engine-driven accessories or accessory drives. Typical engine-driven accessories include water pump, cooling fan, alternator, power steering pump, air conditioning compressor, and vacuum pump.

f. Reduction of tire rolling losses, through changes in inflation pressure, use of materials or constructions with less hysteresis, geometry changes (e.g., reduced

aspect ratio), reduction in sidewall and tread deflection, and other methods. When describing the 2008 baseline, include a description of the tire types used and the percent usage rate of each type.

g. Reduction in other driveline losses, including losses in the non-powered wheels, the differential assembly, wheel bearings, universal joints, brake drag losses, use of improves lubricants in the differential and wheel bearing, and optimizing suspension geometry (e.g., to minimize tire scrubbing loss).

h. Reduction of aerodynamic drag.

i. Turbocharging or supercharging.

j. Improvements in the efficiency of 4-cycle spark ignition engines including (1) increased compression ratio; (2) leaner air-to-fuel ratio; (3) revised combustion chamber configuration; (4) fuel injection; (5) electronic fuel metering; (6) interactive electronic control of engine operating parameters (spark advance, exhaust gas recirculation, air-to-fuel ratio); (8) variable valve timing or valve lift; (9) multiple valves per cylinder; (10) cylinder deactivation; (11) friction reduction by means such as low tension piston rings and roller cam followers; (12) higher temperature operation; and (13) other methods (specify).

k. Direct injection gasoline engines, with and without turbocharging/supercharging.

l. Naturally aspirated diesel engines, with direct or indirect fuel injection.

m. Turbocharged or supercharged diesel engines with direct or indirect fuel injection.

n. Stratified-charge reciprocating or rotary engines, with direct or indirect fuel injection.

o. Two cycle spark ignition engines.

p. Use of hybrid drivetrains.

q. Use of fuel cells; provide a thorough description of the fuel cell technology employed, including fuel type and power output.

r. Other technologies for improving fuel economy or efficiency.

7. For each model of respondent's light truck fleet projected to be manufactured in each of MYs 2008–2020, describe the methods used to achieve reductions in average test weight. For each specified model year and model, describe the extent to which each of the following methods for reducing vehicle weight will be used. Separate listings are to be used for 4x2 light trucks and 4x4 light trucks.

a. Substitution of materials.

b. ''Downsizing'' of existing vehicle design to reduce weight while maintaining interior roominess and comfort for passengers, and utility, *i.e.*, the same or approximately the same, payload and cargo volume, using the same basic body configuration and driveline layout as current counterparts.

c. Use of new vehicle body configuration concepts, which provides reduced weight for approximately the same payload and cargo volume.

8. Indicate any MY 2008–2020 light truck model types that have higher average test weights than comparable MY 2007 model types. Describe the reasons for any weight increases (e.g., increased option content, less use of premium materials) and provide supporting justification.

9. For each new or redesigned vehicle identified in response to Question 3 and each new engine or fuel economy improvement identified in your response to Questions 3, 4, 5, and 6, provide your best estimate of the following, in terms of constant 2008 dollars:

a. Total capital costs required to implement the new/redesigned model or improvement according to the implementation schedules specified in your response. Subdivide the capital costs into tooling, facilities, launch, and engineering costs.

b. The maximum production capacity, expressed in units of capacity per year, associated with the capital expenditure in (a) above. Specify the number of production shifts on which your response is based and define ''maximum capacity'' as used in your answer.

c. The actual capacity that is planned to be used each year for each new/redesigned model or fuel economy improvement.

d. The increase in variable costs per affected unit, based on the production volume specified in (b) above.

e. The equivalent retail price increase per affected vehicle for each new/redesigned model or improvement. Provide an example describing methodology used to determine the equivalent retail price increase.

10. Please provide respondent's actual and projected U.S. light truck sales, 4x2 and 4x4, 0–8,500 lbs. GVWR, and 8,501–10,000 lbs. GVWR for each model year from 2008 through 2020, inclusive. Please subdivide the data into the following vehicle categories:

i. Compact Pickup (e.g., Ford Ranger, Chevrolet Colorado, Nissan Frontier).

ii. Standard Pickup—Light (e.g., Ford F150, Chevrolet Silverado, Toyota Tundra).

iii. Standard Pickup—Heavy (e.g., Ford F250/350, Dodge Ram 2500/3500).

iv. Standard Cargo Van—Light (e.g., Chevrolet Savana, Ford E–150).

v. Standard Cargo Van—Heavy (e.g., Chevrolet G2500, Ford E–250/350, Dodge Sprinter).

vi. Compact Passenger Van/Minivan (e.g., Toyota Sienna, Dodge Caravan, Nissan Quest).

vii. Standard Passenger Van—Light (e.g., GMC Express, Ford E–150).

viii. Standard Passenger Van—Heavy (e.g., Ford E–250/350, Dodge Sprinter).

ix. Compact Sport Utility (e.g., Jeep Wrangler, Toyota RAV4).

x. Mid-size Sport Utility (e.g., Chevrolet Trailblazer, Ford Explorer, Toyota 4Runner).

xi. Full-size Sport Utility (e.g., Chevrolet Tahoe, Ford Expedition, Nissan Titan).

xii. Crossover Vehicle (e.g., Toyota RX 330, Nissan Murano, Acura MDX).

xiii. Sport Utility Truck (e.g., Cadillac Escalade EXT, Honda Ridgeline).

See Table IV–B for a sample format.

11. Please provide your estimates of projected *total industry* U.S. light truck sales for each model year from 2008 through 2020, inclusive. Please subdivide the data into 4x2 and 4x4 sales and into the vehicle categories listed in the sample format in Table IV–C.

12. Please provide your company's assumptions for U.S. gasoline and diesel fuel prices during 2008 through 2020.

13. Please provide projected production capacity available for the North American market (at standard production rates) for each of your company's light truckline designations during MYs 2008–2020.

14. Please provide your estimate of production lead-time for new models, your expected model life in years, and the number of years over which tooling costs are amortized.

Note: The parenthetical numbers in Tables IV–A refer to the items in Section IV, *Specifications*.

TABLE IV–A.—SAMPLE TECHNOLOGY IMPROVEMENTS

Technological improvement	Baseline technology	Percent fuel economy improvement, %	Basis for mprovement estimate	Models on which technology is applied	Production share of model with technological improvement				
					2010	2011	2012	2013	2014+
(6a.) Improved Auto Trans.:									
A5		4.0			20	35	50	60	80
A6		4.5			15	20	30	40	55
A7		5.0			0	0	15	25	35
(6b.) Improved Manual Trans.:									
M5		1.0			12	15	20	25	32
M6		0.7			0	0	0	8	10

TABLE IV–B.—SAMPLE ACTUAL AND PROJECTED U.S. LIGHT TRUCK SALES

Amalgamated Motors Light Truck Sales Projections						
Model line	Model year					
	2010	2011	2012	2013	2014	2015+
Compact Pickup	43,500					
Standard Pickup—Light	209,340					
Standard Pickup—Heavy	120,000					
Standard Cargo Van—Light	20,000					
Standard Cargo Van—Heavy	29,310					
Compact Passenger Van/Minivan	54,196					
Standard Passenger Van—Light	38,900					
Standard Passenger Van—Heavy	24,000					
Compact Sport Utility	125,000					
Mid-size Sport Utility	221,000					
Full-size Sport Utility	165,000					
Crossover Vehicle	98,000					
Sport Utility Truck	10,000					
Total	1,158,246					

TABLE IV–C.—SAMPLE TOTAL U.S. LIGHT TRUCK SALES

Model type	2010	2011	2012	2013	2014	2015	2016+
Compact Pickup							
Standard Pickup—Light							
Standard Pickup—Heavy							
Standard Cargo Van—Light							
Standard Cargo Van—Heavy							
Compact Passenger Van/Minivan							
Standard Passenger Van—Light							
Standard Passenger Van—Heavy							
Compact Sport Utility							
Mid-size Sport Utility							
Full-size Sport Utility							
Crossover Vehicle							
Sport Utility Truck							
Total							

V. Technologies, Cost and Potential Fuel Economy Improvements

The agency requests that manufacturers and other interested parties separately describe any fuel economy-related technologies not listed in the tables below. For the technologies listed in the tables below and any additional technologies, the agency requests that each manufacturer and other interested parties provide estimates of the model year of availability of each technology. Because engineering, planning and financial constraints prohibit most technologies from being applied across an entire fleet of vehicles within a year, the agency requests information on possible constraints on the rates at which each technology can penetrate a manufacturer's fleet. The agency refers to these as ''phase-in caps.'' [3]

Also for the technologies listed in the tables below and any additional technologies, the agency requests estimates of the range of costs and fuel economy improvements of available fuel economy technologies. Estimates of energy loss reduction estimates should also be provided.

The agency also asks that manufacturers or other interested parties provide information on appropriate sequencing of technologies, so that accumulated cost and fuel consumption effects may be evaluated incrementally. As examples of possible technology sequences, ''decision trees'' are shown in Appendix B below.

Considering the appropriate sequencing of technologies, the estimates requested above should follow the format provided by Tables 1 through 6:

Table 1: The list of technologies, and estimates of the first model year in which each technology is expected to be available for significant commercial use.

Table 2: Estimates of highest incremental share of fleet to which a technology could be added in a single model year (''phase-in cap'' percentage) for individual technologies, if relevant.

Table 3: Estimates of the incremental cost and Retail Price Equivalent (in 2008 dollars) of each technology, assuming preceding technologies have already been applied and/or superseded. Costs should be described as manufacturer cost, supplier cost, or some other basis. Retail Price Equivalent multipliers should be provided for each technology. If cost reductions available through learning effects are anticipated, information should be provided regarding what the learning effects are, when and at what production volumes they occur, and to what degrees such learning is expected to be available.[4]

Table 4: Estimates of the incremental fuel consumption reduction achieved by each technology, assuming preceding technologies

[3] In NHTSA's 2006 rulemaking establishing CAFE standards for MY 2008–2011 light trucks, the agency considered phase-in caps by ceasing to add a given technology to a manufacturer's fleet in a specific model year once it has increased the corresponding penetration rate by at least amount of the cap. Having done so, it applied other technologies in lieu of the ''capped'' technology.

[4] ''Learning effects'' describes the reduction in unit production costs as a function of accumulated production volume and small redesigns that reduce costs. Applying learning effects, or ''curves,'' requires estimates of three parameters: (1) The initial production volume that must be reached before cost reductions begin to be realized (referred to as ''threshold volume''); (2) the percent reduction in average unit cost that results from each successive doubling of cumulative production volume (usually referred to as the ''learning rate''); and (3) the initial cost of the technology. The method applies this effect for up to two doublings of production volume. For example, a 20 percent applied with a 25,000 unit threshold would reduce the applicable technology's incremental cost by up to 36 percent.

have already been applied and/or superseded.

Table 5: Estimates of the percentage by which each technology reduces energy losses attributable to each of nine energy loss mechanisms.

Table 6: Estimates of the amount by which the fuel consumption exceeds the value obtained by combining (through multiplication) fuel consumption reduction estimates shown in Table 2.[5]

The agency has included sample tables for manufacturers' use. Spreadsheet templates for these tables can be found at *ftp://ftpserver.volpe.dot.gov/pub/cafe/templates/*.

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[5] When two or more technologies are added to a particular vehicle model to improve its fuel efficiency, the resultant fuel consumption reduction may sometimes be higher or lower than the product of the individual effectiveness values for those items. This may occur because one or more technologies applied to the same vehicle partially address the same source or sources of engine or vehicle losses. Alternately, this effect may be seen when one technology shifts the engine operating points, and therefore increases or reduces the fuel consumption reduction achieved by another technology or set of technologies. The difference between the observed fuel consumption reduction associated with a set of technologies and the product of the individual effectiveness values in that set is sometimes referred to as a ''synergy.'' Synergies may be positive (increased fuel consumption reduction compared to the product of the individual effects) or negative (decreased fuel consumption reduction).

Table 1: List of Technologies and Year of Availability

Technologies	Year of Availability
Low friction lubricants – incremental to base engine	
Engine friction reduction – incremental to base engine	
Overhead Cam Branch	
VVT – intake cam phasing	
VVT – coupled cam phasing	
VVT – dual cam phasing	
Cylinder deactivation	
Discrete VVLT	
Continuous VVLT	
Overhead Valve Branch	
Cylinder deactivation	
VVT – coupled cam phasing	
Discrete VVLT	
Continuous VVLT (includes conversion to Overhead Cam)	
Camless valvetrain (electromagnetic)	
GDI – stoichiometric	
GDI – lean burn	
Gasoline HCCI dual-mode	
Turbocharging & Downsizing	
Diesel – Lean NOx trap	
Diesel – urea SCR	
Aggressive shift logic	
Early torque converter lockup	
5-speed automatic	
6-speed automatic	
6-speed AMT	
6-speed manual	
CVT	
Stop-Start with 42 volt system	
IMA/ISA/BSG (includes engine downsize)	
2-Mode hybrid electric vehicle	
Power-split hybrid electric vehicle (P-S HEV)	
Full-Series hydraulic hybrid	
Plug-in hybrid electric vehicle (PHEV)	
Full electric vehicle (EV)	
Improved high efficiency alternator & electrification of accessories (12 volt)	
Electric power steering (12 or 42 volt)	
Improved high efficiency alternator & electrification of accessories (42 volt)	
Aero drag reduction (20% on cars, 10% on trucks)	
Low rolling resistance tires (10%)	
Low drag brakes (ladder frame only)	
Secondary axle disconnect (unibody only)	
Front axle disconnect (ladder frame only)	
Weight reduction (1%) – above 5,000 lbs only	
Weight reduction (2%) – incremental to 1%	
Weight reduction (3%) – incremental to 2%	

Table 2: Phase-In Caps

Technology	Percent phase-in cap
Low Friction Lubricants	
Engine Friction Reduction	
Variable Valve Timing (ICP)	
Variable Valve Timing (CCP)	
Variable Valve Timing (DCP)	
Cylinder Deactivation	
Variable Valve Lift & Timing (CVVL)	
Variable Valve Lift & Timing (DVVL)	
Cylinder Deactivation on OHV	
Variable Valve Timing (CCP) on OHV	
Multivalve Overhead Cam with CVVL	
Variable Valve Lift & Timing (DVVL) on OHV	
Camless Valve Actuation	
Stoichiometric GDI	
Diesel following GDI-S (SIDI)	
Lean Burn GDI	
Turbocharging and Downsizing	
Diesel following Turbo D/S	
HCCI	
Diesel following HCCI	
5 Speed Automatic Transmission	
Aggressive Shift Logic	
Early Torque Converter Lockup	
6 Speed Automatic Transmission	
Automated Manual Transmission	
Continuously Variable Transmission	
6 Speed Manual	
Improved Accessories	
Electric Power Steering	
42-Volt Electrical System	
Low Rolling Resistance Tires	
Low Drag Brakes	
Secondary Axle Disconnect – Unibody	
Secondary Axle Disconnect - Ladder Frame	
Aero Drag Reduction	
Material Substitution (1%)	
Material Substitution (2%)	
Material Substitution (5%)	
ISG with Idle-Off	
IMA/ISAD/BSG Hybrid (includes engine downsizing)	
2-Mode Hybrid	
Power Split Hybrid	
Plug-in Hybrid	
Other technologies (please list)	

Table 3: Technology Cost Estimates

Technologies	Vehicle Technology Incremental Retail Price Equivalent per Vehicle ($) by Vehicle Class									
	Subcompact Car	Compact Car	Midsize Car	Large Car	Small Pickup	Small SUV	Minivan	Midsize SUV	Large Pickup	Large SUV
Low friction lubricants – incremental to base engine										
Engine friction reduction – incremental to base engine										
Overhead Cam Branch										
VVT – intake cam phasing										
VVT – coupled cam phasing										
VVT – dual cam phasing										
Cylinder deactivation										
Discrete VVLT										
Continuous VVLT										
Overhead Valve Branch										
Cylinder deactivation										
VVT – coupled cam phasing										
Discrete VVLT										
Continuous VVLT (includes conversion to Overhead Cam)										
Camless valvetrain (electromagnetic)										
GDI – stoichiometric										
GDI – lean burn										
Gasoline HCCI dual-mode										
Turbocharging & downsizing										
Diesel – Lean NOx trap										
Diesel – urea SCR										
Aggressive shift logic										
Early torque converter lockup										
5-speed automatic										
6-speed automatic										
6-speed AMT										
6-speed manual										
CVT										
Stop-Start with 42 volt system										
IMA/ISA/BSG (includes engine downsize)										
2-Mode hybrid electric vehicle										
Power-split hybrid electric vehicle (P-S HEV)										
Full-Series hydraulic hybrid										
Plug-in hybrid electric vehicle (PHEV)										
Full electric vehicle (EV)										
Improved high efficiency alternator & electrification of accessories (12 volt)										
Electric power steering (12 or 42 volt)										
Improved high efficiency alternator & electrification of accessories (42 volt)										
Aero drag reduction (20% on cars, 10% on trucks)										
Low rolling resistance tires (10%)										
Low drag brakes (ladder frame only)										
Secondary axle disconnect (unibody only)										
Front axle disconnect (ladder frame only)										
Weight reduction (1%) – above 5,000 lbs only										
Weight reduction (2%) – incremental to 1%										
Weight reduction (3%) – incremental to 2%										

Table 4: Technology Effectiveness Estimates

Technologies	Vehicle Technology Incremental Fuel Consumption Reduction (%) by Vehicle Class									
	Subcompact Car	Compact Car	Midsize Car	Large Car	Small Pickup	Small SUV	Minivan	Midsize SUV	Large Pickup	Large SUV
Low friction lubricants – incremental to base engine										
Engine friction reduction – incremental to base engine										
Overhead Cam Branch										
VVT – intake cam phasing										
VVT – coupled cam phasing										
VVT – dual cam phasing										
Cylinder deactivation										
Discrete VVLT										
Continuous VVLT										
Overhead Valve Branch										
Cylinder deactivation										
VVT – coupled cam phasing										
Discrete VVLT										
Continuous VVLT (includes conversion to Overhead Cam)										
Camless valvetrain (electromagnetic)										
GDI – stoichiometric										
GDI – lean burn										
Gasoline HCCI dual-mode										
Turbocharging & Downsizing										
Diesel – Lean NOx trap										
Diesel – urea SCR										
Aggressive shift logic										
Early torque converter lockup										
5-speed automatic										
6-speed automatic										
6-speed AMT										
6-speed manual										
CVT										
Stop-Start with 42 volt system										
IMA/ISA/BSG (includes engine downsize)										
2-Mode hybrid electric vehicle										
Power-split hybrid electric vehicle (P-S HEV)										
Full-Series hydraulic hybrid										
Plug-in hybrid electric vehicle (PHEV)										
Full electric vehicle (EV)										
Improved high efficiency alternator & electrification of accessories (12 volt)										
Electric power steering (12 or 42 volt)										
Improved high efficiency alternator & electrification of accessories (42 volt)										
Aero drag reduction (20% on cars, 10% on trucks)										
Low rolling resistance tires (10%)										
Low drag brakes (ladder frame only)										
Secondary axle disconnect (unibody only)										
Front axle disconnect (ladder frame only)										
Weight reduction (1%) – above 5,000 lbs only										
Weight reduction (2%) – incremental to 1%										
Weight reduction (3%) – incremental to 2%										

Table 5: Energy Loss Mechanism Estimates

Technologies	Reduction (%) of Energy Losses, by Loss Mechanism								
	System Irreversibility	Heat Lost to Exhaust and Coolant	Engine Friction	Pumping Losses	Accessory Losses	Transmission Losses	Aerodynamic Losses	Tire Rolling Losses	Work on Vehicle
Low friction lubricants – incremental to base engine									
Engine friction reduction – incremental to base engine									
Overhead Cam Branch									
VVT – intake cam phasing									
VVT – coupled cam phasing									
VVT – dual cam phasing									
Cylinder deactivation									
Discrete VVLT									
Continuous VVLT									
Overhead Valve Branch									
Cylinder deactivation									
VVT – coupled cam phasing									
Discrete VVLT									
Continuous VVLT (includes conversion to Overhead Cam)									
Camless valvetrain (electromagnetic)									
GDI – stoichiometric									
GDI – lean burn									
Gasoline HCCI dual-mode									
Turbocharging & Downsizing									
Diesel – Lean NOx trap									
Diesel – urea SCR									
Aggressive shift logic									
Early torque converter lockup									
5-speed automatic									
6-speed automatic									
6-speed AMT									
6-speed manual									
CVT									
Stop-Start with 42 volt system									
IMA/ISA/BSG (includes engine downsize)									
2-Mode hybrid electric vehicle									
Power-split hybrid electric vehicle (P-S HEV)									
Full-Series hydraulic hybrid									
Plug-in hybrid electric vehicle (PHEV)									
Full electric vehicle (EV)									
Improved high efficiency alternator & electrification of accessories (12 volt)									
Electric power steering (12 or 42 volt)									
Improved high efficiency alternator & electrification of accessories (42 volt)									
Aero drag reduction (20% on cars, 10% on trucks)									
Low rolling resistance tires (10%)									
Low drag brakes (ladder frame only)									
Secondary axle disconnect (unibody only)									
Front axle disconnect (ladder frame only)									
Weight reduction (1%) – above 5,000 lbs only									
Weight reduction (2%) – incremental to 1%									
Weight reduction (3%) – incremental to 2%									

Table 6: Technology Synergy Estimates

Synergies		Synergy values by Vehicle Class Vehicle classes must be in the same order and the same names as the preceding worksheets. Positive values are [positive] synergies, negative values are dissynergies. Blank cells are assumed to be zero. The units for all numbers are assumed to be percents (%)									
Technology A	Technology B	SUV-Small	SUV-Mid	SUV-Large	Minivan	Pickup-Small	Pickup-Large	Sub com-pact	Com-pact	Midsize	Large
VVTI	5SP	-0.50	-0.50	-0.50	-0.50	-0.50	-0.50	-0.50	-0.50	-0.50	-0.50

Appendix B. Technology Decision Trees

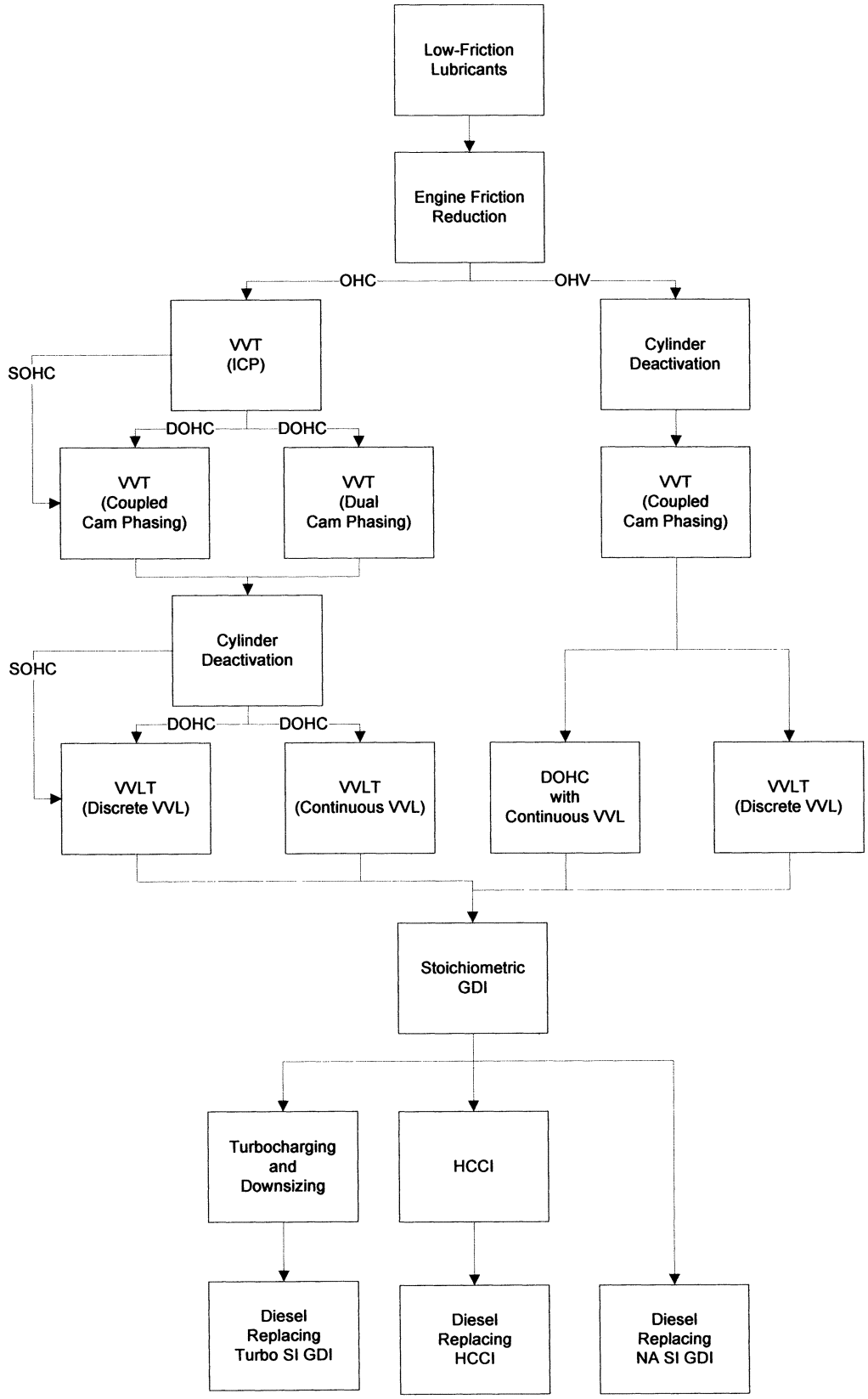

Figure 1. Engine Technology Decision Trees

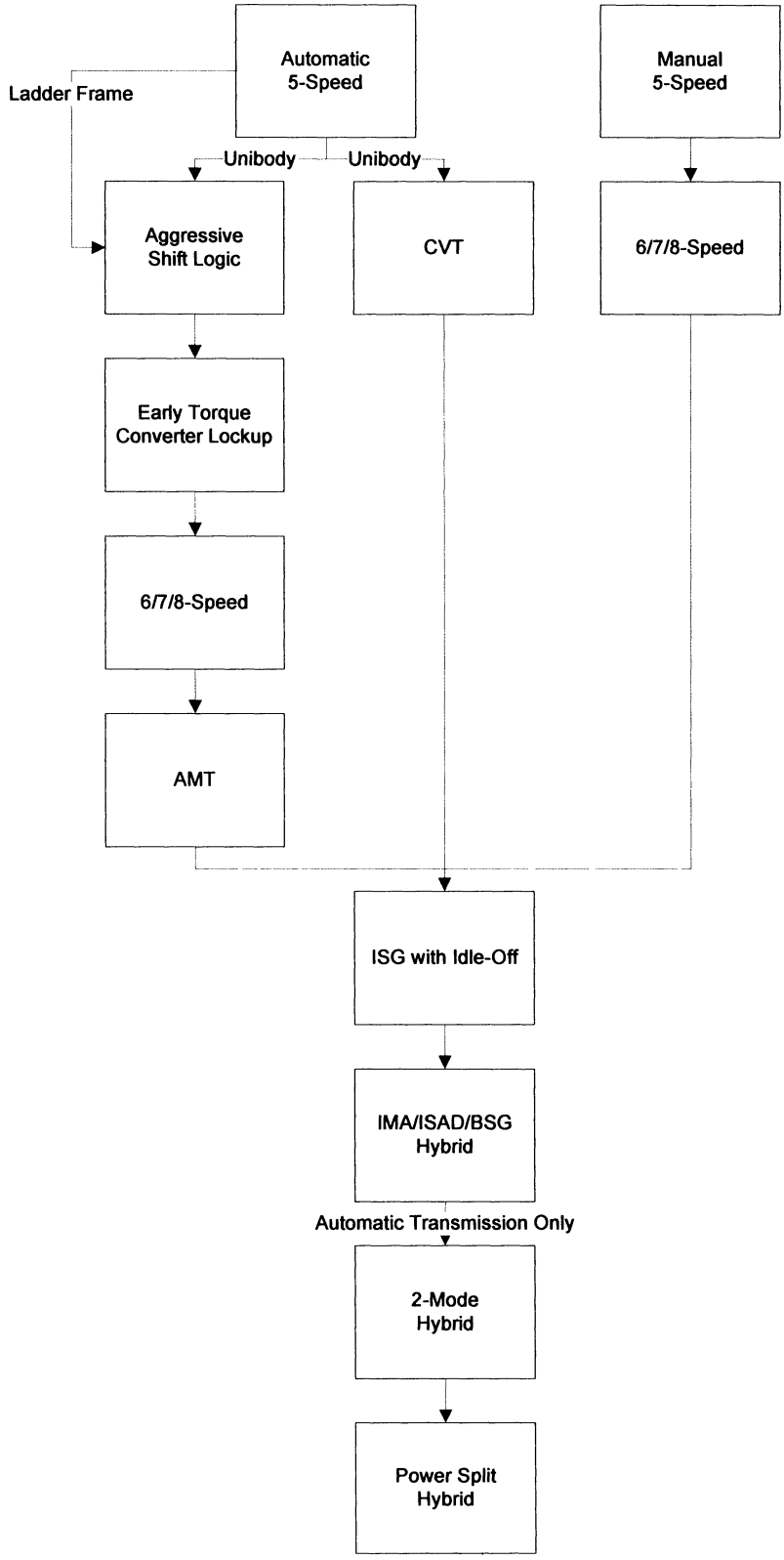

Figure 2. Transmission Technology Decision Trees

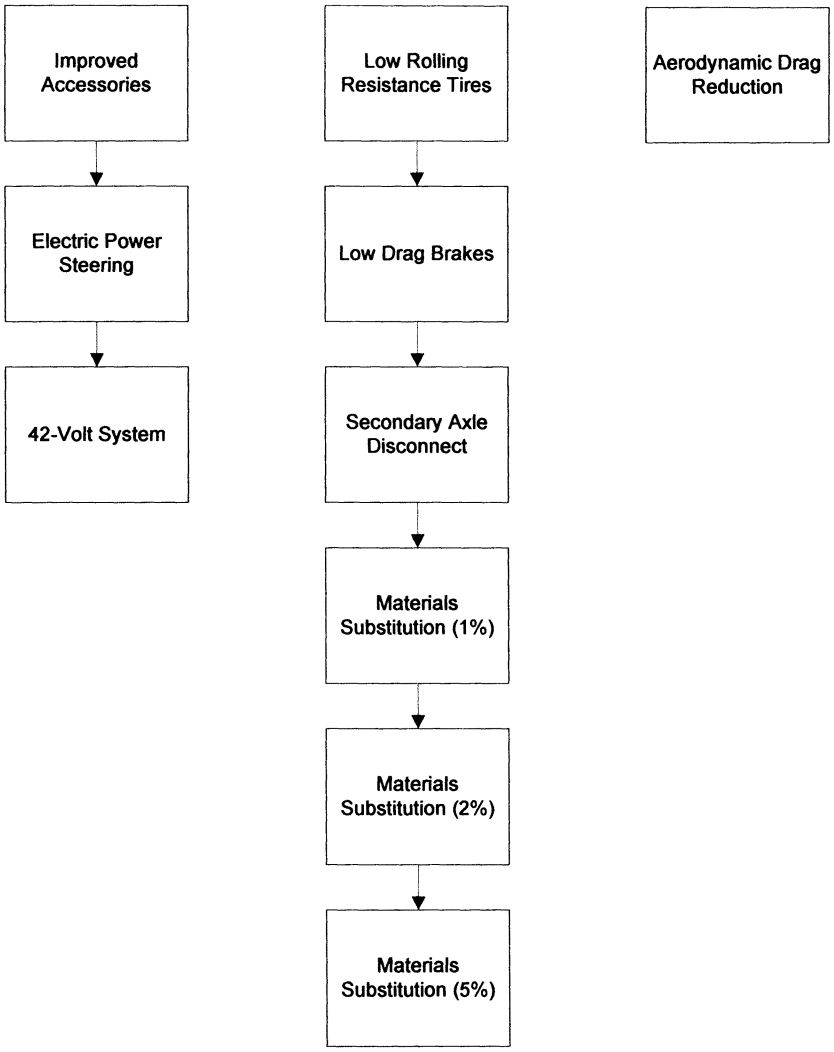

Figure 3. Decision Trees for Other Technologies

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Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. AMS–LS–08–0033]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget, for an extension of the currently approved information collection used to compile and generate the Federally Inspected Estimated Daily Slaughter Report for the Livestock and Grain Market News Branch.

DATES: Comments on this notice must be received by July 1, 2008 to be assured of consideration.

Additional Information or Comments: Comments may be mailed to Jimmy A. Beard, Assistant to the Chief, Livestock and Grain Market News Branch, Livestock and Seed Program, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0252, 1400 Independence Avenue, SW., Room 2619–S, Washington, DC 20250–0252; Phone (202) 720–8054; Fax (202) 690–3732; or e-mailed to the Federal Rulemaking Portal: *http://www.regulations.gov* or e-mailed to *marketnewscomments@usda.gov.* State that your comments refer to Docket No. AMS–LS–08–0033.

FOR FURTHER INFORMATION CONTACT: Dr. Warren Preston, Chief, Livestock and Grain Market News Branch, AMS, USDA, by telephone on 202/720–6231, or via e-mail at: *warren.preston@usda.gov* or Jimmy A. Beard, Assistant to the Chief, Livestock and Grain Market News Branch, AMS, USDA, by telephone on 202/720–8054, or e-mail at: *jimmy.beard@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Plan for Estimating Daily Livestock Slaughter Under Federal Inspection.

OMB Number: 0581–0050.

Expiration Date of Approval: 09–30–2008.

Type of Request: Extension of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), section 203(g) directs and authorizes the collection and dissemination of marketing information including adequate outlook information, on a market area basis, for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income, and to bring about a balance between production and utilization.

Under this market news program, USDA issues a market news report estimating daily livestock slaughter under Federal inspection. This report is compiled by AMS on a voluntary basis in cooperation with the livestock and meat industry. Market news reporting must be timely, accurate, and continuous if it is to be useful to producers, processors, and the trade in general. The daily livestock slaughter estimates are provided at the request of industry and are used to make production and marketing decisions.

The Daily Estimated Livestock Slaughter Under Federal Inspection Report is used by a wide range of industry contacts, including packers, processors, producers, brokers and retailers of meat and meat products. The livestock and meat industry requested that USDA issue slaughter estimates (daily and weekly), by species, for cattle, calves, hogs and sheep in order to assist them in making immediate production and marketing decisions and as a guide to the volume of meat in the marketing channel. The information requested from respondents includes their estimation of the current day's slaughter at their plant(s) and the actual slaughter for the previous day. Also, the Government is a large purchaser of meat and related products and this report assists other Government agencies in providing timely information on the quantity of meat entering the processing channels.

The information must be collected, compiled, and disseminated by an impartial third-party, in a manner which protects the confidentiality of the reporting entity. AMS is in the best position to provide this service.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .0333 hours per response.

Respondents: Business or other for-profit entities, individuals or households, farms, and the Federal Government.

Estimated Number of Respondents: 72.

Estimated Number of Responses: 18,720.

Estimated Number of Responses per Respondent: 260.

Estimated Total Annual Burden on Respondents: 624 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (2) 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. Comments may be sent to Jimmy A. Beard, 1400 Independence Ave., STOP 0252; Room 2619–S, Washington, DC 20250–0252. Comments can be submitted to: *http://www.regulations.gov* and viewed there as well. All comments received will be available for public inspection during regular business hours at the same address and on the Internet at *http://www.ams.usda.gov/lsmnpubs.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 28, 2008.

Lloyd Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–9650 Filed 5–1–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. AMS–LS–08–0011]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget, for an extension of the currently approved information collection used to compile and generate grain and molasses market news reports.

DATES: Comments on this notice must be received by July 1, 2008 to be assured of consideration.

Additional Information or Comments: Comments may be mailed to Jimmy A. Beard; Assistant to the Chief; Livestock and Grain Market News Branch, Livestock and Seed Program, Agricultural Marketing Service, U.S. Department of Agriculture; STOP 0252; 1400 Independence Avenue SW.; Room 2619-S; Washington, DC 20250–0252; Phone (202) 720–8054; Fax (202) 690–3732; or e-mailed to the Federal Rulemaking Portal: *http://www.regulations.gov* or e-mailed to *marketnewscomments@usda.gov.* State that your comments refer to Docket No. AMS–LS–08–0011.

FOR FURTHER INFORMATION CONTACT: Dr. Warren Preston, Chief, Livestock and Grain Market News Branch, AMS, USDA, by telephone on 202/720–4846, or via e-mail at: *warren.preston@usda.gov* or Jimmy A. Beard, Assistant to the Chief, Livestock and Grain Market News Branch, AMS, USDA, or by telephone on 202/720–8054, or e-mail at: *jimmy.beard@usda.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Grain Market News Reports and Molasses Market News Reports.

OMB Number: 0581–0005.

Expiration Date of Approval: 09–30–2008.

Type of Request: Extension of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), section 203(g) directs and authorizes the collection and dissemination of marketing information, including adequate outlook information, on a market area basis, for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income, and to bring about a balance between production and utilization.

The grain industry has requested that USDA continue to issue market news reports on grain and molasses. These reports are compiled on a voluntary basis, by AMS in cooperation with the grain and feed industry. Market news reporting must be timely, accurate, and continuous if it is to be useful to producers, processors, and the trade in general. Industry traders can use market news information to make marketing decisions on when and where to buy and sell. For example, a producer could compare prices being paid at local, terminal, or export elevators to determine which location will provide the best return. Some traders might choose to chart prices over a period of time in order to determine the most advantageous day of the week to buy or sell, or to determine the most favorable season. In addition, the reports are used by other Government agencies to evaluate market conditions and calculate price levels, such as USDA's Farm Service Agency, that administers the Farmer-owned Reserve Program. Economists at most major agricultural colleges and universities use the grain and feed market news reports to make short and long-term market projections. Also, the Government is a large purchaser of grain and related products. A system to monitor the collection and reporting of data, therefore is needed.

The information must be collected, compiled, and disseminated by an impartial third-party, in a manner which protects the confidentiality of the reporting entity. AMS is in the best position to provide this service.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .0333 hours per response.

Respondents: Business or other for-profit entities, individuals or households, farms, and the Federal Government.

Estimated Number of Respondents: 202.

Estimated Number of Responses: 3864

Estimated Number of Responses per Respondent: 19.

Estimated Total Annual Burden on Respondents: 129 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (2) 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. Comments may be sent to Jimmy A. Beard; 1400 Independence Ave; Room 2619-S; Washington, DC 20250–0252. Comments can be submitted to: *http://www.regulations.gov* and viewed there as well. All comments received will be available for public inspection during regular business hours at the same address or on the Internet at *http://www.ams.usda.gov/lsmnpubs.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 28, 2008.

Lloyd Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–9652 Filed 5–1–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket # AMS–FV–07–0036; FV–06–318–C]

United States Standards for Grades of Pineapples

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final notice; correction.

SUMMARY: A notice was published in the **Federal Register** (73 FR 7245–7246) dated February 7, 2008, revising the United States Standards for Grades of Pineapples, issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) effective March 10, 2008. However, in section 51.1489, Application of Tolerances, the words ''packages'' and ''containers'' were incorrectly listed. The correct words should have been ''samples'' and ''sample.'' This document corrects the standards by revising this section.

EFFECTIVE DATE: May 2, 2008.

FOR FURTHER INFORMATION CONTACT: Vincent J. Fusaro, Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 1661, South Building, Stop 0240, Washington, DC 20250–0240, Fax (202) 720–8871, Phone (202) 720–2185, or E-mail *Vinny.Fusaro@usda.gov.*

SUPPLEMENTARY INFORMATION: This document provides correcting amendments to the United States Standards for Grades of Pineapples, which is available at the address cited in the **FOR FURTHER INFORMATION CONTACT** section or by accessing the AMS, Fresh Products Branch Web site at: *http://www.ams.usda.gov/standards/stanfrfv.htm.* Accordingly, the United States Standards for Grades of Pineapples is corrected by changing section 51.1489, Application of Tolerance as follows: ''The contents of individual samples in the lot, are subject to the following limitations: (a) Individual samples shall have not more than double a specified tolerance except that at least two defective specimens may be permitted in any sample: Provided, That no more than one specimen affected by decay be permitted in any sample, and provided further, that the averages for the entire lot are within the tolerances specified for the grades.''

Dated: April 28, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–9649 Filed 5–1–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0051]

Availability of an Environmental Assessment for Field Testing Mannheimia Haemolytica-Pasteurella Multocida Vaccine, Avirulent Live Culture

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment concerning authorization to ship for the purpose of field testing, and then to field test, an unlicensed Mannheimia Haemolytica-Pasteurella Multocida Vaccine, Avirulent Live Culture. The environmental assessment, which is based on a risk analysis prepared to assess the risks associated with the field testing of this vaccine, examines the potential effects that field testing this veterinary vaccine could have on the quality of the human environment. Based on the risk analysis, we have reached a preliminary determination that field testing this veterinary vaccine will not have a significant impact on the quality of the human environment, and that an environmental impact statement need not be prepared. We intend to authorize shipment of this vaccine for field testing following the close of the comment period for this notice unless new substantial issues bearing on the effects of this action are brought to our attention. We also intend to issue a U.S. Veterinary Biological Product License for this vaccine, provided the field test data support the conclusions of the environmental assessment and the issuance of a finding of no significant impact and the product meets all other requirements for licensing.

DATES: We will consider all comments that we receive on or before June 2, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0051* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0051, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0051.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

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

FOR FURTHER INFORMATION CONTACT: Dr. Albert P. Morgan, Section Leader, Operational Support Section, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, VS, APHIS, 4700 River Road, Unit 148, Riverdale, MD 20737–1231; phone (301) 734–8245, fax (301) 734–4314.

For information regarding the environmental assessment or the risk analysis, or to request a copy of the environmental assessment (as well as the risk analysis with confidential business information removed), contact Dr. Patricia L. Foley, Risk Manager, Center for Veterinary Biologics, Policy, Evaluation, and Licensing VS, APHIS, 510 South 17th Street, Suite 104, Ames, IA 50010; phone (515) 232–5785, fax (515) 232–7120.

SUPPLEMENTARY INFORMATION: Under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*), a veterinary biological product must be shown to be pure, safe, potent, and efficacious before a veterinary biological product license may be issued. A field test is generally necessary to satisfy prelicensing requirements for veterinary biological products. Prior to conducting a field test on an unlicensed product, an applicant must obtain approval from the Animal and Plant Health Inspection Service (APHIS), as well as obtain APHIS' authorization to ship the product for field testing.

To determine whether to authorize shipment and grant approval for the field testing of the unlicensed product referenced in this notice, APHIS conducted a risk analysis to assess the potential effects of this product on the safety of animals, public health, and the environment. Based on the risk analysis, APHIS has prepared an environmental assessment (EA) concerning the field testing of the following unlicensed veterinary biological product:

Requester: Schering-Plough Animal Health Corporation.

Product: Mannheimia Haemolytica-Pasteurella Multocida Vaccine, Avirulent Live Culture.

Field Test Locations: Colorado, Nebraska, Michigan, Missouri, Wisconsin, California, and New York.

The above-mentioned product consists of two live gene deleted bacterial strains, one an avirulent strain of *Mannheimia haemolytica,* the other an avirulent strain of *Pasteurella multocida.* The vaccine is for use in cattle as an aid in the prevention and/or reduction of pneumonic lesions associated with bovine pneumonic pasteurellosis, commonly known as shipping fever.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969

(NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provision of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Unless substantial issues with adverse environmental impacts are raised in response to this notice, APHIS intends to issue a finding of no significant impact (FONSI) based on the EA and authorize shipment of the above product for the initiation of field tests following the close of the comment period for this notice.

Because the issues raised by field testing and by issuance of a license are identical, APHIS has concluded that the EA that is generated for field testing would also be applicable to the proposed licensing action. Provided that the field test data support the conclusions of the original EA and the issuance of a FONSI, APHIS does not intend to issue a separate EA and FONSI to support the issuance of the product license, and would determine that an environmental impact statement need not be prepared. APHIS intends to issue a veterinary biological product license for this vaccine following completion of the field test provided no adverse impacts on the human environment are identified and provided the product meets all other requirements for licensing.

Authority: 21 U.S.C. 151–159.

Done in Washington, DC, this 24th day of April 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–9636 Filed 5–1–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection: Comment Request: FNS–583, Food Stamp Program Employment and Training Program Activity Report

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice invites the general public and other public agencies to comment on a proposed adjustment to the information collection burden for the Food Stamp Program (FSP) Employment and Training Program, currently approved under OMB No. 0584–0339. This notice proposes to reduce the currently approved burden of 31,721 by 9,966 hours. The adjusted burden is 21,755 hours. The reduction is based on changes in annual estimates for reporting on Employment and Training activities.

DATES: Written comments must be submitted on or before July 1, 2008.

ADDRESSES: The Food and Nutrition Service invites interested persons to submit comments on this proposed information collection. Send comments to Dale Walton, Program Analyst, Program Design Branch, Program Development Division, FSP, FNS, 3101 Park Center Drive, Room 810, Alexandria, Virginia 22302–1594.

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 will have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed collection of information, including validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other form of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Dale Walton at (703) 305–2404, or send comment to *dale.walton@fns.usda.gov* via the Internet.

SUPPLEMENTARY INFORMATION:

Title: Employment and Training Program Activity Report.

OMB Number: 0584–0339.

Expiration Date: August 31, 2008.

Type of Request: Revision of a currently approved collection.

Abstract: 7 CFR 273.7(c)(9) requires State agencies to submit quarterly Employment and Training (E&T) Program Activity Reports containing monthly figures for participation in the program. The Food and Nutrition Service (FNS) uses Form FNS–583 to collect participation data. The information collected on the FNS–583 report includes:

- On the first quarter report, the number of work registrants receiving food stamps as of October 1 of the new fiscal year;
- On each quarterly report, by month, the number of new work registrants; the number of able-bodied adults without dependents (ABAWDs) applicants and recipients participating in qualifying components; the number of all other applicants and recipients (including ABAWDs involved in non-qualifying activities participating in components; and the number of ABAWDs exempt under the State agency's 15% exemption allowance.
- On the fourth quarter report, the total number of individuals who participated in each component, which is also sorted by ABAWD and non-ABAWD participants, and the number of individuals who participated in the E&T Program during the fiscal year.

7 CFR 273.7(d)(1)(i)(D) provides that if a State agency will not expend all of the funds allocated to it for a fiscal year, FNS will reallocate unexpended funds to other State agencies during the fiscal year or the subsequent fiscal year as FNS considers appropriate and equitable. After initial E&T allocations are made, State agencies may request more funds, as needed. Typically, FNS receives ten such requests per year. The burden for the time it takes to prepare these requests is included in the burden. After receiving the State requests, FNS will reallocate unexpended funds as provided above. Following is the revised estimated burden for E&T reporting including the burden for State agencies to request additional funds.

Current FNS–583 Report

Reporting

Frequency: 4.
Affected Public: State Agency.
Number of Respondents: 53.
Number of Responses: 212.
Estimated Time per Response: 102.43 hours per State agency.
Estimated Total Annual Reporting Burden: 21,715.16 hours.

Recordkeeping

Number of Respondents: 53.
Number of Records: 212.
Number of Hours per Record: 0.137 hours.
Estimated Total Annual Recordkeeping Burden: 29.044 hours.

Requests for Additional Funds

Reporting

Frequency: 1.
Affected Public: State Agency.
Number of Respondents: 53.
Number of Responses: 10.
Estimated Time per Response: 1.00 hour per request.

Estimated Total Annual Reporting Burden: 10 hours.

Recordkeeping

Number of Respondents: 53.
Number of Records: 10.
Number of Hours per Record: 0.137 hours.
Estimated Total Annual Recordkeeping Burden: 1.37 hour.
Total Annual Reporting and Recordkeeping Burden: 21,755.57 hours.

Dated: April 24, 2008.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. E8–9702 Filed 5–1–08; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Crooked Creek Reservoir Repair; White River National Forest, Eagle County, CO

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The White River National Forest will prepare an environmental impact statement (EIS) to disclose the environmental effects of repairing the Crooked Creek Reservoir, Saffeels Ditch, and other associated activities in the project area.

DATES: Comments concerning the scope of the analysis should be received by May 30, 2008. The draft EIS is expected in July 2008 and the final EIS is expected in September 2008.

ADDRESSES: Send written comments to Ronald R. Mobley, White River National Forest Supervisors Office, PO Box 948, Glenwood Springs, CO 81602–0948, Fax: (970) 945–3288, E-mail: *wrnf_scoping_comments@fs.fed.us.* Please include ''Crooked Creek Reservoir Repairs'' in the subject line.

FOR FURTHER INFORMATION CONTACT: Ronald R. Mobley, Civil Engineer, White River National Forest, 900 Grand Avenue, Glenwood Springs, CO 81602, (970) 945–3268.

SUPPLEMENTARY INFORMATION:

Crooked Creek Reservoir (CCR) and the Saffeels Ditch (SD) are located approximately 23 miles south east of Eagle, Colorado on the Aspen-Sopris Ranger District of the White River National Forest. In September of 2005, a sinkhole was discovered on the crest/upstream interface of Crooked Creek dam. The crest of the dam is used as a portion of Eagle/Thomasville Road (National Forest System Road (NFSR) 400). The sinkhole was directly above the primary spillway culvert and within the travel lane across the crest of the dam, posing a threat to the health and safety of the public. A temporary fix was performed in 2006 to mitigate the immediate health and safety threat.

Additionally, the reservoir's emergency spillway is a shallow drainage channel leading to a 48-inch by 60-inch culvert that crosses under NFSR 400. The culvert shows signs of major deterioration and poses a health and safety risk if it were to fail. Meanwhile, heavy vegetation restricts the flow of water through the emergency spillway. Also, approximately 400 feet of dam toe-drain-pipe was originally installed incorrectly and now poses a threat to the integrity of the dam.

Finally, the SD (which is east and north of the CCR) and associated water rights were acquired by the Forest Service in 1994. Since that time minimal work has been performed on the SD limiting the options for using the associated water rights.

Purpose and Need for Action

The purpose of this project is to repair the Crooked Creek Reservoir (CCR) spillways, a portion of the CCR's toe-drain pipe and the Saffeels Ditch (SD). Additionally, there is an opportunity to address the following needs within the same geographic location:

- Allow the Agency to store its decreed water rights (approximately 211 acre-feet) from Crooked Creek, Middle Creek and Little Lime Creek in CCR;
- Determine how to use one (1) cubic foot per second (cfs) of water from the SD;
- Reclaim the CCR borrow area;
- Reduce impacts from beaver activity at the CCR primary spiliway culvert and culverts on NSFR 400 and NFSR 507;
- Maintain or improve wetland functions in the area;
- Enhance wildlife and fish habitat around CCR;
- Manage recreation use at CCR.

Proposed Action

To meet the purpose and need of repairing the Crooked Creek Reservoir and Saffeels Ditch, and to address associated opportunities, the following actions are proposed:

- Remove the existing primary spillway pipe and construct a new outlet system, which would consist of a new primary spillway pipe, new concrete drop inlet structure with a head gate control mechanism, and an adequate discharge basin. The new outlet system may allow the storage capacity of CCR to increase from 50 acre-feet of water to approximately 211 acre-feet;
- Remove and replace the toe-drain pipe;
- Remove and replace the existing pipe that is connected to the emergency spillway;
- Excavate the emergency spillway channel to remove vegetation that is impeding water flow and place riprap in the channel to prevent erosion;
- Create a beaver deceiver at the primary spillway culvert to prevent beaver from impeding the spillway water flow;
- Create beaver deceivers where Little Lime Creek and Crooked Creek cross NFSR 400 and where Lime Creek crosses NSFR 507 to reduce roadway erosion;
- Alter the ponds upstream from CCR to improve wetland functions;
- Develop wildlife and fish habitat by transplanting aquatic and riparian vegetation;
- Create nest and perch structures by knocking off the tops of select conifer trees, and mounding soil within the reservoir;
- Construct viewing platforms, signs, parking areas, trails, and designated camping areas.

Possible Alternatives

As required by the NEPA, the Forest Service will also analyze the effects of ''No Action,'' which includes not implementing the repairs to the Crooked Creek Reservoir and Safeels Ditch and associated opportunities. The development of any other alternatives will be completed following public response to scoping and published in the draft EIS.

Responsible Official

The responsible official for this project is the Aspen-Sopris District Ranger located at 620 Main Street, Carbondale, CO 81623.

Nature of Decision To Be Made

Given the purpose and need, the responsible official will review the proposed action and any alternatives developed in order to answer the following questions:

- Should the Forest Service repair the CCR spillways and toe-drain pipe? If so, when?
- Should the Forest Service repair SD? If so, when?
- How should the Forest Service use the one (1) cfs of water from the SD?
- Should the Forest Service raise the water level of CCR? If so, how much?
- Should the Forest Service implement any of the opportunities associated with repairs to CCR? If so, which opportunities and when?

• What mitigation, if any, is necessary?

Scoping Process

Scoping is an ongoing activity throughout the planning process. An important part of scoping is identification of public concerns and/or unresolved issues. A copy of this Notice of Intent will be mailed to people and organizations on the White River National Forest's mailing list that have indicated a specific interest in the area around Crooked Creek Reservoir. The public will be notified of any meetings regarding this proposal by mailings and or press releases sent to applicable newspapers and other media. At this time there are not any meetings planned for this proposed action.

Preliminary Issues

The following issues related to the proposed action have been identified:

• Raising the water level may increase the dam hazard rating. While repairing the dam may reduce the probability of a failure, the downstream impact of a failure may increase. A dam failure could impact NFSR 400, NFSR 105 and a residence located at the confluence of Lime Creek and the Frying Pan River.

• Raising the water level of the reservoir may impact historical and cultural resources and wetlands in the geographic area.

Permits or Licenses Required

The Forest Service will need to obtain a 404 Permit. Section 404 of the Clean Water Act requires approval by the Army Corps of Engineers prior to the construction of dams and weirs, riprap placement and road fills in order to protect the nation's waterways.

Comment Requested

This notice of intent initiates the scoping process under NIEPA, which guides the development of the EIS. Comments concerning the scope of this project should be received on or before May 30, 2008. The forest's desire is to receive comments on the merits of the Proposed Action, as well as comments that address errors, misinformation, or information that has been omitted. Comments should have a direct relationship to the proposal and include supporting reasons for the Responsible Official's consideration.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21.

Dated: April 18, 2008.

Irene L. Davidson,

District Ranger.

[FR Doc. E8–9581 Filed 5–1–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Site Access and Coordination for Preliminary Assessments and Site Inspections Conducted by the United States Army Corps of Engineers on Formerly Used Defense Sites

AGENCY: Forest Service, USDA.

ACTION: Notice of issuance of agency interim directive.

SUMMARY: The Forest Service is issuing an interim directive (ID) to provide direction to Forest Service employees regarding site access and coordination for nonsurface-disturbing preliminary assessments and site inspections conducted by the United States Army Corps of Engineers and its contractors on formerly used defense sites (FUDS) on National Forest System (NFS) lands. This ID applies only to site access and coordination procedures and not to any subsequent response activities on NFS lands, which are subject to authorization in accordance with 36 CFR Part 251, Subpart B. This interim directive is issued as ID 2709.11–2008–1 to Forest Service Handbook 2709.11, chapter 40.

DATES: This interim directive is effective May 2, 2008.

ADDRESSES: This interim directive (id_2709.11–2008–1) is available electronically from the Forest Service via the World Wide Web/Internet at *http://www.fs.fed.us/im/directives.* Single paper copies of the ID are also available by contacting Julett Denton, Lands Staff (Mail Stop 1124), Forest Service, 1400 Independence Avenue, SW., Washington, DC 20250–1124 (telephone 202–205–1256).

FOR FURTHER INFORMATION CONTACT: Julett Denton, Lands Staff (202–205–1256).

Dated: April 25, 2008.

James E. Hubbard,

Deputy Chief, State and Private Forestry.

[FR Doc. E8–9730 Filed 5–1–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Fee for Snow Peak Shelter; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Colville National Forest, USDA Forest Service.

ACTION: Notice of New Fee for Snow Peak Shelter.

SUMMARY: The Colville National Forest is planning to charge a $40.00 rental fee for overnight use of the Snow Peak Shelter. The Snow Peak Shelter has been a popular destination for day and overnight use within Colville National Forest and the public has indicated that they would like continued use of this structure. Funds from the rental will be used for the operation and maintenance of the Snow Peak Shelter.

DATES: The Snow Peak Shelter will be available for recreation rental in January 2009.

ADDRESSES: Rick Brazell, Forest Supervisor, Colville National Forest, 765 South Main Street, Colville, WA 99114.

For Additional Information, Please Contact: Carmen Nielsen, Outdoor Recreation Specialist, Three Rivers Ranger District, 255 West 11th, Kettle Falls, WA 99141, 509–738–7761.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VIII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six-month advance notice in the **Federal Register** whenever new recreation fees are established. A market analysis indicates that the $40.00 per night rental fee is reasonable and acceptable for this unique recreational experience. This new fee will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Rick Brazell,

Forest Supervisor.

[FR Doc. E8–9582 Filed 5–1–08; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Correction of Notice of Additions & Deletion

This Committee is making a correction to a service location and effective date.

In the notice appearing on page 15129, FR Doc. E8–5767, Procurement List Additions & Deletions, on March 21, 2008, the Committee published a requirement for Mail Support Services at the following location: Bureau of Public Debt, 200 Third Street, Parkersburg, WV. The stated address is that of the buying office. The Procurement List is hereby corrected to show the requirement for Mail Support Services is for the Inter-American Foundation, located at 901 N. Stuart Street, Arlington, VA 22203.

The initial effective date of April 20, 2008 has been extended to June 1, 2008.

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E8–9685 Filed 5–1–08; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a product and a service previously furnished by such agencies.

EFFECTIVE DATE: June 1, 2008.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On February 28 and March 7, 2008, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (73 FR 11092; 12367) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

Mop, Flat, Microfiber
NSN: 7920–00–NIB–0470—3M SKILCRAFT Easy Scrub Flat Mop Tool with 16″ pad holder.
NSN: 7920–00–NIB–0471—3M SKILCRAFT Easy Scrub Flat Mop 18″ pads, White.
NSN: 7920–00–NIB–0472—3M SKILCRAFT Easy Scrub Flat Mop 18″ pads, Blue.
NSN: 7920–00–NIB–0473—3M SKILCRAFT Easy Scrub Flat Mop 18″ pads, Red.
NSN: 7920–00–NIB–0474—3M SKILCRAFT Easy Scrub Flat Mop 18″ pads, Green.
NSN: 7920–00–NIB–0475—3M SKILCRAFT Easy Scrub Starter Kit.
NSN: 7920–00–NIB–0476—SKILCRAFT 18″ Blue Wet Mop.
NSN: 7920–00–NIB–0477—SKILCRAFT 24″ Blue Wet Mop.
NSN: 7920–00–NIB–0478—SKILCRAFT 18″ Yellow Dust Mop.
NSN: 7920–00–NIB–0479—SKILCRAFT 24″ Yellow Dust Mop.
NSN: 7920–00–NIB–0480—SKILCRAFT Flat Mop Handle with Frame 18″.
NSN: 7920–00–NIB–0481—SKILCRAFT Flat Mop Handle with Frame 24″.
NPA: New York City Industries for the Blind, Inc., Brooklyn, NY.
Coverage: C-List for the requirement of the Department of Veterans Affairs, Hines, IL.
Contracting Activity: Department of Veterans Affairs, National Contracts Division, Hines, IL.

Pushpins, Assorted Colors
NSN: 7510–01–207–3978.
NPA: Delaware County Chapter, NYSARC, Inc., Walton, NY.
Coverage: A-List for the total Government requirement as specified by the General Services Administration.
Contracting Activity: General Services Administration, Office Supplies & Paper Products Acquisition Ctr, New York, NY.

Peel & Stick, Non-Skid Kits
NSN: 2040–00–NIB–0333—Traction Material, 25 ft RBS USCG Boat Kit–770.
NSN: 2040–00–NIB–0336—Traction Material, 41 ft MLB USCG Boat Kit–770.

NSN: 2040–00–NIB–0339—Traction Material, 45 ft RBM USCG Boat Kit–770, 370, 310.
NSN: 2040–00–NIB–0342—Traction Material, 47 ft MLB USCG Boat Kit–770.
NSN: 2040–00–NIB–0345—Traction Material, 55 ft ANB USCG Boat Kit–770.
NSN: 2040–00–NIB–0348—Traction Material, 75 ft USCG Boat Kit–770.
NSN: 2040–00–NIB–0351—Traction Material, 87 ft WBP USCG Boat Kit–770.
NSN: 2040–00–NIB–0356—Traction Material, 110 ft USCG Boat Kit–770 (280).
NSN: 2040–00–NIB–0357—Traction Material, 110 ft USCG Boat Kit–770 (264).
NSN: 2040–00–NIB–0359—Traction Material, 27 ft UTM USCG Boat Kit–770.
NSN: 2040–00–NIB–0360—Traction Material, 23 ft UTM USCG Boat Kit–770.
NSN: 2040–00–NIB–0361—Traction Material, CBLII Boat Kit–770.
NSN: 2040–00–NIB–0362—Traction Material, 25 ft RB–HS USCG Boat Kit–770.
NSN: 2040–00–NIB–0363—Traction Material, 33 ft SPCLE USCG Boat Kit–770.
NSN: 2040–00–NIB–0364—Traction Material, 123 ft USCG Boat Kit–770.
NSN: 2040–00–NIB–0365—Traction Material, 225 ft USCG Boat Kit–770.
NPA: Louisiana Association for the Blind, Shreveport, LA.
Coverage: C-List for the requirements of the U.S. Coast Guard.
Contracting Activity: U.S. Coast Guard, Lockport, LA.

Services

Service Type/Location: Custodial Services, U.S. Department of Agriculture, Forest Service—District Office, 4000 I–75 Business Spur, Sault Sainte Marie, MI.
NPA: Northern Transitions, Inc., Sault Ste. Marie, MI.
Contracting Activity: Hiawatha National Forest, Escanaba, MI.
Service Type/Location: Document Destruction, Internal Revenue Service, 11 South 12th Street, 400 North 8th Street, 600 Main Street, Richmond, VA.
NPA: Goodwill Services, Inc., Richmond, VA.
Service Type/Location: Document Destruction, Internal Revenue Service, 204 S. Walnut St., Florence, AL.
Service Type/Location: Document Destruction, Internal Revenue Service, 2204 Lakeshore Drive, Suite 210, Birmingham, AL.
Service Type/Location: Document Destruction, Internal Revenue Service, 806 Governors Drive, SW., Huntsville, AL.
NPA: United Cerebral Palsy of Greater Birmingham, Inc., Birmingham, AL.
Service Type/Location: Document Destruction, Internal Revenue Service, 2203 N. Lois Avenue, 3848 W. Columbus Drive, Tampa, FL.
Service Type/Location: Document Destruction, Internal Revenue Service, 9450 Koger Boulevard, St. Petersburg, FL.
NPA: Louise Graham Regeneration Center, Inc., St. Petersburg, FL.
Contracting Activity: U.S. Department of the Treasury, Internal Revenue Service, Chamblee, GA.
Service Type/Location: Grounds Maintenance, Naval Submarine Base, New London, Basewide, Groton, CT.
NPA: CW Resources, Inc., New Britain, CT.
Contracting Activity: Naval Facilities Engineering Command, Mid-Atlantic, Groton, CT.

Deletions

On March 7, 2008, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (73 FR 12368) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action should not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and service deleted from the Procurement List.

End of Certification

Accordingly, the following product and service are deleted from the Procurement List:

Product

Paperweight, Shotfilled
NSN: 7510–00–286–6985.
NPA: New Mexico Industries for the Blind, Albuquerque, NM.
Contracting Activity: General Services Administration, Office Supplies & Paper Products Acquisition Ctr, New York, NY.

Service

Service Type/Location: Janitorial/Custodial, Abingdon Memorial USARC, Abingdon, VA.
NPA: Highlands Community Services Board, Bristol, VA.
Contracting Activity: 99th USAR Regional Support Command, Coraopolis, PA.

Kimberly M. Zeich,
Director, Program Operations.

[FR Doc. E8–9684 Filed 5–1–08; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to the Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received On or Before: June 1, 2008.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

For Further Information or to Submit Comments Contact: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish

the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Custodial Services, U.S. Army Reserve Center, 400 Wyoming Blvd., NE., Albuquerque, NM.
NPA: Adelante Development Center, Inc., Albuquerque, NM.
Contracting Activity: 90th Regional Readiness Command, North Little Rock, AR.
Service Type/Location: Laundry Refurbishment Services, Billings Fire Cache, 551 Northview Drive, Billings, MT.
NPA: Community Option Resource Enterprises, Inc., Billings, MT.
Contracting Activity: U.S. Department of the Interior, Bureau of Land Management, Montana State Office, Billings, MT.

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E8–9683 Filed 5–1–08; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 25–2008]

Foreign–Trade Zone 76 Bridgeport, CT, Request for Manufacturing Authority, Derecktor Shipyards Conn, LLC (Cruise Ships, Ferries, and Yachts)

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Bridgeport Port Authority, grantee of FTZ 76, pursuant to Section 400.28(a)(2) of the Board's regulations (15 CFR Part 400), requesting authority on behalf of Derecktor Shipyards Conn, LLC (DSC), to construct and repair passenger vessels under FTZ procedures within FTZ 76. It was formally filed on April 23, 2008.

The DSC shipyard (250 employees, 23 acres, capacity: up to 3 vessels/year) is located at 837 Seaview Avenue within the Bridgeport Regional Maritime Complex (FTZ Site 4 - Parcel B). Under FTZ procedures, DSC would construct and repair cruise ships, excursion boats, ferries, luxury motor and sail yachts, and motorboats (HTSUS 8901.10, 8903.91, 8903.92) for domestic and international customers. Foreign components that would be used at the shipyard (up to 40% of finished vessel value) include: propellers and shafts, steering systems, lighting equipment, anchors, rigging equipment, mooring lines (will be admitted in domestic (duty paid) status), cleats, ovens and ranges, interior fittings and furnishings, decorative film/applications, masts and spars, seats, elastomeric polyurethanes, insulation, cranes, winches, pulleys, swim platforms, stairs, bilge pumps, aluminum tiles/planks/extrusions/sheets, engines, propulsion systems, stern drives, flange couplings, clutches, shafts, anti–fouling systems, marine doors and windows, command levers, hull isolation mounts, cutlery, bed linens (will be admitted in domestic (duty–paid) status), and valves (thermostatic, hydraulic) (duty rate range: free 6.5%, 2.2¢/kg+5%). The request indicates that DSC will not admit any foreign–origin steel mill products to the zone for use in FTZ manufacturing activity.

FTZ procedures would exempt DSC from customs duty payments on the foreign components (except steel mill products) used in export activity. On its domestic sales, the company could be able to choose the duty rate that applies to finished oceangoing vessels (duty free, 1.5%) for the foreign–origin components noted above. Duties could possibly be deferred or reduced on foreign status production equipment admitted by DSC to the zone. The manufacturing and repair activity conducted under FTZ procedures would be subject to the ''standard shipyard restriction'' applicable to foreign–origin steel mill products (e.g., angles, pipe, plate), which requires that all applicable customs duties be paid on such items. The application indicates that the savings from FTZ procedures would help improve the facility's international competitiveness.

In accordance with the Board's regulations, Pierre Duy of the FTZ Staff is designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the following address: Office of the Executive Secretary, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230–0002. The closing period for receipt of comments is July 1, 2008. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 16, 2008.

A copy of the application will be available for public inspection at the Office of the Foreign–Trade Zones Board's Executive Secretary at the address listed above. For further information, contact Pierre Duy at: pierre__duy@ita.doc.gov, or (202) 482–1378.

Dated: April 24, 2008.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E8–9716 Filed 5–1–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–843]

Certain Lined Paper Products from India: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Cindy Robinson, 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) 482–3797.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 2007, the U.S. Department of Commerce (''Department'') published a notice of initiation of the administrative review of the antidumping duty order on certain lined paper products from India, covering the period April 17, 2006 to August 31, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative*, 72 FR 61621 (October 31, 2007). The preliminary results of this review are currently due no later than June 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 that the Department make a preliminary determination within 245 days after the last day of the anniversary month of an order 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 to up to 365 days.

We determine that completion of the preliminary results of this review within the 245-day period is not practicable for the following reasons. One respondent has complex affiliation issues which require the Department to gather and analyze a significant amount of information associated with affiliation and the companies' sales practices and manufacturing costs. In addition, domestic interested parties have raised other issues which require the collection of additional information. Given the number and complexity of issues in this case and the Department's resource constraints, and in accordance with section 751(a)(3)(A) of the Act, we are fully extending the time period for issuing the preliminary results of review. Therefore, the preliminary results are now due no later than September 29, 2008. The final results continue to be due 120 days after publication of the preliminary results.

This notice is published pursuant to sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: April 24, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–9722 Filed 5–1–08; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–816]

Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Cindy Robinson, 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) 482–3797.

SUPPLEMENTARY INFORMATION:

Background

On September 25, 2007, the U.S. Department of Commerce (''Department'') published a notice of initiation of the administrative review of the antidumping duty order on corrosion–resistant carbon steel flat products from the Republic of Korea, covering the period August 1, 2006 to July 31, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 72 FR 54428 (September 25, 2007). The preliminary results of this review are currently due no later than May 2, 2008.

Extension of Time Limit of Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires that the Department make a preliminary determination within 245 days after the last day of the anniversary month of an order 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 to up to 365 days.

We determine that completion of the preliminary results of this review within the 245-day period is not practicable for the following reasons. This review covers four companies and one of the companies has requested revocation of the antidumping duty order in part, which requires the Department to gather and analyze a significant amount of information pertaining to the company's sales practices, manufacturing costs and corporate relationships. For the company which has requested partial revocation, the Department needs to conduct further analyses on, among other issues, commercial quantity and whether the evidence supports its claim of absence of dumping. Given the number and complexity of issues in this case, and in accordance with section 751(a)(3)(A) of the Act, we are fully extending the time period for issuing the preliminary results of review. Therefore, the preliminary results are now due no later than September 2, 2008, the next business day after 365 days after the last day of the anniversary month of the order. The final results continue to be due 120 days after publication of the preliminary results.

This notice is published pursuant to sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: April 24, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–9725 Filed 5–1–08; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–812]

Honey from Argentina: Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part

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

SUMMARY: On December 28, 2007, the Department of Commerce (the Department) published its preliminary results of the administrative review of the antidumping duty order on honey from Argentina. *See Honey from Argentina: Preliminary Results of Antidumping Duty Administrative Review and Intent Not to Revoke in Part*, 72 FR 73758 (December 28, 2007) (*Preliminary Results*). This administrative review covers five firms, two of which were selected as mandatory respondents, Asociacion de Cooperativas Argentinas (ACA) and Seylinco, S.A. (Seylinco). Based on our analysis of comments received, the margins for the final results do not differ from the preliminary results. *See Preliminary Results*.

EFFECTIVE DATE: May 2, 2008.

FOR FURTHER INFORMATION CONTACT: Maryanne Burke for Seylinco, Deborah Scott for ACA or Robert James, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5604, (202) 482–2657 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 28, 2007, the Department published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on honey from Argentina for the period December 1, 2005 to November 30, 2006. *See Preliminary Results*. In response to the Department's invitation to comment on the *Preliminary Results*, the American Honey Producers Association and the Sioux Honey Association (collectively, petitioners) and respondents ACA and Seylinco filed their case briefs on January 28, 2008. Petitioners and ACA submitted their rebuttal briefs on February 4, 2008.

Period of Review

The period of review (POR) is December 1, 2005, to November 30, 2006.

Scope of the Order

The merchandise covered by the order is honey from Argentina. The products covered are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form. The merchandise is currently classifiable under subheadings 0409.00.00, 1702.90.90, and 2106.90.99 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under this order is dispositive.

Determination Not to Revoke in Part

As discussed in the *Preliminary Results*, 72 FR at 73760, Seylinco requested that the Department revoke the order in regard to Seylinco pursuant to 19 CFR 351.222 based on three consecutive zero margins. We preliminarily determined not to revoke the order with respect to Seylinco because it did not ship in commercial quantities during each of the three years forming the basis of its request. *See id.* For these final results, the Department has relied upon Seylinco's sales activity during the 2003–2004, 2004–2005, and 2005–2006 PORs in making its decision with respect to Seylinco's revocation request. Although Seylinco had three consecutive years of sales at not less than normal value (NV), Seylinco did not sell subject merchandise in commercial quantities in each of these three years forming the basis of the request for revocation. Thus, Seylinco is not eligible for revocation pursuant to 19 CFR 351.222(d)(1). Accordingly, we have determined not to revoke the antidumping duty order with respect to Seylinco. *See* Comment 5 of the Issues and Decision Memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration (Issues and Decision Memorandum) accompanying this notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum. A list of issues addressed in the Issues and Decision Memorandum is appended to this notice. The Issues and Decision Memorandum is on file in the CRU and can be accessed directly on the web at http://www.ita.doc.gov/.

Changes Since the Preliminary Results

Based on our analysis of comments received we have made two changes to the margin calculation for ACA. First, we converted the average cost of production calculated for ACA's beekeepers from a per–kilogram to a per–metric ton basis. Second, we added ACA's reported homogenization costs to the average cost of production. These changes in the calculation did not result in a change in the final margin. We made no changes to the margin calculation for Seylinco.

Final Results of Review

We determine that the following dumping margins exist for the period December 1, 2005 through November 30, 2006.

Manufacturer / Exporter	Weighted Average Margin (percentage)
ACA	0.00
Seylinco	0.00
Patagonik S.A.	0.00
El Mana, S.A.	0.00
Naiman S.A	0.00

Assessment

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated duty assessment rates which will be applied uniformly on all ACA, Seylinco, Patagonik S.A., El Mana S.A. and Naiman S.A. entries made during the POR. The Department intends to issue assessment instructions directly to CBP 15 days after the date of publication of these final results of review. We will direct CBP to liquidate without regard to antidumping duties.

The Department clarified its automatic assessment regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, consistent with section 751(a)(1) of the Tariff Act of 1930, as amended (the Tariff Act): (1) cash deposit rate for ACA, Seylinco, Patagonik S.A., El Mana S.A. and Naiman S.A. will be zero; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less than fair value (LTFV) investigation, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will continue to be 30.24 percent, which is the all–others rate established in the LTFV investigation. *See Notice of Antidumping Duty Order; Honey From Argentina*, 66 FR 63672 (December 10, 2001). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO

materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation, which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: April 28, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix - List of Comments in the Issues and Decision Memorandum

ACA

Comment 1. Reclassification of ACA's Reported Testing and Homogenization Expenses

Comment 2. Date of Sale and Selection of the United Kingdom as the Third–Country Market

Comment 3. Whether Sales to the United Kingdom Are Representative

Comment 4. Issues Related to the Cost of Production

Seylinco

Comment 5. Revocation

[FR Doc. E8–9729 Filed 5–1–08; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five–year (''Sunset'') Review

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating a five–year review (''Sunset Review'') of the antidumping duty order listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of Institution of Five–year Review which covers the same order.

EFFECTIVE DATE: May 2, 2008.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the Initiation of Review section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Ave., NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its Procedures for Conducting Five–year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3 – Policies Regarding the Conduct of Five–year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty order:

DOC Case No.	ITC Case No.	Country	Product	Department Contact
A–570–877	731–TA–1010	PRC	Lawn and Garden Steel Fence Posts	Andrea Berton (202) 482–4037

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's sunset Internet Web site at the following address: ''http://ia.ita.doc.gov/sunset/.'' All submissions in this Sunset Review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for this proceeding. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required from Interested Parties

Domestic interested parties (defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in this Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. *See* 19 CFR 351.218(d)(1)(iii).

If we receive an order–specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order–specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's

conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: April 25, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–9710 Filed 5–1–08; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

International Trade Administration

Exporters' Textile Advisory Committee; Notice of Meeting Postponement

The meeting of the Exporters' Textile Advisory Committee, scheduled for May 8, 2008 in Los Angeles California, has been postponed until further notice

For further information contact Larry Brill at (202) 482-1856.

Dated: April 28, 2008.

R. Matthew Priest,

Chairman, Committee for Implementation of Textile Agreements.

[FR Doc. E8–9723 Filed 5–1–08; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH14

Incidental Takes of Marine Mammals During Specified Activities; Marine Geophysical Surveys in the Eastern Tropical Pacific Ocean in 2008

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental take authorization.

SUMMARY: In accordance with regulations implementing the Marine Mammal Protection Act (MMPA), notification is hereby given that an Incidental Harassment Authorization to take marine mammals, by Level-B harassment, incidental to conducting two marine geophysical surveys by the Lamont-Doherty Earth Observatory (L-DEO) in the Eastern Tropical Pacific Ocean (ETP), has been issued for a period of one year.

DATES: The authorization is effective from April 24, 2008, until April 23, 2009.

ADDRESSES: Copies of the application, IHA, the Environmental Assessment of Two Marine Geophysical Surveys by the *R/V Marcus G. Langseth* in the Eastern Tropical Pacific, 2008, prepared for the L-DEO and the National Science Foundation (NSF) by the LGL Ltd., and/or a list of references used in this document may be obtained by writing to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning one of the contacts listed here (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 713–2289, ext 137.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorization for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

L-DEO submitted to NMFS an application from L-DEO for the taking, by Level B harassment, of several species of marine mammals incidental to conducting, with research funding from the NSF, two marine seismic surveys in the ETP. This project would be conducted with L-DEO's new seismic vessel, the *R/V Marcus G. Langseth* (*Langseth*), which would deploy different configurations of airguns and a different bottom-mapping sonar than used previously by L-DEO. The first survey was planned to be approximately 39 days between September and October 2007, and the second one approximately 6 days in between November and December 2007. However, due to scheduling issues with the vessel, the 39–day survey is rescheduled to June and August 2008, and the 6–day survey to April and May 2008.

Description of the Specified Activity

The April-May 6–day survey would examine two important types of seismic behavior of the Quebrada, Discovery, and Gofar fault systems (QDG) to understand better the behavior of earthquakes and faults in general.

The June-August 39–day survey would obtain seismic reflection imaging of the internal structure of the magmatic-hydrothermal system at the fast-spreading mid-ocean ridge of the East Pacific Rise (EPR).

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

The seismic surveys will involve one vessel. The source vessel *Langseth* would deploy a 36–airgun array as an energy source. However, for the EPR study, two identical two-string sources will be firing alternately, so that no more than 18 airguns will be firing at any time, with a maximum discharge volume of 3,300 in^3. The *Langseth* would also tow the receiving system, which consists of four 6–km (3.73–mi) hydrophone streamers. For the QDG study, no more than 27 airguns would be fired at any time, with a maximum discharge volume of 4,950 in^3. The *Langseth* would also tow the receiving system, a single 8–km (4.97–mi) streamer, and would also deploy 40 long-term Ocean Bottom Seismometers (OBSs) that would be recovered 1 year after deployment, and another 8–10 short-term OBSs on each line that will be retrieved after the seismic surveys are completed.

The EPR and QDG programs would consist of a maximum of approximately 7,992 km (4,967 mi) and 654 km (406 mi) of surveys, respectively.

The QDG seismic survey would also occur in international waters of the ETP, approximately 2,265 km (1,408 mi) off the coast of Ecuador and approximately 1,300 km (808 mi) west of the Galapagos Islands. The overall area within which the seismic survey would occur is located between 3° and 5° S, and between 103° and 106° W. Water depths in the survey area are more than 3,000 m (9,843 ft) deep. The EPR seismic survey would take place in international waters of the ETP, offshore from Mexico and Central America at the East Pacific Rise. The closest land mass to this survey is Mexico, located approximately 890 km (553 mi) away. The overall area within which the seismic survey will occur is located between 8.3° and 10.2° N, and between 104.1° and 104.5° W. The survey would take place in water more than 2,000 m (6,562 ft) deep.

In addition to the operations of the airgun array, a multi-beam bathymetric sonar would be operated from the source vessel continuously throughout the entire cruise, and a lower-energy sub-bottom profiler will also be operated during most of the survey.

Detailed descriptions of these activities were published in the **Federal Register** on March 5, 2008 (72 FR 11876). No changes have been made to these proposed marine geophysical surveys.

The *Langseth* would also serve as the platform from which vessel-based visual marine mammal observers will watch for marine mammals before and during airgun operations. The characteristics of the *Ewing* that make it suitable for visual monitoring are described under Monitoring, later in this document.

Acoustic Source Specifications

Airguns

The airgun array to be used will consist of 36 airguns, with maximum total discharge volume of approximately 6,600 in^3. The airguns will comprise a mixture of Bolt 1500LL and Bolt 1900LLX airguns. The array will consist of four identical linear arrays or ''strings.'' Each string would have ten airguns; the first and last airguns in the strings are spaced 16 m (52.5 ft) apart. Nine airguns would be fired simultaneously, while the tenth is kept in reserve as a spare, to be turned on in case of failure of another airgun. Two of the four strings would be fired during the EPR survey (18 airguns), and three strings would be fired during the QDG survey (27 airguns). The airgun strings would be distributed across an approximate area of 24 x 16 m (78.7 x 52.5 ft) behind the *Langseth* and would be towed approximately 50 - 100 m (164 - 328 ft) behind the vessel. The firing pressure of the array is 2,000 psi. During firing, a brief (~0.1 s) pulse of sound is emitted. During the EPR survey, the shots would be emitted at intervals of ~15 s, corresponding to a shot interval of ~37.5 m (~123 ft). During the QDG survey, the shots would be emitted at intervals of ~60 s, corresponding to a shot interval of ~150 m (492 ft). The airguns would be towed at a depth of 7 m (23 ft) during both the QDG and the EPR surveys. The depth at which the source is towed affects the maximum near-field output and the shape of its frequency spectrum. In deeper water, the effective source level for sound propagating in near-horizontal directions is higher than in shallow water; however, the nominal source levels of the array at various tow depths are nearly identical.

Because the actual source is a distributed sound source (up to 27 airguns in these surveys) rather than a single point source, the highest sound levels measurable at any location in the water would be less than the nominal source level. In addition, the effective source level for sound propagating in near-horizontal directions would be substantially lower than the nominal source level applicable to downward propagation because of the directional nature of the sound from the airgun array.

The specifications of each source planned for use are described in Table 1.

	18-Airgun Array (2 Strings)	27-Airgun Array (3 Strings)
Energy Source	18, 2,000 psi Bolt airguns of 40-360 in^3	27, 2,000 psi Bolt airguns of 40-360 in^3
Source output (downward)	0-pk: 252 dB re 1 microPa-m;pk-pk: 259 dB re 1 microPa-m	0-pk: 256 dB re 1 microPa-m;pk-pk: 262 dB re 1 microPa-m
Air discharge volume	Approximately 3,300 in^3	Approximately 4,950 in^3
Towing depth of energy source	7 m (23 ft)	7 m (23 ft)
Dominant frequency components	0 - 188 Hz	0 - 188 Hz

Table 1. L-DEO airgun configuration and specification of each source planned for use in the proposed projects.

A detailed discussion of the characteristics of airgun pulses has been provided in L-DEO's application, and in previous **Federal Register** notices (see 69 FR 31792 (June 7, 2004) or 69 FR 34996 (June 23, 2004)). Reviewers are referred to those documents for additional information.

Received sound levels have been predicted by L-DEO in relation to distance and direction from the airguns for the 36–airgun array with 18 and 27 airguns firing and for a single 1900LL 40–in^3 airgun, which would be used during power downs.

The predicted sound contours are shown as sound exposure levels (SEL) in decibels (dB) re 1 $microPa^2$-s. SEL is a measure of the received energy in the pulse and represents the sound pressure level (SPL) that would be measured if the pulse energy were spread evenly across a 1–s period. Because actual

seismic pulses are less than 1 s in duration, this means that the SEL value for a given pulse is lower than the SPL calculated for the actual duration of the pulse. The advantage of working with SEL is that the SEL measure accounts for the total received energy in the pulse, and biological effects of pulsed sounds probably depend mainly on pulse energy. SPL for a given pulse depends greatly on pulse duration. A pulse with a given SEL can be long or short depending on the extent to which propagation effects have ''stretched'' the pulse duration. The SPL will be low if the duration is long and higher if the duration is short, even though the pulse energy (and presumably the biological effects) is the same.

Although SEL may be a better measure than SPL when dealing with biological effects of pulsed sound, SPL is the measure that has been most commonly used in studies of marine mammal reactions to airgun sounds and in NMFS practice concerning levels above which ''taking'' might occur. SPL is often referred to as rms or ''root mean square'' pressure, averaged over the pulse duration. As noted above, the rms received levels that are used as impact criteria for marine mammals are not directly comparable to pulse energy (SEL). The SPL (i.e., rms sound pressure) for a given pulse is typically 10 - 15 dB higher than the SEL value for the same pulse as measured at the same location (Greene *et al.*, 1997; McCauley *et al.*, 1998; 2000). For this project, L-DEO assumes that rms pressure levels of received seismic pulses would be 10 dB higher than the SEL values predicted by L-DEO's model. Thus, the L-DEO assumes that 170 dB SEL can be viewed as 180 dB rms. NMFS considers that this assumption is valid.

It should be noted that neither the SEL nor the SPL (rms) measure is directly comparable to the peak or peak-to-peak pressure levels normally used by geophysicists to characterize source levels of airguns. Peak and peak-to-peak pressure levels for airgun pulses are always higher than the rms dB referred to in much of the biological literature (Greene *et al.*, 1997; McCauley *et al.*, 1998; 2000). For example, a measured received level of 160 dB rms in the far field would typically correspond to a peak measurement of 170 - 172 dB re 1 microPa, and to a peak-to-peak measurement of 176 - 178 dB, as measured for the same pulse received at the same location (Greene *et al.*, 1997; McCauley *et al.*, 1998; 2000). The precise difference between rms and peak or peak-to-peak values for a given pulse depends on the frequency content and duration of the pulse, among other factors. However, the rms level is always lower than the peak or peak-to-peak level, and higher than the SEL value, for an airgun-type source.

Empirical data concerning 190, 180, 170, and 160 dB (rms) isopleths in deep and shallow water were acquired for various airgun configurations during the acoustic calibration study of the *Ewing*'s 20–airgun, 8,600–in^3 array in 2003 (Tolstoy *et al.*, 2004a; 2004b). The results showed that radii around the airguns where the received level was 180 dB re 1 microPa (rms), the onset point for estimating temporary hearing threshold shift (TTS) in cetaceans (NMFS, 2000), varied with water depth. Similar depth-related variation is likely for 190–dB, the onset point used for estimating TTS in pinnipeds, although these were not measured. The empirical data indicated that, for deep water (>1,000 m, or 3,280 ft), the L-DEO model overestimates the received sound levels at a given distance (Tolstoy *et al.*, 2004a; 2004b). However, to be conservative, the *Ewing*'s modeled distances would be applied to deep-water areas during the proposed study. As very few, if any, mammals are expected to occur below 2,000 m (6,562 ft), this depth was used as the maximum relevant depth.

For the proposed programs in the ETP, the modeled distances are used to estimate deep-water mitigation safety zones; no correction factors are necessary because all activities will take place in deep (>2,000 m, or 6,562 ft) water. The 180 and 190 dB re 1 microPa (rms) distances define the safety criteria, used for mitigation for cetaceans and pinnipeds, respectively.

The predicted distances to which sound levels higher than 190, 180, and 160 dB re 1 microPa (rms) could be received, based on the model calculation, are shown in Table 2.

		Predicted RMS Radii (m)		
Source and Volume	Min. Water Depth	190 dB	160 dB	180 dB
Single Bolt airgun (40 in^3)	3000 m	12	40	385
36-airgun array: 3 strings (4950 in^3)	3000 m	200	650	4400
36-airgun array: 2 strings (3300 in^3)	2000 m	140	450	3800

Table 2. Predicted distances to which sound levels higher than 190, 180, and 160 dB re 1 microPa (rms) could be received from the airgun array and single airgun planned for use during the surveys in the ETP.

Bathymetric Sonar and Sub-bottom Profiler

Along with the airgun operations, two additional acoustical data acquisition systems would be operated during parts of the *Langseth*'s cruises. The ocean floor would be mapped with the 12–kHz Kongsberg Simrad EM 120 MBB sonar, and a 2.5 - 7 kHz sub-bottom profiler would also be operated along with the MBB sonar. These sound sources would be operated from the *Langseth*, at times simultaneously with the airgun array.

The Kongsberg Simrad EM 120 operates at 11.25 - 12.6 kHz and would be mounted in a sonar pod hung below the hull of the *Langseth*. The beamwidth is 1o fore-aft and 150° athwartship. The maximum source level is 242 dB re 1 microPa at 1 m (rms). For deep-water operation, each ''ping'' consists of nine successive fan-shaped transmissions, each 15 ms in duration and each ensonifying a sector that extends 1° fore-aft. The nine successive transmissions span an overall cross-track angular extent of about 150°, with 16 ms gaps between the pulses for successive sectors. A receiver in the overlap area between two sectors would receive two 15–ms pulses separated by a 16–ms gap. In shallower water, the pulse duration is reduced to 2 ms, and the number of transmit beams is also reduced. The ping interval varies with water depth, from ~5 s at 1,000 m (3,280 ft) to 20 s at 4,000 m (13,123 ft).

The sub-bottom profiler is normally operated to provide information about the sedimentary features and the bottom topography that is simultaneously being mapped by the MBB sonar. The energy from the sub-bottom profiler is directed

downward by a 3.5–kHz transducer in the hull of the *Langseth*. The output varies with water depth from 50 watts in shallow water to 800 watts in deep water. Pulse interval is 1 second but a common mode of operation is to broadcast five pulses at 1-s intervals followed by a 5-s pause.

Comments and Responses

A notice of receipt and request for public comment on the application and proposed authorization was published on March 5, 2008 (73 FR 11874). During the 30–day public comment period, NMFS received the following comments from the Marine Mammal Commission (Commission).

Comment 1: The Commission recommends to extend to one hour the monitoring period imposed prior to the initiation of seismic activities and resumption of airgun activities after a power-down.

Response: NMFS acknowledges that several species of deep-diving cetaceans are capable of remaining underwater for more than 30 minutes. However, for the following reasons, NMFS believes that 30 minutes is an adequate duration for the monitoring period prior to the start-up of airguns: (1) because the *Langseth* is required to ramp-up, the time of monitoring prior to start-up of any but the smallest array is effectively longer than 30 minutes (i.e., ramp-up will begin with the smallest gun in the array and airguns will be added in a sequence such that the source level of the array will increase in steps not exceeding approximately 6 dB per 5–min period over a total duration of 20–40 min); (2) L-DEO decides to conduct marine mammal monitoring during transient even though the airguns are not in operation, so that all safety redii will be under monitoring prior to the 30–min observation period anyway; and (3) the majority of the species that may be exposed do not stay underwater more than 30 minutes.

Comment 2: The Commission recommends that NMFS require marine mammal monitoring be made during all ramp-up procedures to gather data regarding the effectiveness of ramp-up as a mitigation tool.

Response: NMFS concurs with the Commission's recommendation that all ramp-up procedures will be visually monitored when visibility permits. For ramp-up during low-light hours, visual monitoring is ineffective, nonetheless, passive acoustic monitoring will be implemented during all ramp-up procedures.

Description of Marine Mammals in the Activity Area

A total of 34 cetacean species and 6 species of pinnipeds are known to or may occur in the ETP. Of the 34 cetacean species, 27 are likely to occur in the proposed survey area.

Five of those 27 cetacean species are listed under the U.S. Endangered Species Act (ESA) as endangered: sperm whale (*Physeter macrocephalus*), humpback whale (*Megaptera novaeangliae*), blue whale (*Balaenoptera musculus*), fin whale (*B. physalus*), and sei whale (*B. borealis*).

The other 22 species that are likely to occur in the proposed survey areas are: Minke whale (*B. acutorostrata*), Bryde's whale (*B. edeni*), Pygmy sperm whale (*Kogia breviceps*), Dwarf sperm whale (*K. simus*), Cuvier's beaked whale (*Ziphius cavirostris*), Longman's beaked whale (*Indopacetus pacificus*), Pygmy beaked whale (*Mesoplodon peruvianus*), Ginkgo-toothed beaked whale (*M. ginkgodens*), Blainville's beaked whale (*M. densirostris*), Rough-toothed dolphin (*Steno bredanensis*), Bottlenose dolphin (*Tursiops truncatus*), Pantropical spotted dolphin (*Stenella attenuata*), Spinner dolphin (*S. longirostris*), Striped dolphin (*S. coeruleoalba*), Fraser's dolphin (*Lagenodelphis hosei*), Short-beaked common dolphin (*Delphinus delphis*), Risso's dolphin (*Grampus griseus*), Melon-headed whale (*Peponocephala electra*), Pygmy killer whale (*Feresa attenuata*), False killer whale (*Pseudorca crassidens*), Killer whale (*Orcinus orca*), and Short-finned pilot whale (*Globicephala macrorhynchus*).

A detailed description of the biology, population estimates, and distribution and abundance of these species is provided in the L-DEO's IHA application and in the March 5, 2008 **Federal Register** notice (73 FR 11874). Therefore, it is not repeated here. Additional information regarding the stock assessment of these species are be found in NMFS Pacific Marine Mammal Stock Assessment Report (Carretta *et al.*, 2007), and can also be accessed via the following URL link: *http://www.nmfs.noaa.gov/pr/pdfs/sars/po2006.pdf*.

Summary of Potential Effects of Airgun Sounds on Marine Mammals

The effects of sounds from airguns might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, and at least in theory, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.*, 1995). These effects are discussed below, but also in further detail in Appendix B of L-DEO's application.

The potential effects of airguns discussed below are presented without consideration of the required mitigation measures described below. When these measures are taken into account, it is unlikely that this project would result in temporary, or especially, permanent hearing impairment or any non-auditory physical or physiological effects.

Tolerance

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kilometers. A summary of the characteristics of airgun pulses is provided in Appendix B of L-DEO's application. Studies have also shown that marine mammals at distances more than a few kilometers from operating seismic vessels often show no apparent response (tolerance) (Appendix B (e)). That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. Although various baleen whales, toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to airgun pulses under some conditions, at other times mammals of all three types have shown no overt reactions. In general, pinnipeds and small odontocetes seem to be more tolerant of exposure to airgun pulses than are baleen whales.

Masking

Masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds are expected to be limited, although there are very few specific data of relevance. Some whales are known to continue calling in the presence of seismic pulses. Their calls can be heard between the seismic pulses (e.g., Richardson *et al.*, 1986; McDonald *et al.*, 1995; Greene *et al.*, 1999; Nieukirk *et al.*, 2004). Although there has been one report that sperm whales ceased calling when exposed to pulses from a very distant seismic ship (Bowles *et al.*, 1994), a more recent study reports that sperm whales off northern Norway continued calling in the presence of seismic pulses (Madsen *et al.*, 2002). That has also been shown during recent work in the Gulf of Mexico (Tyack *et al.*, 2003; Smultea *et al.*, 2004). Masking effects of seismic pulses are expected to be negligible in the case of the smaller odontocete cetaceans, given the intermittent nature of seismic pulses. Dolphins and porpoises commonly are

heard calling while airguns are operating (e.g., Gordon *et al.*, 2004; Smultea *et al.*, 2004; Holst *et al.*, 2005a; 2005b). Also, the sounds important to small odontocetes are predominantly at much higher frequencies than are airgun sounds. Masking effects, in general, are discussed further in LDEO's application Appendix B (d).

Disturbance Reactions

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement.

Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors. If a marine mammal does react briefly to an underwater sound by slightly changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or the species as a whole. However, if a sound source displaces a marine mammal(s) from an important feeding or breeding area for a prolonged period, impacts on the animal(s) could be significant.

There are many uncertainties in predicting the quantity and types of impacts of noise on marine mammals. NMFS uses exposures to 180 and 190 dB re 1 microPa rms to estimate the number of animals that may be harassed by a particular sound source in a given area (and also uses those SPLs for use in the development of shutdown zones for mitigation). These estimates are based on behavioral observations during studies of several species. However, information is lacking for many species. Detailed studies have been done on humpback, gray, and bowhead whales, and on ringed seals. Less detailed data are available for some other species of baleen whales, sperm whales, and small toothed whales.

Hearing Impairment and Other Physical Effects

Temporary or permanent hearing impairment is a possibility when marine mammals are exposed to very strong sounds, but there has been no specific documentation of this for marine mammals exposed to sequences of airgun pulses. NMFS' incidental take authorizations generally protect against exposure to impulsive sounds greater than 180 and 190 dB re 1 microPa (rms), for cetaceans and pinnipeds, respectively (NMFS, 2000). Those criteria have been used in defining the safety (shut down) radii planned for the proposed seismic surveys.

Several aspects of the monitoring and mitigation measures required for this project are designed to detect marine mammals occurring near the airguns to avoid exposing them to sound pulses that might, at least in theory, cause hearing impairment (see Mitigation and Monitoring section below). In addition, many cetaceans are likely to show some avoidance of the area with high received levels of airgun sound. In those cases, the avoidance responses of the animals themselves will reduce or (most likely) avoid any possibility of hearing impairment.

Non-auditory physical effects may also occur in marine mammals exposed to strong underwater pulsed sound. Possible types of non-auditory physiological effects or injuries that theoretically might occur in mammals close to a strong sound source include stress, neurological effects, bubble formation, and other types of organ or tissue damage. It is possible that some marine mammal species (e.g., beaked whales) may be especially susceptible to injury and/or stranding when exposed to strong pulsed sounds. However, there is no definitive evidence that any of these effects occur even for marine mammals in close proximity to large arrays of airguns. It is unlikely that any effects of these types would occur during the proposed project given the brief duration of exposure of any given mammal, and the planned monitoring and mitigation measures (see below).

Strandings and Mortality

Marine mammals close to underwater detonations of high explosive can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten *et al.*, 1993; Ketten, 1995). Airgun pulses are less energetic and have slower rise times, and there is no proof that they can cause serious injury, death, or stranding even in the case of large airgun arrays. However, the association of mass strandings of beaked whales with naval exercises involving mid-frequency sonar and, in one case, an L-DEO seismic survey, has raised the possibility that beaked whales exposed to strong pulsed sounds may be especially susceptible to injury and/or behavioral reactions that can lead to stranding.

Seismic pulses and mid-frequency sonar pulses are quite different. Sounds produced by airgun arrays are broadband with most of the energy below 1 kHz. Typical military mid-frequency sonars operate at frequencies of 2–10 kHz, generally with a relatively narrow bandwidth at any one time. Thus, it is not appropriate to assume that there is a direct connection between the effects of military sonar and seismic surveys on marine mammals. However, evidence that sonar pulses can, in special circumstances, lead to physical damage and mortality (NOAA and USN, 2001; Jepson *et al.*, 2003; Fernandez *et al.*, 2005a), even if only indirectly, suggests that caution is warranted when dealing with exposure of marine mammals to any high-intensity pulsed sound.

In September, 2002, there was a stranding of two Cuvier's beaked whales in the Gulf of California, Mexico, when the L-DEO vessel Maurice *Ewing* was operating a 20 airgun, 8,490 in^3 airgun array in the general area. The link between the stranding and the seismic surveys was inconclusive and not based on any physical evidence (Hogarth, 2002; Yoder, 2002). Nonetheless, that together with the incidents involving beaked whale strandings near naval exercises suggests a need for caution in conducting seismic surveys in areas occupied by beaked whales. No injuries of beaked whales are anticipated during the proposed study, due to the required monitoring and mitigation measures.

Possible Effects of Multibeam Bathymetric (MBB) Sonar Signals

The Kongsberg Simrad EM 120 12–kHz sonar will be operated from the source vessel at some times during the planned study. As discussed above, sounds from the MBB sonar are very short pulses, occurring for 15 ms once every 5 - 20 s, depending on water depth. Most of the energy in the sound pulses emitted by this MBB sonar is at frequencies centered at 12 kHz. The beam is narrow (1°) in fore-aft extent and wide (150°) in the cross-track extent. Each ping consists of nine successive fan-shaped transmissions (segments) at different cross-track angles. Any given mammal at depth near the trackline would be in the main beam for only one or two of the nine segments. Also, marine mammals that encounter the Kongsberg Simrad EM 120 are unlikely to be subjected to repeated pulses because of the narrow fore-aft width of the beam and will receive only limited amounts of pulse energy because of the short pulses. Animals close to the ship (where the beam is narrowest) are especially unlikely to be ensonified for more than one 15 ms pulse (or two pulses if in the overlap area). Similarly, Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when an MBB sonar emits a pulse is small. The animal would have to pass the transducer at close range and be swimming at speeds similar to the vessel in order to be subjected to sound levels that could cause TTS.

Navy sonars that have been linked to avoidance reactions and stranding of cetaceans (1) generally have a longer pulse duration than the Kongsberg Simrad EM 120, and (2) are often directed close to horizontally vs. downward for the Kongsberg Simrad EM 120. The area of possible influence of the EM 120 is much smaller-a narrow band below the source vessel. The duration of exposure for a given marine mammal can be much longer for a Navy sonar. Possible effects of sonar on marine mammals are outlined below.

Possible Effects of Sub-bottom Profiler Signals

A sub-bottom profiler would be operated from the source vessel during the planned study. As discussed before, sounds from the sub-bottom profiler are very short pulses, occurring for 1, 2, or 4 ms once every second. Most of the energy in the sound pulses emitted by this sub-bottom profiler is at mid frequencies, centered at 3.5 kHz. The beam width is approximately 30° and is directed downward.

Sound levels have not been measured directly for the sub-bottom profiler used by the *Langseth*, but Burgess and Lawson (2000) measured sounds propagating more or less horizontally from a similar unit with similar source output (205 dB re 1 microPa at 1 m). The 160 and 180 dB re 1 microPa (rms) radii, in the horizontal direction, were estimated to be, respectively, near 20 m (65.6 ft) and 8 m (26.2 ft) from the source, as measured in 13 m (42.7 ft) water depth. The corresponding distances for an animal in the beam below the transducer would be greater, on the order of 180 m (591 ft) and 18 m (59 ft), respectively, assuming spherical spreading.

The sub-bottom profiler on the *Langseth* has a stated maximum source level of 204 dB re 1 microPa at 1 m. Thus, the received level would be expected to decrease to 160 and 180 dB about 160 m (525 ft) and 16 m (53 ft) below the transducer, respectively, again assuming spherical spreading. Corresponding distances in the horizontal plane would be lower, given the directionality of this source (30° beam width) and the measurements of Burgess and Lawson (2000).

Numbers of Marine Mammals Estimated to be Taken

All anticipated takes would be takes by Level B harassment, involving temporary changes in behavior. The required mitigation measures will prevent the possibility of injurious takes. The basis for the take estimates from the airgun array is described in this section.

The anticipated radii of influence of the MBB sonar are less than those for the airgun array. It is assumed that, during simultaneous operations of the airgun array and sonar, any marine mammals close enough to be affected by the sonar would already be affected by the airguns. However, whether or not the airguns are operating simultaneously with the sonar, marine mammals are not expected to be ''taken'' by the sonar given its characteristics (e.g., narrow downward-directed beam) and other considerations described above. Therefore, no additional allowance is included for animals that might be affected by sound sources other than airguns.

Basis for Take Estimates

As discussed above, several extensive marine mammal surveys have been conducted in the ETP over numerous years. The most comprehensive data available for the regions encompassing the proposed survey areas are the Ferguson and Barlow (2001) data collected from late July to early December 1986–1996.

Because the proposed QDG survey is planned for April-May 2008, data collected by Ferguson and Barlow (2001) in July - December may not be as representative for the QDG survey. Again, however, it is the best available information. For some species, the densities derived from past surveys may not be representative of the densities that would be encountered during the actual proposed seismic studies. For example, the density of cetaceans sighted during L-DEO's 2003 Hess Deep survey was considerably lower (only one sighting) than the densities anticipated to occur there based on the Ferguson and Barlow (2001) data. The Hess Deep survey occurred in mid-July, and was apparently not well represented by the Ferguson and Barlow (2001) data collected during the fall, beginning just after the Hess Deep survey.

Despite the above caveats, the Ferguson and Barlow (2001) data still represent the best available data for estimating numbers of animals potentially exposed to the proposed seismic sounds. Average and maximum densities for marine mammals from Ferguson and Barlow (2001) were calculated for each of the project areas based on encompassing and adjacent survey blocks. Maximum densities were either the highest estimated density in any of the blocks or, if that number was zero, the average group size for that species. The densities reported in Ferguson and Barlow (2001) were corrected for both detectability [f(0)] and availability [g(0)] biases, and therefore, are relatively unbiased.

Estimated Number of Takes by Harassment

The number of individuals that may be exposed to airgun sounds with received levels higher than 160 dB re 1 microPa (rms) on one or more occasions can be estimated by considering the total marine area that would be within the 160–dB radius around the operating airgun array on at least one occasion. In the QDG survey, the proposed seismic lines do not run parallel to each other in close proximity, and only one transect line might be surveyed a second time, which minimizes the number of times an individual mammal may be exposed during the survey. In the EPR survey, the seismic lines are parallel and in close proximity, and the entire grid may be surveyed more than twice, which may result in individuals being exposed on two or more occasions. It is not known how much time will pass between the first and the second transit along each line, so it is also possible that different marine mammals could occur in the area during the second pass. Thus, the best estimates in this section are based on a single pass of all survey lines (including turns), and maximum estimates are based on maximum densities, i.e., the highest single-block density among all of the blocks used in the calculations. Tables 3 and 4 show the best and maximum estimates of the number of marine mammals that could potentially be affected during the EPR and QDG seismic surveys, respectively.

The number of individuals potentially exposed to 160 dB re 1 microPa (rms) or higher in each area was calculated by multiplying

- The expected species density, either ''mean'' (i.e., best estimate) or ''maximum'' (maximum estimate) times by
- The anticipated minimum area to be ensonified to that level during airgun operations.

The area expected to be ensonified was determined by entering the planned survey lines into a MapInfo Geographic Information System (GIS), using the GIS to identify the relevant areas by ''drawing'' the applicable 160–dB buffer around each seismic line and then calculating the total area within the buffers. Areas where overlap occurred (because of intersecting lines) were included only once to determine the minimum area expected to be ensonified to higher than 160 dB re 1 microPa at least once.

Number of individuals exposed to SPL > 160 dB re 1 microPa (rms)			
Species	Best estimate	Percent of regional population based on best estimate	Maximum estimate
Humpback whale	0	0.00	2
Minke whale	0	NA	1
Bryde's whale	3	0.02	7
Sei whale	0	NA	2
Fin whale	0	0.00	2
Blue whale	0	0.03	1
Sperm whale	2	0.01	4
Pygmy sperm whale	0	NA	1
Dwarf sperm whale	66	0.59	87
Cuvier's beaked whale	16	0.08	30
Longman's beaked whale	0	0.00	4
Pygmy beaked whale	0	NA	4
Blainville's beaked whale	0	NA	4
Mesoplodon sp.	8	0.03	
Rough-toothed dolphin	27	0.02	109
Bottlenose dolphin	18	0.01	38
Spotted dolphin	697	0.03	1327
Spinner dolphin	342	0.02	695
Striped dolphin	303	0.02	792
Fraser's dolphin	5	0.00	47
Short-beaked common dolphin	7	0.00	835
Risso's dolphin	18	0.01	53
Melon-headed whale	5	0.01	30
Pygmy killer whale	9	0.02	46
False killer whale	3	0.01	8
Killer whale	1	0.01	3
Short-finned pilot whale	20	0.01	41

Table 3. Estimates of the numbers of different individual marine mammals that might be exposed to sound levels > 160 dB re 1 microPa (rms) during L-DEO's proposed EPR seismic program in the ETP. The proposed sound source is an 18-airgun array with a total volume of 3,300 in^3. ″NA″ indicates that no percentage of population data were available due to the lack of population estimate.

Number of individuals exposed to SPL > 160 dB re 1 microPa (rms)			
Species	Best estimate	Percent of regional population based on best estimate	Maximum estimate
Humpback whale	0	0.00	2
Minke whale	0	NA	1
Bryde's whale	3	0.02	7
Sei whale	0	NA	2
Fin whale	0	0.00	2

Number of individuals exposed to SPL > 160 dB re 1 microPa (rms)			
Species	Best estimate	Percent of regional population based on best estimate	Maximum estimate
Blue whale	0	0.03	1
Sperm whale	4	0.01	13
Pygmy sperm whale	0	NA	1
Dwarf sperm whale	0	0.00	2
Cuvier's beaked whale	48	0.24	81
Longman's beaked whale	0	0.00	3
Pygmy beaked whale	0	NA	3
Blainville's beaked whale	0	NA	3
Mesoplodon sp.	7	0.03	
Rough-toothed dolphin	24	0.02	166
Bottlenose dolphin	17	0.01	48
Spotted dolphin	468	0.02	1236
Spinner dolphin	226	0.01	431
Striped dolphin	482	0.03	599
Fraser's dolphin	43	0.01	151
Short-beaked common dolphin	30	0.00	2089
Risso's dolphin	16	0.01	68
Melon-headed whale	7	0.01	38
Pygmy killer whale	3	0.01	16
False killer whale	11	0.03	47
Killer whale	1	0.01	2
Short-finned pilot whale	35	0.02	105

Table 4. Estimates of the numbers of different individual marine mammals that might be exposed to sound levels > 160 dB re 1 microPa (rms) during L-DEO's proposed QDG seismic program in the ETP. The proposed sound source is an 27-airgun array with a total volume of 4,950 in^3. ″NA″ indicates that no percentage of population data were available due to the lack of population estimate.

Applying the approach described above, 2,492 km^2 (923 mi^2) would be within the 160–dB isopleth on one or more occasions during the EPR survey, and 2,911 km^2 (1,224 mi^2) would be ensonified on one or more occasions during the QDG survey. This approach does not allow for turnover in the marine mammal populations in the study areas during the course of the studies. That might underestimate actual numbers of individuals exposed, although the conservative distances used to calculate the area may offset this. In addition, the approach assumes that no cetaceans would move away or toward the trackline as the *Langseth* approaches in response to increasing sound levels prior to the time the levels reach 160 dB. Another way of interpreting the estimates that follow is that they represent the number of individuals that are expected (in the absence of a seismic program) to occur in the waters that will be exposed to 160 dB re 1 microPa (rms) or higher.

The ''best estimate'' of the number of individual marine mammals that might be exposed to seismic sounds with received levels of 160 dB re 1 microPa (rms) or higher during the EPR survey includes 2 endangered whales (both sperm whales), 24 beaked whales, and 3 Bryde's whales. Pantropical spotted, spinner, and striped dolphins are estimated to be the most common species exposed; the best estimates for those species are 697, 342, and 303, respectively. Estimates for other species are lower (Table 3).

The ''best estimate'' of the number of individual marine mammals that might be exposed to seismic sounds with received levels of 160 dB re 1 microPa (rms) or higher during the QDG survey includes 5 endangered whales (4 sperm whales and 1 blue whale), 55 beaked whales, and 6 Bryde's whales. Striped, spotted, and spinner dolphins are estimated to be the most common species exposed; the best estimates for those species are 482, 468, and 226, respectively. Estimates for other species are lower (Table 4).

The ''best estimate'' of the total number of individual marine mammals that might be exposed to seismic sounds with received levels of 160 dB re 1 microPa (rms) or higher for both surveys, along with the percentage of regional population, is listed in Table 5. It includes two ESA-listed species (6 sperm whales and 1 blue whale), 79

beaked whales, and 9 Bryde's whales. Striped, spotted, and spinner dolphins are estimated to be the most common species exposed; the best estimates for those species are 785, 1,165, and 568, respectively. Estimates for other species are lower (Table 5).

Potential Impacts to Subsistence Harvest of Marine Mammals

The proposed activities will not have any impact on the availability of the species or stocks for subsistence use described in section 101(a)(5)(D)(i)(II).

Total number of individuals exposed to SPL > 160 dB re 1 microPa (rms)		
Species	Best estimate	Percent of regional population based on best estimate
Humpback whale	0	0.00
Minke whale	0	NA
Bryde's whale	9	0.07
Sei whale	0	NA
Fin whale	0	0.00
Blue whale	1	0.04
Sperm whale	6	0.02
Pygmy sperm whale	0	NA
Dwarf sperm whale	66	0.59
Cuvier's beaked whale	64	0.32
Longman's beaked whale	0	0.00
Pygmy beaked whale	0	NA
Blainville's beaked whale	0	NA
Mesoplodon sp.	15	0.06
Rough-toothed dolphin	51	0.04
Bottlenose dolphin	35	0.02
Spotted dolphin	1,165	0.05
Spinner dolphin	568	0.03
Striped dolphin	785	0.05
Fraser's dolphin	48	0.01
Short-beaked common dolphin	37	0.00
Risso's dolphin	34	0.02
Melon-headed whale	12	0.02
Pygmy killer whale	12	0.03
False killer whale	14	0.04
Killer whale	2	0.02
Short-finned pilot whale	55	0.03

Table 5. Estimates of the numbers of different individual marine mammals that might be exposed to sound levels > 160 dB re 1 microPa (rms) during L-DEO's two proposed seismic program in the ETP. ″NA″ indicates that no percentage of population data were available due to the lack of population estimate.

Potential Impacts on Habitat and Prey

The proposed seismic survey would not result in any permanent or significant impact on habitats used by marine mammals, or to the food sources they use. The main impact issue associated with the proposed activity would be temporarily elevated noise levels and the associated direct effects on marine mammals, as discussed above. The following sections briefly review effects of airguns on fish and invertebrates (both marine mammal prey sources), and more details are

included in Appendices C and D of the L-DEO's IHA application, respectively.

Effects on Fish

There are three types of potential effects of exposure to seismic surveys: (1) pathological, (2) physiological, and (3) behavioral. Pathological effects involve lethal and temporary or permanent sub-lethal injury. Physiological effects involve temporary and permanent primary and secondary stress responses, such as changes in levels of enzymes and proteins. Behavioral effects refer to temporary and (if they occur) permanent changes in exhibited behavior (e.g., startle and avoidance behavior). The three categories are interrelated in complex ways. For example, it is possible that certain physiological and behavioral changes could potentially lead to an ultimate pathological effect on individuals (i.e., mortality).

The potential for pathological damage to hearing structures in fish depends on the energy level of the received sound and the physiology and hearing capability of the species in question. For a given sound to result in hearing loss, the sound must exceed, by some specific amount, the hearing threshold of the fish for that sound (Popper, 2005). The consequences of temporary or permanent hearing loss in individual fish on a fish population is unknown; however, it likely depends on the number of individuals affected and whether critical behaviors involving sound (e.g. predator avoidance, prey capture, orientation and navigation, reproduction, etc.) are adversely affected. McCauley *et al.* (2003) found that exposure to airgun sound caused observable anatomical damage to the auditory maculae of ''pink snapper'' (*Pagrus auratus*). This damage in the ears had not been repaired in fish sacrificed and examined almost two months after exposure. On the other hand, Popper *et al.* (2005) found that received sound exposure levels of 177 dB re 1 microPa^2–s caused no hearing loss in broad whitefish (*Coreogonus nasus*). During both studies, the repetitive exposure to sound was greater than would have occurred during a typical seismic survey. However, the substantial low-frequency energy produced by the airgun arrays (less than 400 Hz in the study by McCauley *et al.* (2003) and less than 200 Hz in Popper *et al.* (2005)) likely did not propagate to the fish because the water in the study areas was very shallow (approximately 9 m (29.5 ft) in the former case and less than 2 m (6.6 ft) in the latter). Water depth sets a lower limit on the lowest sound frequency that will propagate at about one-quarter wavelength (Urick, 1983; Rogers and Cox, 1988).

Except for these two studies, at least with airgun-generated sound treatments, most contributions rely on rather subjective assays such as fish ''alarm'' or ''startle response'' or changes in catch rates by fishers. These observations are important in that they attempt to use the levels of exposures that are likely to be encountered by most free-ranging fish in actual survey areas. However, the associated sound stimuli are often poorly described, and the biological assays are varied (Hastings and Popper, 2005). According to Buchanan *et al.* (2004), for the types of seismic airguns and arrays involved with the proposed program, the pathological (mortality) zone for fish would be expected to be within a few meters of the seismic source. Numerous other studies provide examples of no fish mortality upon exposure to seismic sources (Falk and Lawrence, 1973; Holliday *et al.*, 1987; La Bella *et al.*, 1996; Santulli *et al.*, 1999; McCauley *et al.*, 2000a; 2000b; 2003; Bjarti, 2002; Hassel *et al.*, 2003; Popper *et al.*, 2005).

Some studies have reported, some equivocally, that mortality of fish, fish eggs, or larvae can occur close to seismic sources (Kostyuchenko, 1973; Dalen and Knutsen, 1986; Booman *et al.*, 1996; Dalen *et al.*, 1996). Some of the reports claimed seismic effects from treatments quite different from actual seismic survey sounds or even reasonable surrogates. Saetre and Ona (1996) applied a ''worst-case scenario'' mathematical model to investigate the effects of seismic energy on fish eggs and larvae. They concluded that mortality rates caused by exposure to seismic surveys are so low, as compared to natural mortality rates, that the impact of seismic surveying on recruitment to a fish stock must be regarded as insignificant.

Physiological effects refer to cellular and/or biochemical responses of fish to acoustic stress. Such stress potentially could affect fish populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses of fish after exposure to seismic survey sound appear to be temporary in all studies done to date (Sverdrup *et al.*, 1994; McCauley *et al.*, 2000a; 2000b). The periods necessary for the biochemical changes to return to normal are variable, and depend on numerous aspects of the biology of the species and of the sound stimulus.

Behavioral effects include changes in the distribution, migration, mating, and catchability of fish populations. Studies investigating the possible effects of sound (including seismic survey sound) on fish behavior have been conducted on both uncaged and caged individuals (Chapman and Hawkins, 1969; Pearson *et al.*, 1992; Santulli *et al.*, 1999, Wardle *et al.*, 2001, Hassel *et al.*, 2003). Typically, in these studies fish exhibited a sharp ''startle'' response at the onset of a sound followed by habituation and a return to normal behavior after the sound ceased.

Effects on Invertebrates

The existing body of information on the impacts of seismic survey sound on marine invertebrates is very limited. However, there is some unpublished and very limited evidence of the potential for adverse effects on invertebrates. The three types of potential effects of exposure to seismic surveys on marine invertebrates are pathological, physiological, and behavioral. Based on the physical structure of their sensory organs, marine invertebrates appear to be specialized to respond to particle displacement components of an impinging sound field and not to the pressure component (Popper *et al.*, 2001).

For the type of airgun array planned for the proposed program, the pathological (mortality) zone for crustaceans and cephalopods is expected to be within a few meters of the seismic source. This premise is based on the peak pressure and rise/decay time characteristics of seismic airgun arrays currently in use around the world.

Some studies have suggested that seismic survey sound has a limited pathological impact on early developmental stages of crustaceans (Pearson *et al.*, 1994; Christian *et al.*, 2003; DFO, 2004). However, the impacts appear to be either temporary or insignificant compared to what occurs under natural conditions. Controlled field experiments on adult crustaceans (Christian *et al.*, 2003; 2004; DFO, 2004) and adult cephalopods (McCauley *et al.*, 2000a; 2000b) exposed to seismic survey sound have not resulted in any significant pathological impacts on the animals. It has been suggested that exposure to commercial seismic survey activities has injured giant squid (Guerra *et al.*, 2004), but there is no evidence to support such claims.

Physiological effects refer mainly to biochemical responses by marine invertebrates to acoustic stress. Such stress potentially could affect invertebrate populations by increasing mortality or reducing reproductive success. Any primary and secondary stress responses (i.e., changes in haemolymph levels of enzymes,

proteins, etc.) of crustaceans after exposure to seismic survey sounds appear to be temporary (hours to days) in studies done to date. The periods necessary for these biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus.

There is increasing interest in assessing the possible direct and indirect effects of seismic and other sounds on invertebrate behavior, particularly in relation to the consequences for fisheries. Changes in behavior could potentially affect such aspects as reproductive success, distribution, susceptibility to predation, and prey availability to marine mammals. Studies investigating the possible behavioral effects of exposure to seismic survey sound on crustaceans and cephalopods have been conducted on both uncaged and caged animals. In some cases, invertebrates exhibited startle responses (e.g., squid in McCauley *et al.*, 2000a; 2000b). In other cases, no behavioral impacts were noted (e.g., crustaceans in Christian *et al.*, 2003; 2004; DFO, 2004).

Effects on Marine Mammal Habitat

The effects of the planned activity on marine mammal habitats and food resources are expected to be negligible, as described above. A small minority of the marine mammals that are present near the proposed activity may be temporarily displaced as much as a few kilometers by the planned activity.

During the proposed survey, most marine mammals will be dispersed throughout the study area. However, concentrations of marine mammals and/or marine mammal prey species have been reported to occur in and near the proposed study area at the time of year when the seismic programs are planned. The countercurrent thermocline ridge at approximately 10°N (in the EPR study area) has been reported to be an important area to cetacean species, as has the Costa Rica Dome, located several hundreds of kilometer to the east of the study area. Although these areas are thought to be important feeding grounds for some marine mammal species, they are not considered critical feeding areas for any of the species that are found there at that time of year.

The proposed activity is not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations, since operations at the various sites will be limited in duration.

Monitoring and Mitigation Measures

Monitoring

For the issuance of the IHA, NMFS requires that L-DEO sponsor marine mammal monitoring during the present project.

(1) Safety Zones

Received sound levels have been predicted by L-DEO in relation to distance and direction from the airguns for the 36–airgun array with 18 and 27 airguns firing and for a single 1900LL 40 in3 airgun, which will be used during power downs. Those corresponding radii were described above under *Acoustic Source Specifications* and are set out in Table 2 above. A detailed description of the modeling effort is provided in Appendix A of the L-DEO's IHA application.

If marine mammals are detected within or about to enter the relevant safety zone (180 dB for cetaceans, 190 dB for pinnipeds), the airguns will be powered down (or shut down if necessary) immediately.

(2) Vessel-based Visual Monitoring

A minimum of two (2) vessel-based marine mammal observers (MMOs) will be on board the seismic source vessel, and they will watch for marine mammals near the vessel during daytime airgun operations and during ramp-ups of airguns at night from power-down only. MMOs will also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of airgun operations after an extended shutdown (a shutdown lasting more than 30 minutes). When feasible, MMOs will also make observations during daytime periods when the seismic systems are not operating for comparison of animal abundance and behavior. Based on MMO observations, airguns will be powered down (see below) or, if necessary, shut down completely, when marine mammals are observed within or about to enter the relevant safety zone (see below).

MMOs will be appointed by L-DEO, with NMFS approval. At least one MMO will monitor the safety zone during daytime airgun operations and any nighttime ramp-ups. MMOs will work in shifts of 4 hour duration or less. The vessel crew will also be instructed to assist in detecting marine mammals.

The *Langseth* is a suitable platform for marine mammal observations. When stationed on the observation platform, the eye level will be approximately 17.8 m (58.4 ft) above sea level, and the observer will have a good view around the entire vessel. During daytime, the MMO will scan the area around the vessel systematically with reticule binoculars (e.g., 7 50 Fujinon), Big-eye binoculars (25 150), and with the naked eye. Night vision devices will be available for use (ITT F500 Series Generation 3 binocular-image intensifier or equivalent), although they are considered of limited effectiveness in detecting marine mammals. Laser rangefinding binoculars (Leica LRF 1200 laser rangefinder or equivalent) will be available to assist in distance estimation.

(3) Passive Acoustic Monitoring (PAM)

Passive acoustic monitoring (PAM) will take place to complement the visual monitoring program. PAM will involve towing hydrophones that detect frequencies produced by vocalizing marine mammals. Two or more hydrophones are used to allow some localization of the bearing (direction) of the animal from the vessel. PAM can be effective at detecting some animals before they are detected visually (Smultea and Holst, 2003; Smultea *et al.*, 2004). Visual monitoring typically is not effective during periods of bad weather or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Therefore, acoustic monitoring can improve detection, identification, localization, and tracking of marine mammals in these circumstances. PAM's value is limited, however, by bottom configuration (water depth) and other environmental factors, and in some cases towing the PAM equipment is not practicable. PAM would be operated or overseen by personnel with acoustic expertise.

The PAM system consists of hardware (i.e., hydrophones) and software. The ''wet end'' of the hydrophone array system consists of a low-noise, towed hydrophone array that is connected to the vessel by a cable. The array will be deployed from a winch located on the back deck. A deck cable will connect from the winch to the main computer lab where the acoustic station and signal conditioning and processing system will be located.

Proper steps should be taken to ensure appropriate protection from electric, electronic, and electro magnetic interferences (power supply, radar pulses, GPS etc.) that could introduce noises into the PAM system. An airgun shoots blanking mechanism should be incorporated into the PAM system so that adequate signal gain for PAM can be achieved to detect vocalizing marine mammals in the vicinity.

The acoustical array will be monitored 24 h per day while at the survey area during airgun operations. One MMO will monitor the acoustic

detection system at any one time, by listening to the signals from two channels via headphones and/or speakers and watching the real-time spectrographic display for vocalizations produced by cetaceans. MMOs monitoring the acoustical data will be on shift for 1 - 6 h. When a vocalization is detected, the acoustic MMO will contact the visual MMO immediately, to alert him/her to the presence of cetaceans (if they have not already been seen). The information regarding the call will be entered into a database. The data to be entered include whether the detection is linked with a visual sighting, date, time when first and last heard, if possible, and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group, types and nature of sounds heard, and any other notable information. The acoustic detection can also be recorded for further analysis.

Mitigation

Mitigation measures include (1) vessel speed or course alteration, provided that doing so will not compromise operational safety requirements, (2) airgun array power down, (3) airgun array shut down, and (4) airgun array ramp up.

(1) Speed or Course Alteration

If a marine mammal is detected outside the safety zone but is likely to enter it based on relative movement of the vessel and the animal, then if safety and scientific objectives allow, the vessel speed and/or course will be adjusted to minimize the likelihood of the animal entering the safety zone. NMFS acknowledges that major course and speed adjustments are often impractical when towing long seismic streamers and large source arrays, thus for surveys involving large sources. Therefore the other mitigation measures often will be required.

(2) Power-down Procedures

A power down involves reducing the number of airguns operating to a single airgun in order to reduce the size of the safety zone. The continued operation of one airgun is intended to alert marine mammals to the presence of the seismic vessel nearby.

If a marine mammal is detected within, or is likely to enter, the safety zone of the array in use, and if vessel course and/or speed changes are impractical or will not be effective to prevent the animal from entering the safety zone, then the array will be powered down to ensure that the animal remains outside the smaller safety zone of the single 40–in^3 airgun. If the size of the safety zone for the single airgun will not prevent the animal from entering it, then a shutdown will be required, as described below.

Following a power down, airgun activity will not resume until the marine mammal is outside the safety zone for the full array. The animal will be considered to have cleared the safety zone if it (1) is visually observed to have left the relevant safety zone; or (2) has not been seen within the safety zone for 15 min in the case of small odontocetes; or has not been seen within the safety zone for 30 min in the case of mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales.

Following a power down and subsequent animal departure as above, the airgun array may resume operations following ramp-up procedures described below.

(3) Shut-down Procedures

If a marine mammal is within or about to enter the safety zone for the single airgun, all airguns will be shut down immediately. Airgun activity will not resume until the animal has cleared the safety zone, as described above.

(4) Ramp-up Procedures

A ramp-up procedure will be followed when an airgun array begins operating after a specified period without operations or at single airgun operation. For the present cruise, this period would be 4–5 min. This period is based on the largest modeled 180–dB radius for the airgun array to be used in relation to the planned speed of the *Langseth* while shooting.

Ramp up will begin with the smallest gun in the array (40 in^3). Airguns will be added in a sequence such that the source level of the array will increase in steps not exceeding 6 dB per 5–min period. During ramp-up, the MMOs will monitor the safety zone, and if marine mammals are sighted, decisions about course/speed changes, power down and shutdown will be implemented as though the full array were operational.

Initiation of ramp-up procedures from shutdown requires that the full safety zone must be visible by the MMOs. This requirement will preclude starts at night or in thick fog. Ramp-up is allowed from a power down under reduced visibility conditions, but only if at least one airgun has operated continuously with a source level of at least 180 dB re microPa (rms) throughout the survey interruption. It is assumed that the single airgun will alert marine mammals to the approaching seismic vessel, allowing them to move away if they choose. Ramp-up procedures will not be initiated if a marine mammal is observed within the safety zone of the airgun array to be operated.

Data Collection and Reporting

MMOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data will be used to estimate numbers of animals potentially ''taken'' by harassment. They will also provide information needed to order a power down or shutdown of airguns when marine mammals are within or near the safety zone.

When a sighting is made, the following information about the sighting will be recorded:

(1) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel, and behavioral pace.

(2) Time, location, heading, speed, activity of the vessel (including whether and the level at which airguns are operating), sea state, visibility, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations, as well as information regarding airgun power down and shutdown, will be recorded in a standardized format. Data accuracy will be verified by the MMOs at sea, and preliminary reports will be prepared during the field program and summaries forwarded to the operating institution's shore facility and to NSF weekly or more frequently. MMO observations will provide the following information:

(1) The basis for decisions about powering down or shutting down airgun arrays.

(2) Information needed to estimate the number of marine mammals potentially taken by harassment as described above.

(3) Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

(4) Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

A final report will be submitted to NMFS within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report will also provide full documentation of methods, results, and interpretation pertaining to all monitoring. The report will summarize

the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities), and the amount and nature of potential take of marine mammals by harassment or in other ways.

Endangered Species Act

On March 5, 2007, NMFS concluded consultation with NSF under section 7 of the ESA on the proposed marine geophysical surveys in the ETP and issued a biological opinion on April 22, 2008. The finding of that consultation was that the marine geophysical surveys in the ETP may adversely affect, but is not likely to jeopardize, the continued existence of blue and sperm whales, and leatherback, green, olive ridley, hawksbill, and loggerhead turtles. The proposed marine geophysical surveys are not likely to adversely affect sei or fin whales. NMFS' IHA will not have impacts beyond what was analyzed in the biological opinion. Therefore, additional consultation is not required.

National Environmental Policy Act (NEPA)

In April 2007, LGL Ltd. (LGL) prepared a draft *Environmental Assessment of Two Marine Geophysical Surveys by the R/V Marcus G. Langseth in the Eastern Tropical Pacific, 2007* (EA) for L-DEO and NSF. NMFS has reviewed this EA and has adopted it. Therefore, the preparation of another EIS or EA is not warranted. NMFS issued a Finding of No Significant Impact Statement on April 23, 2008.

Determination

Based on the preceding information, and provided that the aforementioned mitigation and monitoring measures are incorporated, NMFS has determined that the impact of conducting the marine seismic survey in the ETP may result, at worst, in a temporary modification in behavior of small numbers of certain species of marine mammals. While behavioral and avoidance reactions may be made by these species in response to the resultant noise from the airguns, these behavioral changes are expected to have a negligible impact on the affected species and stocks of marine mammals.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals in the area of seismic operations, the number of potential harassment takings is estimated to be relatively small in light of the population sizes (see Tables 3, 4, and 5). NMFS anticipates the actual take of individuals to be even lower than the numbers depicted in the tables, because those numbers do not reflect either the implementation of the mitigation numbers or the fact that some animals likely will avoid the sound at levels lower than those expected to result in harassment.

In addition, no take by death and/or injury is anticipated, and the potential for temporary or permanent hearing impairment will be avoided through the incorporation of the mitigation measures described in this document.

Authorization

NMFS has issued an IHA to L-DEO for the potential Level B harassment of small numbers of cetaceans incidental to conducting marine geophysical surveys in the ETP, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: April 23, 2008.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–9717 Filed 5–1–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XH60

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee in May, 2008 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, May 19, 2008 at 10 a.m. and Tuesday, May 20, 2008 at 8:30 a.m.

ADDRESSES: This meeting will be held at the Hilton Hotel, 25 Allied Drive, Dedham, MA 02026; telephone: (781) 329–7900; fax: (781) 329–5552.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The committee's agenda for the meeting is as follows:

1. *Monday, May 19, 2008*; The committee will review final reports generated through cooperative research partnerships. Reports to be reviewed address groundfish, monkfish, sea scallops, herring and related topics.

2. *Tuesday, May 20, 2008*; The committee will review habitat-related final research reports that have been funded through organizations that support cooperative research in the New England region. The committee may consider other topics at their discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 29, 2008.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E8–9655 Filed 5–1–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XH59

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Pacific Northwest Crab Industry Advisory Committee (PNCIAC) will meet in

Seattle, WA. The meeting is open to the public.

DATES: The meeting will be held on Monday, May 19, 2008, from 9 a.m. to 12 noon.

ADDRESSES: The meeting will be held at Leif Erikson Hall, 2245 NW 57th Street, 3rd Floor, Norna Room, Seattle, WA 98107 (in Ballard); telephone: (206) 783–1274.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Dr. Diana Stram, Council Staff, telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The PNCIAC will review the Metadata table and related documentation, which is part of the mandatory economic data reporting (EDR) process for the Bering Sea and Aleutian Islands (BSAI) Crab Rationalization program. The PNCIAC will develop recommendations and report back to the Council.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: April 29, 2008.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E8–9654 Filed 5–1–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XH61

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Ecosystem Committee will meet in Seattle, WA,.

DATES: The meeting will be held on May 20, 2008, from 8 a.m. until 5 p.m.

ADDRESSES: The meeting will be held at the Swedish Culture Center, 1920 Dexter Avenue N., Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The agenda will be as follows: Review progress on the Arctic Fishery Management Plan; Review staff discussion paper on further implementation of the Aleutian Islands Fishery Ecosystem Plan, and approach to identifying desirable/undesirable states of the ecosystem; Review the NOAA Integrated Services Plan.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: April 29, 2008.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E8–9656 Filed 5–1–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH53

Small Takes of Marine Mammals Incidental to Specified Activities; Ocean Bottom Cable Seismic Survey in the Liberty Prospect, Beaufort Sea, Alaska in 2008

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental take authorization; request for comments.

SUMMARY: NMFS has received an application from BP Exploration (Alaska), Inc. (BPXA) for an Incidental Harassment Authorization (IHA) to take marine mammals incidental to a 3D, ocean bottom cable (OBC) seismic survey in the Liberty Prospect, Beaufort Sea, Alaska in 2008. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to BPXA to incidentally take, by harassment, small numbers of several species of marine mammals between July and October, 2008, during the aforementioned activity.

DATES: Comments and information must be received no later than June 2, 2008.

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *PR1.0648XH53@noaa.gov*. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (**FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

A copy of the 2006 Minerals Management Service's (MMS) Final Programmatic Environmental Assessment (PEA) and/or the NMFS/MMS Draft Programmatic

Environmental Impact Statement (DPEIS) are available on the internet at: *http://www.mms.gov/alaska/*.

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Office of Protected Resources, NMFS, (301) 713–2289 or Brad Smith, NMFS Alaska Region, (907) 271–3023.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Summary of Request

On November 21, 2007, NMFS received an application from BPXA for the taking, by Level B harassment only, of small numbers of several species of marine mammals incidental to conducting a 3D, OBC seismic survey in the Liberty Prospect area of the Alaskan Beaufort Sea in 2008. The survey would occur over a period of 40–60 days in July and August, 2008, with an ''as needed'' extension into September/October (in compliance with a Conflict Avoidance Agreement (CAA)) after the subsistence whaling season given the uncertainties in ice conditions and other factors that can influence the survey. Seismic data acquisition is planned to start on July 1 depending on the presence of ice. Open water seismic operations can only start when the project area is ice free (i.e., less than 10 percent ice coverage), which in this area normally occurs around July 20 (+/- 14 days). Limited layout of receiver cables might be possible on the mudflats in the Sagavanirktok River delta areas before the ice has cleared.

The Liberty field contains one of the largest undeveloped light-oil reservoirs near the North Slope infrastructure, and the development of this field could recover an estimated 105 million barrels of oil. The field is located in Federal waters of the Beaufort Sea about 8.9 km (5.5 mi) offshore in 6.1 m (20 ft) of water and approximately 8 to 13 km (5 to 8 mi) east of the existing Endicott Satellite Drilling Island (SDI; see Figure 1 of BPXA's application). The project area encompasses 351.8 km^2 (135.8 mi^2) in Foggy Island Bay, Beaufort Sea, of which one percent is on mudflats, 18.5 percent is in water depths of 0.3–1.5 m (1–5 ft), 12.5 percent is in water depths of 1.5–3 m (5–10 ft), 43 percent is in water depths of 3–6.1 m (10–20 ft), and 25 percent is in water depths of 6.1–9.1 m (20–30 ft; see Figure 2 of BPXA's application). The approximate boundaries of the total surface area are between 70° 11' N. and 70° 23' N. and between 147° 10' W. and 148° 02' W.

The Liberty development project design and scope has been changed from an offshore stand-alone development (manmade production/drilling island and subsea pipeline) to the use of ultra-extended-reach drilling from the existing Endicott infrastructure involving an expansion of the SDI and use of existing processing facilities. As a result of this change in scope, BPXA believes that Liberty can be developed with a substantially reduced environmental footprint and impact than the originally proposed offshore stand-alone development. The currently available seismic data focused primarily on deeper targets and hence does not image the shallow overburden sections of the well bore optimally.

The acquisition of additional marine 3D seismic survey data increases the probability of successful implementation of the proposed ultra-extended-reach drilling techniques by providing higher resolution data to assist in imaging for well planning and drilling operations.

The dataset obtained with the proposed seismic survey will replace and augment the data from the Endicott 3D vibroseis survey (1983) and NW Badami (Liberty) 3D vibroseis survey (1995). Various seismic acquisition methods and sound source reduction technologies have been identified and assessed on their technical and environmental performance. The 3D, OBC seismic survey method being proposed is the most appropriate for the specific survey goal and objectives of the current Liberty seismic survey.

Description of Activity

OBC seismic surveys are used to acquire seismic data in water that is too shallow for large marine-streamer vessels and/or too deep to have grounded ice in the winter. This type of seismic survey requires the use of multiple vessels for cable deployment/recovery, recording, shooting, and utility boats. The planned 3D, OBC seismic survey in the Liberty area will be conducted by CGGVeritas. A detailed overview of the activities of this survey is provided below, with focus on the mobilization procedure, seismic and other sound sources, the deployment and retrieval of the receiver cables, and the recording procedure.

Mobilization

The vessel fleet involved in the seismic survey activities will consist of approximately 11 vessels as listed below. Details of these vessels (or equivalents) are provided in Appendix A of BPXA's application. Vessel usage is subject to availability; however, vessels of similar dimensions will be used if those listed below are unavailable.

- Two source vessels, the *M/V Peregrine* (27 x 7 m, 90 x 24 ft) and the *R/V Miss Diane* (17 x 5.5 m, 55 x 18 ft).
- One recorder boat/barge, with *M/V Alaganik* barge (24 x 7 m, 80 x 24 ft) and *Hook Point* boat (9.8 x 4.6 m, 32 x 15 ft).
- Four small bow picker vessels to deploy and retrieve the receiver cables; these are the *F/V Canvasback* (9.8 x 4.3 m, 32 x 14 ft), *F/V Cape Fear* (9.8 x 3.7

m, 32 x 12 ft), *F/V Rumpleminz* (9.8 x 4.3 m, 32 x 14 ft), and *F/V Sleep Robber* (9.8 x 4.3 m, 32 x 14 ft). These vessels can operate in very shallow waters up to approximately 0.5 m (18 in) water depth.

- HSE vessel *F/V Mariah* B (10.4 x 4 m, 34 x 13 ft).
- Crew transport vessel *M/V Qayak Spirit* (12.8 x 4.3 m, 42 x 14 ft) and (Northstar's) hovercraft *M/V Arctic Hawk* (12.8 x 6.1 m, 42 x 20 ft).
- Crew housing and fuel vessel *M/V Arctic Wolf* (41 x 11.6 m, 135 x 38 ft).

To deploy and retrieve cables in water depths less than those accessible by the bow pickers, equipment such as swamp buggies and/or Jon boats will be used. For additional mobilization details, refer to section 1.2 of BPXA's application.

Seismic Survey Area Details

The well path is the area of primary interest that needs to be fully covered by the seismic data. The size of this zone has been reduced to an absolute minimum of 92.1 km^2 (35.6 mi^2). To obtain full data coverage in this area of interest a larger zone needs to be surveyed to account for accurate migration of acoustic reflections. The total seismic survey extent is 351.8 km^2 (135.8 mi^2) and covers some mudflat areas as well.

Receiver cable lines consist of a hydrophone and a Field Digitizing Unit (FDU) placed on the cables at 33.5 m (110 ft) intervals and placed on the seafloor according to a predefined configuration to record the reflected source signals from the airguns. The cables that will be deployed on mudflats and in very shallow water will consist of marsh phones and are placed in a similar configuration as those deployed at the seabottom. The receiver cables will be oriented in a NE-SW direction. A total of approximately 66 NE-SW oriented receiver lines will be deployed with increasing line spacing from west to east of 268 m to 610 m (880 ft to 2,000 ft). Total receiver line length will be approximately 788 km (490 mi) of which approximately 16 km (10 mi) will be laid on mudflats. The source vessels will travel perpendicular over these receiver cables along lines which will have a NW to SE orientation and a varying total length of minimum 3.2 and maximum 5.6 km (2 to 3.5 mi). The total source line length is approximately 3,220 km (2,000 mi) in water depths varying from 1 to 9.1 m (3 to 30 ft). The Liberty seismic survey design is planned such that the most critical data along the well path can be acquired as highest priority, before time becomes limited.

Seismic Source

To limit the duration of the total survey, two source vessels (the *Peregrine* and the *Miss Dianne*) will operate, alternating airgun shots. The sources used for seismic data acquisition will be sleeve airgun arrays with a total discharge volume of 880 in^3 divided over two arrays. Each source vessel will have two 440 in^3 arrays comprised of four guns in clusters of 2 x 70 in^3 and 2 x 150 in^3. The 880 in^3 array has an estimated source level of approximately 250 dB re 1 µPa.

The arrays will be towed at a distance of approximately 8–10 m (26–33 ft) from the source vessel at depths varying from 1–4 m (3–13 ft), depending on the water depth. The vessel will travel along predetermined lines at approximately 1–5 knots (1.9–9.3 km/hr), mainly depending on the water depth. Each source vessel will fire shots every 8 s, resulting in 4 s shot intervals with two operating source vessels. The seismic data acquisition will occur over a 24 hr/day schedule. The dominant frequency components for the source are 5–135 Hz. See Appendix B of BPXA's application for more details of the 8–airgun array.

Cable Deployment and Retrieval

The *Peregrine*, *Miss Dianne*, and four bow pickers will be used for the deployment and retrieval of the receiver cables. Each of the cable vessels will be powered with twin jet diesels and are rigged with hydraulically driven deployment and retrieval systems (''Squirters''). The *Peregrine* and *Miss Dianne* function both as source and cable vessels and will be capable of carrying 120 hydrophone stations. The receiver cables that will be used are extremely small while still allowing a pull of 800 lbs. The smaller bow picker cable vessels will also carry 120 hydrophone stations and are capable of beach landings. All cable vessels will maintain 24–hr operations.

Part of the receiver cables will be deployed on mudflats to pick up reflected source signals and allow for full interpretation of the data in the area of interest, i.e., well path (pink line in Figure 2 of BPXA's application). The deployment of these receiver cables will be conducted by other equipment that can operate in shallow waters and marshy conditions (such as swamp buggies or Jon boats).

The positions of each receiver need to be established. Due to the variable bathymetry in the survey area, receiver positioning may require more than one technique. A combination of Ocean Bottom Receiver Location (OBRL), GPS, and acoustic pingers will be used. For OBRL, the source vessel fires a precisely positioned single gun multiple times along either side of the receiver cables. Multiple gun locations are then calculated at a given receiver to triangulate an accurate position for the receiver. In addition, Dyne acoustical pingers will be located at predetermined intervals at the receiver lines. The pinger locations can be determined using a transponder and allow for interpolation of the receiver locations between the acoustical pingers and as calibration/verification of the OBRL method. The sonar Dyne pingers operate at 19–36 kHz and have a source level of 188–193 dB re 1 µPa at 1 m. Because OBRL methods are not accurate in shallow water (< 4.6 m, 15 ft), the receiver locations at these depths will be recorded as ''as laid'' positions, which is the GPS location where the receivers are deployed.

Recording

A Sercel 428 FDU will be located at each hydrophone. The system is lightweight and robust and rated to 14 m (45 ft) water depth, which allows it to operate well in the water depths for this survey. For approximately each 30 recorder-hydrophone units, one or two battery pack(s) will be deployed at the sea bottom. The battery pack will be equipped with a buoy (or acoustic release) and a pinger to ensure that the battery packs can be located and retrieved when needed.

The data received at each FDU will be transmitted through the cables to a recorder for further processing. This recorder will be installed on a pin-together boat barge combination and positioned close to the area where data are being acquired. While recording, the pin-together boat barge is stationary and is expected to utilize a four point anchoring system.

Crew Housing and Transfer

Both source vessels, the *Peregrine* and the *Miss Dianne*, will be capable of housing crew, including marine mammal observers (MMOs). The *Arctic Wolf*, *Alaganik*, and *Hook Point* will also function as crew housing. Crew transfers will occur from the *Qayak* and the *Spirit*. For more information on crew housing and transfer, refer to Section 1.2 of BPXA's application.

Marine Mammals Affected by the Activity

The Beaufort Sea supports a diverse assemblage of marine mammals, including bowhead (*Balaena mysticetus*), gray (*Eschrichtius robustus*), beluga (*Delphinapterus*

leucas), killer (*Orcinus orca*), minke (*Balaenoptera acutorostrata*), fin (*B. physalus*), and humpback (*Megaptera novaeangliae*) whales, harbor porpoises (*Phocoena phocoena*), ringed (*Pusa hispida*), spotted (*Phoca largha*), and bearded (*Erignathus barbatus*) seals, polar bears (*Ursus maritimus*), and walruses (*Odobenus rosmarus divergens*). These latter two species are under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS) and are not discussed further in this document. A separate Letter of Authorization request will be submitted by BPXA for this survey to USFWS specific to walruses and polar bears.

A total of three cetacean species and four pinniped species are known to occur or may occur in the Beaufort Sea in or near the Liberty area (see Table 1 in BPXA's application for information on habitat and abundance). Of these species, only the bowhead whale is listed as endangered under the Endangered Species Act (ESA). The narwhal, killer whale, harbor porpoise, minke whale, fin whale, and humpback whale could occur in the Beaufort Sea, but each of these species is rare or extralimital and unlikely to be encountered in the Liberty area.

The marine mammal species expected to be encountered most frequently throughout the seismic survey in the Liberty area is the ringed seal. The bearded and spotted seal can also be observed but to a far lesser extent than the ringed seal. Presence of beluga, bowhead, and gray whales in the shallow water environment within the barrier islands is possible but expected to be very limited. Descriptions of the biology, distribution, and population status of the marine mammal species under NMFS' jurisdiction can be found in BPXA's application, the 2007 NMFS/MMS DPEIS on Arctic Seismic Surveys, and the NMFS Stock Assessment Reports (SARS). The Alaska SAR is available at: *http://www.nmfs.noaa.gov/pr/pdfs/sars/ak2007.pdf*. Please refer to those documents for information on these species.

Potential Effects of Airgun Sounds on Marine Mammals

The effects of sounds from airguns might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, and temporary or permanent hearing impairment or non-auditory effects (Richardson *et al.*, 1995). As outlined in previous NMFS documents, the effects of noise on marine mammals are highly variable, and can be categorized as follows (based on Richardson *et al.*, 1995):

(1) The noise may be too weak to be heard at the location of the animal (i.e., lower than the prevailing ambient noise level, the hearing threshold of the animal at relevant frequencies, or both);

(2) The noise may be audible but not strong enough to elicit any overt behavioral response;

(3) The noise may elicit reactions of variable conspicuousness and variable relevance to the well being of the marine mammal; these can range from temporary alert responses to active avoidance reactions such as vacating an area at least until the noise event ceases;

(4) Upon repeated exposure, a marine mammal may exhibit diminishing responsiveness (habituation), or disturbance effects may persist; the latter is most likely with sounds that are highly variable in characteristics, infrequent, and unpredictable in occurrence, and associated with situations that a marine mammal perceives as a threat;

(5) Any anthropogenic noise that is strong enough to be heard has the potential to reduce (mask) the ability of a marine mammal to hear natural sounds at similar frequencies, including calls from conspecifics, and underwater environmental sounds such as surf noise;

(6) If mammals remain in an area because it is important for feeding, breeding, or some other biologically important purpose even though there is chronic exposure to noise, it is possible that there could be noise-induced physiological stress; this might in turn have negative effects on the well-being or reproduction of the animals involved; and

(7) Very strong sounds have the potential to cause temporary or permanent reduction in hearing sensitivity. In terrestrial mammals, and presumably marine mammals, received sound levels must far exceed the animal's hearing threshold for there to be any temporary threshold shift (TTS) in its hearing ability. For transient sounds, the sound level necessary to cause TTS is inversely related to the duration of the sound. Received sound levels must be even higher for there to be risk of permanent hearing impairment. In addition, intense acoustic or explosive events may cause trauma to tissues associated with organs vital for hearing, sound production, respiration and other functions. This trauma may include minor to severe hemorrhage.

Tolerance

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kilometers. For a summary of the characteristics of airgun pulses, see Appendix C of BPXA's application. Numerous studies have shown that marine mammals at distances more than a few kilometers from operating seismic vessels often show no apparent response. That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. Although various baleen whales, toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to airgun pulses under some conditions, at other times, mammals of all three types have shown no overt reactions. In general, pinnipeds and small odontocetes seem to be more tolerant of exposure to airgun pulses than baleen whales.

Masking

Masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds are expected to be limited, although there are very few data of relevance. Some whales are known to continue calling in the presence of seismic pulses. Their calls can be heard between the seismic pulses (e.g., Richardson *et al.*, 1986; McDonald *et al.*, 1995; Greene *et al.*, 1999; Nieukirk *et al.*, 2004). Although there has been one report that sperm whales cease calling when exposed to pulses from a very distant seismic ship (Bowles *et al.*, 1994), a more recent study reports that sperm whales off northern Norway continued calling in the presence of seismic pulses (Madsen *et al.*, 2002). That has also been shown during recent work in the Gulf of Mexico (Tyack *et al.*, 2003). Bowhead whale calls are frequently detected in the presence of seismic pulses, although the number of calls detected may sometimes be reduced in the presence of airgun pulses (Richardson *et al.*, 1986; Greene *et al.*, 1999). Masking effects of seismic pulses are expected to be negligible given the low number of cetaceans expected to be exposed, the intermittent nature of seismic pulses, and the fact that ringed seals (most probable to be present in the area) are not vocal during this period. Masking effects, in general, are discussed further in Appendix C of BPXA's application.

Disturbance Reactions

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement. Reactions to sound, if any, depend on species,

state of maturity, experience, current activity, reproductive state, time of day, and many other factors. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on the animals could be significant. Given the many uncertainties in predicting the quantity and types of impacts of noise on marine mammals, it is common practice to estimate how many mammals were present within a particular distance of industrial activities or exposed to a particular level of industrial sound. That likely overestimates the numbers of marine mammals that are affected in some biologically-important manner.

The sound criteria used to estimate how many marine mammals might be disturbed to some biologically-important degree by a seismic program are based on behavioral observations during studies of several species. However, information is lacking for many species. Detailed studies have been done on humpback, gray, and bowhead whales and ringed seals. Less detailed data are available for other species of baleen, sperm, and small toothed whales and sea otters.

Baleen Whales – Baleen whales generally tend to avoid operating airguns, but avoidance radii are quite variable. Whales are often reported to show no overt reactions to pulses from large arrays of airguns at distances beyond a few kilometers, even though the airgun pulses remain well above ambient noise levels out to much longer distances. However, as reviewed in Appendix C of BPXA's application, baleen whales exposed to strong noise pulses from airguns often react by deviating from their normal migration route and/or interrupting their feeding and moving away. In the case of the migrating gray and bowhead whales, the observed changes in behavior appeared to be of little or no biological consequence to the animals. They simply avoided the sound source by displacing their migration route to varying degrees but within the natural boundaries of the migration corridors.

Studies of gray, bowhead, and humpback whales have determined that received levels of pulses in the 160–170 dB re 1 µPa rms range seem to cause obvious avoidance behavior in a substantial fraction of the animals exposed. In many areas, seismic pulses from large arrays of airguns diminish to those levels at distances ranging from 4.5–14.5 km (2.8–9 mi) from the source. For the much smaller airgun array of this seismic survey, distances to received levels in the 160–170 dB re 1 µPa rms range are 1.2–3.5 km (0.7–2.2 mi; Table 3 in BPXA's application and Table 1 below). Baleen whales within these shorter distances may show avoidance or other strong disturbance reactions to the airgun array; however in the Liberty seismic survey area, a limited number of baleen whales are expected to occur. Subtle behavioral changes sometimes become evident at somewhat lower received levels, and recent studies reviewed in Appendix C of BPXA's application have shown that some species of baleen whales, notably bowhead and humpback whales, at times show strong avoidance at received levels lower than 160–170 dB re 1 µPa rms. Bowhead whales migrating west across the Alaskan Beaufort Sea in autumn, in particular, are unusually responsive, with avoidance occurring out to distances of 20–30 km (12.4–18.6 mi) from a medium-sized airgun source (Miller *et al.*, 1999; Richardson *et al.*, 1999). However, more recent research on bowhead whales (Miller *et al.*, 2005) corroborates earlier evidence that, during the summer feeding season, bowheads are not as sensitive to seismic sources. In summer, bowheads typically begin to show avoidance reactions at a received level of about 160–170 dB re 1 µPa rms (Richardson *et al.*, 1986; Ljungblad *et al.*, 1988; Miller *et al.*, 1999). The Liberty seismic project will be conducted in the summer and might occur partly in autumn, when the bowheads are commonly involved in migration. However, because the survey will be located inshore of the barrier islands (where few cetaceans are expected) in shallow water (maximum 9.1 m, 30 ft, deep; where high seismic sound propagation loss is expected) and with seismic airguns of medium discharge volumes (880 in3, compared to the 3,000+ in^3 arrays used offshore), the distance of received levels that might elicit avoidance behavior will likely not (or barely) reach the main migration corridor and then only through the inter-island water passages. Considering that these islands will function as a sound barrier beyond which sound will not propagate much, the propagation of the sounds generated is expected to be very limited offshore of the islands, where most of the baleen whales are expected to occur, which will prevent sound propagation into offshore waters where cetaceans are expected.

Malme *et al.* (1986, 1988) studied the responses of feeding eastern gray whales to pulses from a single 100 in^3 airgun off St. Lawrence Island in the northern Bering Sea. They estimated, based on small sample sizes, that 50 percent of feeding gray whales ceased feeding at an average received pressure level of 173 dB re 1 µPa on an (approximate) rms basis, and that 10 percent of feeding whales interrupted feeding at received levels of 163 dB. Those findings were generally consistent with the results of experiments conducted on larger numbers of gray whales that were migrating along the California coast and on observations of the distribution of feeding Western Pacific gray whales off Sakhalin Island, Russia during a seismic survey (Yazvenko *et al.*, 2007). However, given the infrequent occurrence of gray whales in the Beaufort Sea east of Point Barrow, recent MMO information from the Beaufort Sea indicating that, at least for bowhead whales, sound pressure levels (SPLs) of 160 dB or less did not result in abandonment of feeding areas, and the incorporation of mitigation and monitoring measures, including the use of MMOs and avoidance of concentrated areas of feeding whales, the number of animals exposed to sound levels that could cause disturbance of feeding or other behaviors should be greatly reduced.

Data on short-term reactions of cetaceans to impulsive noises do not necessarily provide information about long-term effects. It is not known whether impulsive noises affect reproductive rate or distribution and habitat use in subsequent days or years. However, gray whales continued to migrate annually along the west coast of North America despite intermittent seismic exploration and much ship traffic in that area for decades (Appendix A in Malme *et al.*, 1984). Bowhead whales continued to travel to the eastern Beaufort Sea each summer despite seismic exploration in their summer and autumn range for many years (Richardson *et al.*, 1987). Populations of both gray and bowhead whales grew substantially during this time, suggesting that there may be no long-term effect from seismic activities. Therefore, the brief exposures to sound pulses from the proposed airgun source are highly unlikely to result in long-term effects to baleen whales.

Toothed Whales – Few systematic information is available about reactions of toothed whales to noise pulses. Few studies similar to the more extensive baleen whale/seismic pulse work summarized above and (in more detail) in Appendix C of BPXAs application

have been reported for toothed whales. However, systematic work on sperm whales is underway (Tyack *et al.*, 2003), and there is an increasing amount of information about responses of various odontocetes to seismic surveys based on monitoring studies (e.g., Stone, 2003; Smultea *et al.*, 2004; Moulton and Miller, 2005).

Seismic operators and MMOs sometimes see dolphins and small toothed whales near operating airgun arrays, but in general there seems to be a tendency for most delphinids to show some limited avoidance of seismic vessels operating large airgun systems. However, some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large airgun arrays are firing. There have been indications that small toothed whales sometimes move away or maintain a somewhat greater distance from the vessel when a large airgun array is operating than when it is silent (e.g., Goold, 1996a,b,c; Calambokidis and Osmek, 1998; Stone, 2003). The beluga may be a species that (at least at times) shows long-distance avoidance of seismic vessels. Aerial surveys during seismic operations in the southeastern Beaufort Sea recorded much lower sighting rates of beluga whales within 10–20 km (6.2–12.4 mi) of an active seismic vessel. These results were consistent with the low number of beluga sightings reported by observers aboard the seismic vessel, suggesting that some belugas might avoid the seismic operations at distances of 10–20 km (6.2–12.4 mi; Miller *et al.*, 2005).

Captive bottlenose dolphins and beluga whales exhibit changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.*, 2002, 2005). However, the animals tolerated high received levels of sound (pk-pk level >200 dB re 1 µPa) before exhibiting aversive behaviors, such as reluctance to station at the test site where subsequent exposure to impulses would be implemented (Finneran *et al.*, 2002). It is uncertain what relevance these observed behaviors in captive, trained marine mammals exposed to single sound pulses may have to free-ranging animals exposed to multiple pulses. With the presently-planned source, such levels would be limited to distances less than 200 m (656 ft) from the 8–airgun array in shallow water and encounters with beluga whales are not likely to occur within these distances. Reactions of toothed whales to large arrays of airguns are variable, and, at least for delphinids, seem to be confined to a smaller radius than has been observed for mysticetes (see Appendix C of BPXA's application).

Pinnipeds – Pinnipeds are not likely to show a strong avoidance reaction to the airgun sources that will be used. Visual monitoring from seismic vessels has shown only slight (if any) avoidance of airguns by pinnipeds, and only slight (if any) changes in behavior (see Appendix C of BPXA's application). Ringed seals frequently do not avoid the area within a few hundred meters of operating airgun arrays (Harris *et al.*, 2001; Moulton and Lawson, 2002; Miller *et al.*, 2005). However, initial telemetry work suggests that avoidance and other behavioral reactions by two other species of seals to small airgun sources may at times be stronger than evident to date from visual studies of pinniped reactions to airguns (e.g., some of the individuals ceased foraging during seismic activity and only resumed after the sound source stopped, and others increased swim speed and/or dive duration; Thompson *et al.*, 1998). The effects noted in the study were short-term in nature (Thompson *et al.*, 1998). Even if reactions of the species occurring in the present study area are as strong as those evident in the telemetry study, reactions are expected to be confined to relatively small distances and durations, with no long-term effects on pinniped individuals or populations.

Hearing Impairment and Other Physical Effects

Temporary or permanent hearing impairment is a possibility when marine mammals are exposed to very strong sounds, but there has been no specific documentation of this for marine mammals exposed to sequences of airgun pulses. Current NMFS policy regarding exposure of marine mammals to high-level sounds is that cetaceans and pinnipeds should not be exposed to impulsive sounds greater than 180 and 190 dB re 1 µPa (rms), respectively (NMFS, 2000). Those criteria have been used in defining the safety (shutdown) radii planned for the proposed seismic survey. However, those criteria were established before there were any data on the minimum received levels of sounds necessary to cause temporary auditory impairment in marine mammals. As discussed in Appendix C and summarized here:

- The 180 dB criterion for cetaceans is precautionary (i.e., lower than necessary to avoid TTS, let alone permanent auditory injury, at least for belugas and delphinids) as it was established prior to empirical research on marine mammals that now indicate that permanent auditory injury would not occur until significantly higher SPLs were encountered.
- The minimum sound level necessary to cause permanent hearing impairment is higher, by a variable and generally unknown amount, than the level that induces TTS.
- The level associated with the onset of TTS is often considered to be a level below which there is no danger of permanent damage.

Several aspects of the planned monitoring and mitigation measures for this project are designed to detect marine mammals occurring near the airguns to avoid exposing them to sound pulses that might cause hearing impairment. In addition, many cetaceans are likely to show some avoidance of the area with high received levels of airgun sound (see above). In those cases, the avoidance responses of the animals themselves will reduce or (most likely) avoid any possibility of hearing impairment.

Non-auditory physical effects might also occur in marine mammals exposed to strong underwater pulsed sound. Possible types of non-auditory physiological effects or injuries that theoretically might occur in mammals close to a strong sound source include stress, neurological effects, bubble formation, and other types of organ or tissue damage. Some marine mammal species (i.e., beaked whales) may be especially susceptible to injury and/or stranding when exposed to strong pulsed sounds. However, as discussed below, there is no definitive evidence that any of these effects occur even for marine mammals in close proximity to large arrays of airguns, and beaked whales do not occur in the present study area. It is unlikely that such effects would occur during the present project given the brief duration of exposure and the planned monitoring and mitigation measures (see below). The following sections discuss the possibilities of TTS, permanent threshold shift (PTS), and non-auditory physical effects in more detail.

(TTS) – TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. At least in terrestrial mammals, TTS can last from minutes or hours to (in cases of strong TTS) days. For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the noise ends. Few data on sound levels and durations necessary to elicit mild

TTS have been obtained for marine mammals.

For toothed whales exposed to single short pulses, the TTS threshold appears to be, to a first approximation, a function of the energy content of the pulse (Finneran *et al.*, 2002, 2005). Given the available data, the received level of a single seismic pulse might need to be approximately 210 dB re 1 µPa rms (approximately 221 226 dB pk-pk) in order to produce brief, mild TTS. Exposure to several seismic pulses at received levels near 200–205 dB (rms) might result in slight TTS in a small odontocete, assuming the TTS threshold is (to a first approximation) a function of the total received pulse energy. Seismic pulses with received levels of 200–205 dB or more are usually restricted to a radius of no more than 200 m (656 ft) around a seismic vessel operating a large array of airguns. For the smaller airgun array used in the proposed survey, this radius will be no more than 100 m (328 ft).

There are no data on which to determine the kinds or intensities of sound that could cause TTS in baleen whales (NMFS/MMS, 2007). However, no cases of TTS are expected given the medium size of the source, the strong likelihood that baleen whales (especially migrating bowheads) would avoid the approaching airguns (or vessel) before being exposed to levels high enough for there to be any possibility of TTS, and the proposed mitigation measures.

In pinnipeds, TTS thresholds associated with exposure to brief pulses (single or multiple) of underwater sound have not been measured. Initial evidence from prolonged exposures suggested that some pinnipeds may incur TTS at somewhat lower received levels than do small odontocetes exposed for similar durations (Kastak *et al.*, 1999, 2005; Ketten *et al.*, 2001; cf. Au *et al.*, 2000). In the harbor seal, which is closely related to the ringed seal, TTS onset apparently occurs at somewhat lower received energy levels than for odontocetes (see Appendix C of BPXA's application).

A marine mammal within a radius of approximately 60 m (197 ft) around the proposed airgun array might be exposed to a few seismic pulses with levels greater than 205 dB and possibly more pulses if the mammal moved with the seismic vessel. (As noted above, most cetacean species tend to avoid operating airguns, although not all individuals do so.) However, several of the considerations that are relevant in assessing the impact of typical seismic surveys with airgun arrays are applicable here:

(1) ''Ramping up'' (soft start) is standard operational protocol during startup of large airgun arrays in many jurisdictions. Ramping up involves starting the airguns in sequence, usually commencing with a single airgun and gradually adding additional airguns. This practice will be employed during the Liberty seismic project when either airgun array is operated.

(2) It is unlikely that cetaceans would be exposed to airgun pulses at a high enough level for a long enough period to cause more than mild TTS given the relatively small airgun array and the movement of both the vessel and the marine mammal. In this project, most of the planned seismic survey will be in very shallow water nearshore of the barrier islands. The propagation of the sounds generated is expected to be very limited offshore of the islands, where most of the baleen whales are expected to occur.

(3) With a large airgun array, TTS would be most likely in odontocetes that bow-ride or in odontocetes or pinnipeds that linger near the airguns. In the present project, BPXA anticipates the 190 and 180 dB distances to be 390 m and 880 m (0.24 mi and 0.55 mi), respectively, for the 8–gun array (Table 3 in BPXA's application and Table 1 below). Only seals could be expected to be potentially close to the airguns, and no species that occur within the project area are expected to bow-ride.(4) There is a possibility that a small number of seals (which often show little or no avoidance of approaching seismic vessels) could occur close to the airguns and that they might incur slight TTS if no mitigation action (shutdown) were taken.

NMFS (1995, 2000) concluded that cetaceans and pinnipeds should not be exposed to pulsed underwater noise at received levels exceeding, respectively, 180 and 190 dB re 1 Pa (rms). The 180- and 190–dB distances for the airguns operated by BPXA may be found to vary with array depth, however, conservative estimates have been used (390 m and 880 m, 0.24 mi and 0.55 mi, respectively; see Table 3 in the application and Table 1 below) until results from field measurements are available (see Section 13.2 of BPXA's application and the Monitoring section below). Furthermore, established 190- and 180–dB re 1 µPa (rms) criteria are not considered to be the levels above which TTS might occur. Rather, they are the received levels above which, in the view of a panel of bioacoustics specialists convened by NMFS before TTS measurements for marine mammals started to become available, one could not be certain that there would be no injurious effects, auditory or otherwise, to marine mammals. As summarized above, data that are now available imply that TTS is unlikely to occur unless bow-riding odontocetes are exposed to airgun pulses much stronger than 180 dB re 1 µPa rms (Southall *et al.*, 2007). Since no bow-riding species occur in the study area, it is unlikely such exposures will occur.

(PTS) – When PTS occurs, there is physical damage to the sound receptors in the ear. In some cases, there can be total or partial deafness, whereas in other cases, the animal has an impaired ability to hear sounds in specific frequency ranges.

There is no empirical evidence that exposure to pulses of airgun sound can cause PTS in any marine mammal, even with large arrays of airguns (see Southall *et al.*, 2007). However, given the possibility that mammals close to an airgun array might incur TTS, there has been further speculation about the possibility that some individuals occurring very close to airguns might incur PTS. Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage in terrestrial mammals. Relationships between TTS and PTS thresholds have not been studied in marine mammals, but are assumed to be similar to those in humans and other terrestrial mammals. PTS might occur at a received sound level at least several decibels above that inducing mild TTS if the animal were exposed to the strong sound pulses with very rapid rise time see Appendix C of BPXA's application.

It is highly unlikely that marine mammals could receive sounds strong enough (and over a sufficient duration) to cause permanent hearing impairment during a project employing the airgun sources planned here. In the proposed project, marine mammals are unlikely to be exposed to received levels of seismic pulses strong enough to cause more than slight TTS. Given the higher level of sound necessary to cause PTS, it is even less likely that PTS could occur. In fact, even the levels immediately adjacent to the airgun may not be sufficient to induce PTS, especially because a mammal would not be exposed to more than one strong pulse unless it swam immediately alongside the airgun for a period longer than the inter-pulse interval. Baleen whales, and belugas as well, generally avoid the immediate area around operating seismic vessels. The planned monitoring and mitigation measures, including visual monitoring, power- downs, and shutdowns of the airguns when mammals are seen within the safety radii, will minimize the already-minimal probability of exposure

of marine mammals to sounds strong enough to induce PTS.

Non-auditory Physiological Effects – Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, and other types of organ or tissue damage. However, studies examining such effects are very limited. If any such effects do occur, they probably would be limited to unusual situations when animals might be exposed at close range for unusually long periods. It is doubtful that any single marine mammal would be exposed to strong seismic sounds for sufficiently long that significant physiological stress would develop. That is especially so in the case of the proposed project where the airgun configuration focuses most energy downward and the source vessels are moving at 4–5 knots (7.4–9.3 km/hr). The faster a seismic vessel moves, the less time an individual marine mammal would be exposed to the noise source. Only individuals swimming close to, parallel to, and at the same speed as the vessel would incur a number of high intensity sounds. This medium airgun array would only have 190 and 180 dB distances of 390 and 880 m (0.24 and 0.55 mi), respectively.

In general, little is known about the potential for seismic survey sounds to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would be limited to short distances or more likely to projects involving large airgun arrays. However, the available data do not allow for meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of seismic vessels, including most baleen whales, some odontocetes (including belugas), and some pinnipeds, are especially unlikely to incur auditory impairment or other physical effects. Also, the planned monitoring and mitigation measures include shutdowns of the airguns, which will reduce any such effects that might otherwise occur.

Stranding and Mortality

Marine mammals close to underwater detonations of high explosives can be killed or severely injured, and their auditory organs are especially susceptible to injury (Ketten *et al.*, 1993; Ketten, 1995). Airgun pulses are less energetic and have slower rise times, and there is no evidence that they can cause serious injury, death, or stranding even in the case of large airgun arrays. However, the association of mass strandings of beaked whales with naval exercises, and, in one case, a seismic survey, has raised the possibility that beaked whales exposed to strong pulsed sounds may be especially susceptible to injury and/or behavioral reactions that can lead to stranding (more details are provided in Appendix C of BPXA's application). However, no beaked whales are found within this project area. Due to the shallow water environment, medium airgun arrays, and planned monitoring and mitigation measures of the proposed survey, the mortality of marine mammal species is not expected.

Potential Effects of Pinger Signals on Marine Mammals

A pinger system (Dyne Acoustical Pingers) and acoustic release/transponders (Benthos) will be used during seismic operations to position the receivers and locate and retrieve the batteries. Sounds from these pingers are very short pulses. The Dyne pinger has a source level ranging from approximately 188–193 dB re 1 μPa at 1 m in a frequency range of 19–36 kHz, and the benthos has sources levels of approximately 192 dB re 1 μPa at 1 m in a frequency range of 7–15 kHz. Pulses are emitted on command from the operator aboard the source vessel.

Masking

The pinger produces sounds within the frequency range that could be detected by some seals and baleen whales, as they can hear sounds at frequencies up to 36 kHz. However, marine mammal communications will not be masked appreciably by the pinger signals. This is a consequence of the relatively low power output, low duty cycle, and brief period when an individual mammal is likely to be within the area of potential effects.

Behavioral Responses

Marine mammal behavioral reactions to other pulsed sound sources are discussed above, and responses to the pinger are likely to be similar to those for other pulsed sources if received at the same levels. However, the pulsed signals from the pinger are much weaker than those from the airgun. Therefore, behavioral responses are not expected unless marine mammals are very close to the source. The maximum reaction that might be expected would be a startle reaction or other short-term response. NMFS (2001) has concluded that momentary behavioral reactions ''do not rise to the level of taking.''

Hearing Impairment and Other Physical Effects

Source levels of the pinger are much lower than those of the airguns (see above). It is unlikely that the pinger produces pulse levels strong enough to cause temporary hearing impairment or physical injuries even in an animal that is (briefly) in a position near the source.

Estimated Take of Marine Mammals by Incidental Harassment

The anticipated harassments from the activities described above may involve temporary changes in behavior. There is no evidence that the planned activities could result in serious injury or mortality, for example due to collisions with vessels or strandings. Disturbance reactions, such as avoidance, are very likely to occur amongst marine mammals in the vicinity of the source vessel. The mitigation and monitoring measures proposed to be implemented (see below) during this survey are based on Level B harassment criteria and will minimize any potential risk to injury.

The methodology used by BPXA to estimate incidental take by harassment by seismic and the numbers of marine mammals that might be affected in the proposed seismic acquisition activity area in the Beaufort Sea is presented here. The density estimates for the species covered under this proposed IHA are based on the estimates by Moore *et al.* (2000b) for beluga whales, Miller *et al.* (2002) for bowhead whales, and Moulton *et al.* (2003) and Frost *et al.* (2003) for ringed seals. The estimates for the number of marine mammals that might be affected during the proposed OBC seismic survey in the Liberty area are based on expected marine mammal density and anticipated area ensonified by levels of greater than 170 and 160 dB re 1 μPa.

In its application, BPXA provides estimates of the number of potential ''exposures'' to sound levels greater than 160 dB re 1 μPa (rms) and greater than 170 dB. BPXA states that while the 160–dB criterion applies to all species of cetaceans and pinnipeds, BPXA believes that a 170–dB criterion should be considered appropriate for delphinids and pinnipeds, which tend to be less responsive, whereas the 160–dB criterion is considered appropriate for other cetaceans (LGL, 2007). However, NMFS has noted in the past that it is unaware of any empirical evidence to indicate that some delphinid species do not respond at the lower level (i.e., 160 dB). As a result, NMFS will estimate Level B harassment takes based on the 160–dB criterion.

Expected density of marine mammals in the survey area of operation and area of influence are based on best available data. Density data derived from studies conducted in or near the proposed survey area are used for calculations, where available. When estimates were derived from data collected in regions, habitats, or seasons that differ from the proposed seismic survey, adjustments to reported population or density estimates were made to account for these differences insofar as possible (see Section 6.1 of BPXA's application).

The anticipated area to be ensonified by levels of greater than 160 dB re 1 µPa is a combination of the area covered by the approximately 3,219 km (2,000 mi) survey lines and the estimated safety radii. The close spacing of neighboring vessel tracklines within the planned seismic survey area results in a limited area exposed to sounds of 160 dB or greater, while much of that area is exposed repeatedly.

Marine Mammal Density Estimates

The duration of the seismic data acquisition in the Liberty area is estimated to be approximately 40 days, based on a continuous 24–hr operation. This can extend to a maximum of 60 days taking into account unpredictable delays. It is expected that the data acquisition can be completed during the months of July and August. However, if further data acquisition is required after August, the seismic activities may resume in September and/or October after completion of the whaling season and in accordance with a CAA. Therefore, the nearshore marine mammal densities for the summer period have been applied to 95 percent of the total trackline kilometers. The fall densities have been applied to the remaining 5 percent.

Most marine mammals in the Alaskan Beaufort Sea are migratory, occupying different habitats and/or locations during the year. The densities can therefore vary greatly within seasons and for different locations. For the purpose of this IHA request, different densities have been derived for the summer (late July through August) and the fall (September through early October). In addition to seasonal variation in densities, spatial differentiation is also an important factor for marine mammal densities, both in latitudinal and longitudinal gradient. Taking into account the size and location of the proposed seismic survey area and the associated area of influence, only the nearshore zone (defined as the area between the shoreline and the 50 m, 164 ft, line of bathymetry) in the western part of the Beaufort Sea (defined as the area west of 141° W.) is relevant for the density calculations. If the best available density data cover other zones than the nearshore zone or areas outside the western part of the Beaufort Sea, densities were derived based on expert judgment.

Ideally, when calculating densities from marine mammal distribution survey data, two correction factors need to be taken into account: (1) detectability bias [f(0)] and (2) availability bias [g(0)]. The detectability bias is associated with the diminishing sightability when the distance between the observation point and marine mammal increases. The availability bias refers to the fact that marine mammals may be present in the area but are not available to the observer to be sighted (i.e., beneath the water surface). The uncorrected number of marine mammals observed is therefore always lower than the actual numbers present. For most density data not enough information is available of the survey specifics or of marine mammal behavior and movement patterns to calculate these two correction factors. The density estimates provided here are based on uncorrected data, except for the beluga and bowhead whale densities. Correction factors were applied to the data from Moore *et al.* (2000b) and Miller *et al.* (2002) derived from Harwood *et al.* (1996).

Because the available density data are not always representative for the area of interest, and correction factors were not always known, there is some uncertainty in the data and assumptions used in the density calculations. To provide allowance for these uncertainties, maximum estimates of the numbers potentially affected have been provided in addition to average densities. The marine mammal densities presented are believed to be close to, and in most cases, higher than the densities that are expected to be encountered during the survey.

Cetaceans

The densities of beluga and bowhead whales present in the Beaufort Sea are expected to vary by season and location. During the early and mid-summer, most belugas and bowheads are found in the Canadian Beaufort Sea or adjacent areas. During fall, both species migrate through the Alaskan Beaufort Sea, sometimes interrupting their migration to feed.

Beluga Whales – Beluga density estimates for the Alaskan Beaufort Sea are derived from aerial survey data obtained by Moore *et al.* (2000b). The overall beluga whale density (i.e., total sightings from all depth regimes) was calculated with these data, and this density was assumed to represent the average offshore density for the summer season in the eastern Beaufort Sea. During the summer season, beluga whales are far more abundant in the offshore area, and so the densities for the nearshore area were estimated to be 10 percent of the offshore densities.

During the summer season, most beluga whales are found in offshore waters of the eastern Beaufort Sea and few are expected to be encountered in the western part of the Beaufort Sea, especially in the inshore waters of the barrier islands (Davis and Evans, 1982; Harwood *et al.*, 1996; Richard *et al.*, 2001). The average density of beluga whales for the proposed survey was therefore estimated to be 10 percent of the density of the eastern Beaufort Sea (see Table 2 in BPXA's application).

In fall, during the westward migration, the offshore density is expected to be roughly equal across the eastern and western regions of the Alaskan Beaufort Sea. Also the depth distribution of migrating beluga whales is expected to be more equally distributed. For the autumn period, the density of beluga whales in the western Beaufort Sea was estimated to be 10 percent of the highest fall density calculated from Moore *et al.* (2000b; see Table 2 of the application). The maximum density estimates of beluga whales were calculated as 4x the average estimates.

Bowhead Whales – Bowhead sightings in the Alaskan Beaufort become more common as the whales start their westward migration in late August. Peak sighting rates occur near Kaktovik (east of the Liberty area) in September. The density data used in this IHA request are derived from Miller *et al.* (2002) who calculated the seasonal distribution and numbers of bowheads observed in the eastern Alaskan Beaufort Sea and adjacent Canadian waters from aerial surveys conducted by various researchers during the late summer and autumn of 1979–2000. Correction factors (Thomas *et al.*, 2002) were applied to these density estimates.Bowheads in the eastern Alaskan Beaufort Sea and Canada occur in offshore habitats in summer. From late August-early September shallower habitats are selected during years with moderate and light ice-cover and deeper waters in years with heavy ice-cover. In the western Beaufort Sea during the period July-August very few bowhead whales are expected to be present in the nearshore zone because spring migration normally ends by mid-June (Braham *et al.*, 1984; Moore and Reeves,

1993), and the fall westward migration usually does not begin until late August or early September (Braham *et al.*, 1980; Moore and Reeves, 1993). The densities calculated from 14 surveys in August in water depths of >50 m (164 ft) in the eastern Alaskan and Canadian Beaufort Sea were used as the basis for the summer density calculations in this IHA request. Because bowheads mainly occur in offshore waters during the summer season with decreasing abundance from east to west, density estimates for the proposed survey were estimated to be 10 percent of the reported densities by Miller *et al.* (2002; see Table 2 in BPXA's application).

Many of the bowhead whales will be migrating westward during the fall period, mostly in the nearshore and continental habitat zones. So, the fall densities of bowhead whales provided for the eastern Alaskan and Canadian Beaufort Sea are considered to be similar as those for the western Beaufort Sea. Average and maximum densities for the autumn period were based on calculated densities of 79 surveys conducted in the period September October for the combined nearshore and continental zones (Miller *et al.*, 2002). Because the whale density during the fall migration is generally higher in the nearshore area (<50m, 164 ft), the estimates provided were multiplied by two to obtain nearshore fall densities (see Table 2 in the application). For the proposed survey, 10 percent of these estimates were used.

Both the summer and autumn densities are assumed to be conservative given that the proposed survey takes place entirely inside the barrier islands.

Pinnipeds

Pinnipeds in the polar regions are mostly associated with sea ice and most census methods count pinnipeds when they are hauled out on the ice. To account for the proportion of animals present but not hauled out (availability bias) or seals present on the ice but missed (detection bias), a correction factor should be applied to the ''raw'' counts. This correction factor is very dependent on the behavior of each species. To estimate the proportion of ringed seals visible resting on the ice surface, radio tags were placed on seals during the spring months during 1999–2003 (Kelly *et al.*, 2006). Applying the probability that seals were visible to the data from past aerial surveys indicated that the fraction of seals visible varied from less than 0.4 to more than 0.75 between survey years. The environmental factors that are important in explaining the availability of seals to be counted were found to be time of day, date, wind speed, air temperature, and days from snow melt (Kelly *et al.*, 2006). No correction factors have been applied to the seal densities reported here. The seismic activities covered by the present IHA request will occur during the open water season. Seal density during this period is generally lower than during spring when animals are hauled out on the ice. No distinction is made in density of pinnipeds between summer and autumn season.

Ringed Seals – Seal counts through springtime aerial surveys, conducted in the period 1997–2002 in Prudhoe Bay and Foggy Island Bay area, reported (uncorrected) ringed seal densities ranging from 0.43 to 0.83 seals per km^2 in water over 3 m (10 ft) in depth (Moulton *et al.*, 2002). Similar surveys in the Prudhoe Bay area conducted during the years 1997, 1998, and 1999 estimated consistent higher densities of seals (0.73 versus 0.43 seals/km^2 in 1997; 0.64 vs 0.39 seals/km^2 in 1998, and 0.87 vs 0.63 seals/km^2 in 1999; Frost *et al.*, 2002, 2004). It is not clear why such different results were obtained from similar surveys with considerable overlap in timing and methods. For this IHA request the average density was calculated from the combined 1997–2002 ringed seal densities from Moulton *et al.* (2003) and Frost *et al.* (2003). The highest observed density for the Prudhoe Bay and Liberty area was used as the maximum. Because these density estimates were calculated from spring data and the numbers of seals is expected to be much lower during the open water season, the densities used for the proposed survey were (conservatively) estimated to be 50 percent of the spring densities (see Table 2 in BPXA's application). Due to the lack of open water seal density data, this number is considered to be realistic.

Bearded Seals – During the 2002 spring aerial seal survey in the Prudhoe Bay area, a total of nine single bearded seal sightings were recorded. Four sightings were in the pack ice north of the ice edge and five were on the landfast ice. Of the bearded seals observed in the landfast ice, two were sighted south of the barrier islands. Several bearded seals were seen in 1999–2001 but none during 1997–1998. Density calculations were not conducted because of the small number of bearded seals recorded (Moulton *et al.*, 2002). During a vessel based marine mammal survey for an OBC survey near and west of the Liberty area, all three seal species were observed, with 92 percent ringed seals, 7 percent bearded seals, and 1 percent spotted seals (Harris *et al.*, 1997). The densities for bearded seals were therefore calculated as 7 percent of the ringed seal densities.

Spotted Seals – Spotted seals have seldom been observed in the survey area. During a vessel based marine mammal survey for an OBC survey near and west of the Liberty area, all three seal species were observed, with 92 percent ringed seals, 7 percent bearded seals, and 1 percent spotted seals (Harris *et al.*, 1997). The densities for spotted seals were therefore calculated as 1 percent of the ringed seal densities.

Exposure Calculations for Marine Mammals

Impacts on marine mammals from the planned seismic survey focus on the sound sources of the seismic airguns. This section describes the methodology used to estimate the safety radii for received levels of 190, 180, and 160 dB re 1 μPa for pulsed sounds emitted by the airgun array with a total discharge volume of 880 in3 and the assumptions underlying these calculations (more specifications of this airgun array are included in Appendix B of BPXA's application). The distance to reach received sound levels of 160 dB re 1 μPa (rms) will be used to calculate the potential numbers of marine mammals that may be exposed to these sound levels. The distances to received levels of 180 and 190 dB re 1 μPa (rms) are mainly relevant as safety radii for mitigation purposes (see below).

Greeneridge estimated radii to specific received sound pressure levels from the airgun arrays that will be operated at BPXA's Liberty site (in Foggy Island Bay) during the open water season in 2008. The results from transmission loss experiments conducted in 1997 (Greene, 1998) during the open-water season at the Liberty Prospect were used to calculate the estimated distances of received levels of the proposed airgun source. Several facts and assumptions were used for the computation, which are described in detail in Section 6.2 of BPXA's application.

Table 3 in BPXAs application and Table 1 here outline the estimated distances for specified received levels from airgun arrays with total discharge volumes of 440 in^3 and 880 in^3 in both 1 and 4 m (3.3 and 13 ft) of water. The estimated distances are based on transmission loss profiles within the barrier islands. It is expected that these islands will function as a sound barrier beyond which sound will not propagate much, although most propagation is expected through the channels between the islands. The estimated distances for 120 dB and maybe 160 dB (especially

for the source lines closest to the islands) may be overestimations.

TABLE 1. ESTIMATED DISTANCES FOR SPECIFIED RECEIVED LEVELS FROM AIRGUN ARRAYS WITH A TOTAL DISCHARGE VOLUME OF 440 IN3 AND 880 IN3. NOTE THAT THE ARRAY DEPTH IS AN IMPORTANT FACTOR FOR SOUND PROPAGATION LOSS.

Received levels (dB re 1 μPa rms) [a]	Distance in meters [b](array depth 1 m)		Distance in meters [b](array depth 4 m)	
	440 in^3	880 in^3	440 in^3	880 in^3
190	120	235	200	390
180	280	545	462	880
170	640	1,190	1,030	1,830
160	1,380	2,380	2,090	3,430
120	10,800	13,700	12,900	16,000

[a] The distance in meters for each received level was calculated using the radius calculator available to the public at www.greeneridge.com (courtesy of W.C. Burgess, Ph.D.)

The rms (root mean square) received SPLs that are used as impact criteria for marine mammals are not directly comparable to the peak or peak-to-peak values normally used by geophysicists to characterize source levels of airguns (see Appendix B in BPXA's application). The measurement units used to describe airgun sources, peak or peak-to-peak dB, are always higher than the rms dB referred to in much of the biological literature and in the NMFS criteria. A measured broadband received level of 160 dB re 1 μPa (rms) in the far field would typically correspond to a peak measurement of about 170 to 172 dB re 1 μPa and to a peak-to-peak measurement of about 176 to 178 dB re 1 μPa, as measured for the same pulse received at the same location (Greene, 1997; McCauley *et al.*, 1998, 2000). The precise difference between rms and peak or peak-to-peak values for a given pulse depends on the frequency content and duration of the pulse, among other factors. However, the rms level is always lower than the peak or peak-to-peak level for an airgun-type source. Additional discussion of the characteristics of airgun pulses is included in Appendix C of the application.

The distances from the source to specific received sound levels as summarized in Table 3 of the application and Table 1 above are estimates used for the purpose of this IHA request. These estimated distances will be verified with field measurements at the start of the survey.

The radii associated with received sound levels of 160 and/or 170 dB re 1 μPa (rms) or higher are used to calculate the number of potential marine mammal ''exposures'' to sounds that have the potential to impact their behavior. The 160–dB criterion is applied for all species, and for pinnipeds additional calculations were made for the 170–dB criterion.

The potential number of each species that might be exposed to received levels of 160 and 170 dB re 1 μPa (rms) or greater is calculated by multiplying:

- The expected species density as provided in Table 2 of BPXA's application; by
- The anticipated area to be ensonified to that level during airgun operations.

The area expected to be ensonified was determined by entering the seismic survey lines into a MapInfo Geographic Information System (GIS). GIS was then used to identify the relevant areas by ''drawing'' the applicable 160–dB buffer from Table 3 in the application or Table 1 above around each seismic source line and then to calculate the total area within the buffers. This method avoids the large overlap of buffer zones from each seismic source line and hence an overestimation of the potential number of marine mammals exposed.

Some of the animals, particularly migrating bowhead whales, might show avoidance reactions before being exposed to sound levels of 160 dB re 1 μPa (rms) or higher. During autumn, some migrating bowheads have been found to react to a noise threshold closer to 130 dB re 1 μPa (rms; Miller *et al.*, 1999; Richardson *et al.*, 1999). The numbers potentially impacted at thresholds of 160 and 170 dB re 1 μPa (rms) or greater, however, are calculated as if no avoidance behavior takes place (see Table 4 in BPXA's application).

The estimates show that one endangered cetacean species (the bowhead whale) is expected to be exposed to sound levels greater than 160 dB unless bowheads avoid the survey vessel before this received level is reached. Migrating bowheads are likely to do so, though many of the summering bowheads probably will not. BPXA's respective average and maximum estimated numbers of exposed bowhead whales, as rounded numbers, are shown in the two right-hand columns in Table 4 of the application. Note that 95 percent of the survey coverage is expected in July and August, before the bowhead fall migration, and only 5 percent during fall migration when most bowheads are passing the area, offshore of the barrier islands.

Average and maximum estimates of the number of beluga whales potentially exposed are also summarized in Table 4 of the application. Gray whales are not expected to be encountered but might be present in very low numbers. The maximum expected numbers exposed for this species is provided in Table 6 of the application and Table 2 below.

Pinnipeds are not likely to react to seismic sounds unless the received levels are 170 dB re 1 μPa (rms), and many of those exposed to 170 dB will still not react overtly (Harris *et al.*, 2001; Moulton and Lawson 2002; Miller *et al.*, 2005). The ringed seal is the most widespread and abundant pinniped in ice-covered arctic waters, and there is a great deal of annual variation in population size and distribution of these marine mammals.

Ringed seals account for the majority of marine mammals expected to be encountered, and hence exposed to airgun sounds with received levels of 160 dB and 170 dB re 1 μPa (rms) or greater during the proposed seismic survey. The average (and maximum) estimates of the number of ringed seals exposed to these received levels are

summarized in Table 5 of BPXA's application.

The other two species that could be encountered are the bearded seal and spotted seal. The likelihood of encounters, however, is much lower than for ringed seals with average and maximum numbers potentially exposed to 160 and 170 dB re 1 μPa (rms) or greater as shown in Table 5 of the application.

The following table indicates the requested take levels for each species, as well as the estimated percent of the population that these numbers constitute. Only small numbers of all species are expected to be taken by harassment during the proposed OBC seismic survey, with less than 1 percent of the population of each species requested for take authorization.

TABLE 2. SUMMARY OF THE NUMBER OF MARINE MAMMALS POTENTIALLY EXPOSED TO RECEIVED SOUND LEVELS OF ≥160 DB AND ≥170 DB (FOR PINNIPEDS ONLY) DURING BPXA=S PROPOSED SEISMIC SURVEY IN THE LIBERTY AREA, BASED ON RADII FOR 880 IN3 ARRAY AND 4 M (13 FT) ARRAY DEPTH.

Species	Exposures to ≥160 dB		Exposures to ≥170 dB		Rqstd Take	Estimated % of population
	Average	Maximum	Average	Maximum		
Cetaceans						
Beluga Whale	1	6	NA	NA	6 (50)*	0.02 (0.13)*
Bowhead Whale	2	12	NA	NA	12	0.09
Gray Whale	NA	NA	NA	NA	3	0.02
Pinnipeds						
Ringed Seal	156	222	141	201	225	0.07
Bearded Seal	11	16	10	14	20	0.01
Spotted Seal	2	2	2	5	20	0.01

* Belugas are known to show aggregate behavior and can occur in large numbers in nearshore zones. For the unlikely event that a group of belugas appears in the Liberty area during the seismic survey, this number is added to the requested authorization.

Conclusions

Impacts of seismic sounds on cetaceans are generally expected to be restricted to avoidance of a limited area around the seismic operation and short-term changes in behavior, falling within the MMPA definition of Level B harassment. The requested harassment authorization for each species is based on the estimated maximum numbers exposed to 160 dB re 1 μPa (rms) or greater from an airgun array operating at 4 m (13 ft) depth. This is the highest number of the various estimates.

The estimated numbers of cetaceans and pinnipeds potentially exposed to sound levels sufficient to cause behavioral disturbance are very low percentages of the population sizes in the Bering-Chukchi-Beaufort seas. For the bowhead whale, a species listed as endangered under the ESA, BPXA's estimates include approximately 12 bowheads. This is approximately 0.1 percent of the estimated 2008 Bering-Chukchi-Beaufort population of 13,330 (based on a population size of 10,545 in 2001 and an annual population growth of 3.4 percent, cf Table 1 in the application). The beluga whale is not expected to occur in or near the Liberty area, however some individuals might be observed. Belugas also show aggregate behavior, and so there is the unlikely event that if belugas appear in this area it might be in a larger group. In both circumstances these numbers constitute very low percentages of the estimated population size (see Table 6 in the application and Table 2 above).

The many reported cases of apparent tolerance by cetaceans of seismic operations, vessel traffic, and some other human activities show that co-existence is possible. Mitigation measures such as controlled speed, look outs, non-pursuit, shutdowns or power-downs when marine mammals are seen within defined ranges, and avoiding migration pathways when animals are likely most sensitive to noise will further reduce short-term reactions, and minimize any effects on hearing sensitivity. In all cases, the effects are expected to be short-term, with no lasting biological consequence. Subsistence issues are addressed below.

From the few pinniped species likely to be encountered in the study area, the ringed seal is by far the most abundant marine mammal that could be encountered. The estimated number of ringed seals potentially exposed to airgun sounds at received levels of 160 dB re 1 μPa (rms) during the seismic survey represent less than 0.1 percent of the Bering-Chukchi-Beaufort stock, and these are even smaller portions for bearded and spotted seals (see Table 6 in the application and Table 2 above). It is probable that at this received level, only a small percentage of these seals would actually experience behavioral disturbance. The short-term exposures of pinnipeds to airgun sounds are not expected to result in any long-term negative consequences for the individuals or their stocks.

Potential Impact on Habitat

The proposed seismic survey will not result in any permanent impact on habitats used by marine mammals or to the food sources they utilize. The proposed activities will be of short duration in any particular area at any given time; thus any effects would be localized and short-term. The main impact issue associated with the proposed activity will be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed above.

During the seismic study only a small fraction of the available habitat would be ensonified at any given time. Disturbance to fish species would be short-term, and fish would return to their pre-disturbance behavior once the seismic activity ceases. Thus, the proposed survey would have little, if any, impact on the abilities of marine mammals to feed in the area where seismic work is planned.

Some mysticetes, including bowhead whales, feed on concentrations of zooplankton. Some feeding bowhead

whales may occur in the Alaskan Beaufort Sea in July and August, and others feed intermittently during their westward migration in September and October (Richardson and Thomson [eds.], 2002; Lowry *et al.*, 2004). A reaction by zooplankton to a seismic impulse would only be relevant to whales if it caused concentrations of zooplankton to scatter. Pressure changes of sufficient magnitude to cause that type of reaction would probably occur only very close to the source, if any would occur at all. Impacts on zooplankton behavior are predicted to be negligible, and that would translate into negligible impacts on feeding mysticetes. More importantly, bowhead whales are not expected to occur or feed in the shallow area covered by the seismic survey. Thus, the proposed activity is not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations.

Effects of Seismic Noise and Other Related Activities on Subsistence

The disturbance and potential displacement of marine mammals by sounds from seismic activities are the principal concerns related to subsistence use of the area. Subsistence remains the basis for Alaska Native culture and community. Marine mammals are legally hunted in Alaskan waters by coastal Alaska Natives. In rural Alaska, subsistence activities are often central to many aspects of human existence, including patterns of family life, artistic expression, and community religious and celebratory activities. The main species that are hunted include bowhead and beluga whales, ringed, spotted, and bearded seals, walruses, and polar bears . The importance of each of these species varies among the communities and is largely based on availability.

In the Beaufort Sea, bowhead and beluga whales are the species primarily harvested during the open water season, when the proposed seismic survey is planned. Bowhead whale hunting is the key activity in the subsistence economies of Barrow and two smaller communities, Nuiqsut and Kaktovik. The whale harvests have a great influence on social relations by strengthening the sense of Inupiat culture and heritage in addition to reinforcing family and community ties. Barrow residents focus hunting efforts on bowhead whales during the spring but can also conduct bowhead hunts in the fall. The communities of Nuiqsut and Kaktovik engage only in the fall bowhead hunt. Few belugas are present or harvested by Nuiqsut or Kaktovik.

The Nuiqsut subsistence hunt for bowhead whales has the potential to be impacted by the proposed seismic survey due to its proximity to Cross Island. Around late August, the hunters from Nuiqsut establish camps on Cross Island from where they undertake the fall bowhead whale hunt. The hunting period starts normally in early September and may last as late as mid-October, depending mainly on ice and weather conditions and the success of the hunt. Most of the hunt occurs offshore in waters east, north, and northwest of Cross Island where bowheads migrate and not inside the barrier islands (Galginaitis, 2007). Hunters prefer to take bowheads close to shore to avoid a long tow, but Braund and Moorehead (1995) report that crews may (rarely) pursue whales as far as 80 km (50 mi) offshore. The proposed seismic survey takes place within the barrier islands in very shallow water (<10 m, 33 ft) and has the potential to interfere with the hunt in two ways:

(1) Deflection of whales further offshore from sounds generated by seismic airguns. Due to the medium airgun array in combination with the shallow water environment of the survey and presence of barrier islands, most low frequency sounds are not expected to propagate into the main bowhead migration corridor.

(2) Interference with the hunt due to the presence of vessels near Cross Island.

Both concerns will be discussed with the native communities, and the survey will be conducted in compliance with the mitigation measures outlined in a CAA as a result of these communications.

Ringed seals are hunted mainly from October through June. Hunting for these smaller mammals is concentrated during the ice season because of larger availability of seals on the ice. In winter, leads and cracks in the ice off points of land and along the barrier islands are used for hunting ringed seals. Although ringed seals are available year-round, the seismic survey will not occur during the primary period when these seals are typically harvested.

The more limited seal harvest that takes place during the open water season starts around the second week of June. Hunters take boats on routes in the Colville River and much of Harrison Bay. The main seal hunt occurs in areas far west from the Liberty area, so impacts on the subsistence seal hunt are not expected. The potential for impacts on the seal hunt will however be discussed with the Nuiqsut community and specific provisions will be integrated in the survey in compliance with a CAA where applicable.

Potential impacts on subsistence uses of marine mammals are proposed to be mitigated by application of the procedures established in a CAA between the seismic operators, the Alaska Eskimo Whaling Commission (AEWC), and the Captains' Associations of Barrow, Nuiqsut, Kaktovik, Wainwright, Pt. Lay, and Pt. Hope. Under a CAA, the times and locations of seismic and other noise producing sources would likely be curtailed during times of active bowhead whale scouting and actual whaling activities within the traditional subsistence hunting areas of the potentially affected communities.

Plan of Cooperation (POC)

Regulations at 50 CFR 216.104(a)(12) require IHA applicants for activities that take place in Arctic waters to provide a POC or information that identifies what measures have been taken and/or will be taken to minimize adverse effects on the availability of marine mammals for subsistence purposes. BPXA has begun negotiating a POC in the form of a CAA with representatives of the community of Nuiqsut, the AEWC, and the North Slope Borough (NSB) for the proposed 2008 Liberty seismic survey in Foggy Island Bay, Beaufort Sea. BPXA is working with the people of these communities and organizations to identify and avoid areas of potential conflict. Meetings that have taken place prior to the survey include:

- October 25, 2007: Meeting with AEWC and NSB representatives during the AEWC convention;
- October 29, 2007: Meeting with NSB Wildlife Group to provide updates of the survey and to obtain information on their opinions and views on mitigation and monitoring requirements.
- April 2008: As in previous years, BPXA participated in the ''open water peer/stakeholder review meeting'' convened by NMFS in Anchorage in mid-April 2008, where representatives of the AEWC and NSB also participated.
- Subsequent meetings with whaling captains, other community representatives, the AEWC, NSB, and any other stakeholders will be held as necessary to negotiate the terms of the plan and to coordinate the planned seismic survey operation with subsistence hunting activity.

A CAA would cover the phases of BPXA's seismic survey planned to occur in July and August and if required after the whaling season or as agreed to in a CAA with the respective communities. The purpose of this plan will be to

identify measures that will be taken to minimize any adverse effects on the availability of marine mammals for subsistence uses and to ensure good communication between BPXA (including the seismic team leads), native communities along the coast, and subsistence hunters at sea.

The proposed POC may address the following: (1) operational agreement and communications procedures; (2) where/when agreement becomes effective; (3) general communications scheme; (4) on-board Inupiat observer; (5) conflict avoidance; (6) seasonally sensitive areas; (7) vessel navigation; (8) marine mammal monitoring activities; (9) measures to avoid impacts to marine mammals; (10) measures to avoid conflicts in areas of active whaling; (11) emergency assistance; and (12) dispute resolution process.

It should be noted that NMFS must make a determination under the MMPA that an activity would not have an unmitigable adverse impact on the subsistence needs for marine mammals. While this includes usage of both cetaceans and pinnipeds, the primary impact by seismic activities is expected to be impacts from noise on bowhead whales during its westward fall feeding and migration period in the Beaufort Sea. NMFS has defined unmitigable adverse impact as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met (50 CFR 216.103).

However, while a signed CAA allows NMFS to make a determination that the activity will not have an unmitigable adverse impact on the subsistence use of marine mammals, if one or both parties fail to sign the CAA, then NMFS will make the determination that the activity will or will not have an unmitigable adverse impact on subsistence uses of marine mammals. This determination may require that the IHA contain additional mitigation measures in order for this decision to be made.

Proposed Mitigation Measures

The introduction of pulsed sounds generated by seismic airguns is the main source of potential impacts on marine mammal species and the focus of this request. The response of the animal depends on various factors, but short-term behavioral responses are the most likely to occur. No serious or lethal injuries are expected. Implementation of the proposed mitigation measures described below will reduce the potential impacts to marine mammals. This section describes the measures that have been included in the survey design and those that are proposed to be implemented during the survey.

Mitigation measures to reduce any potential impact on marine mammals that have been considered and included in the planning and design phase are as follows:

- The area for which seismic data is required, i.e., the well path from SDI to the Liberty Prospect, has been minimized by re-analyzing and re-interpreting existing data (to the extent available and usable). This has led to a reduction in size from approximately 220 km^2 (85 mi^2) to approximately 91 km^2 (35 mi^2). This is not the total seismic area extent that includes the seismic source vessels and receiver lines, although they are related.
- The total airgun discharge volume has been reduced to the minimum volume needed to obtain the required data. The total volume for the proposed survey is 880 in3 (consisting of two 4–gun arrays of 440 in^3).
- Two seismic source vessels will be used simultaneously (alternating their shots) to minimize the total survey period. This will allow the survey to be completed prior to the start of the whale fall migration and whaling season (weather dependent).

The seismic survey will take place inside the barrier islands in nearshore shallow waters. The survey period will be July-August, prior to the bowhead whale migration season, with some contingency to obtain data in September/October after the whaling season, if necessary, in compliance with a CAA. It is unlikely that whales will be present in the nearshore zone where the seismic survey is taking place, and if they are present, the numbers are expected to be low. The main marine mammal species to be expected in the area is the ringed seal. With the proposed mitigation measures (see below), any effect on individuals are expected to be limited to short-term behavioral disturbance with a negligible impact on the species or stock.

The mitigation measures are an integral part of the survey in the form of specific procedures, such as: (1) speed and course alterations; (2) power-down, ramp up, and shutdown procedures; and (3) provisions for poor visibility conditions. For the implementation of these measures, it is important to first establish and verify the distances of various received levels that function as safety zones and second to monitor these safety zones and implement mitigation measures where required.

Establishment and Monitoring of Safety Zones

Greeneridge Sciences, Inc. estimated for BPXA the distances from the 880 in^3 seismic airgun array where sound levels 190, 180, and 160 dB re 1 μPa (rms) would be received (Table 3 in BPXA's application and Table 1 above). For these estimations, the results from transmission loss data obtained in the Liberty area in 1997 were used (Greene, 1998). The calculations included distances for a reduced array of 440 in^3 and two array depths (1 and 4 m, 3 and 13 ft). These calculations form the basis for estimating the number of animals potentially affected.

Received sound levels will be measured as a function of distance from the array prior to the start of the survey. This will be done for: (a) two 440 in^3 arrays (880 in^3), (b) one 440 in^3 array, and (c) one 70 in^3 airgun (smallest volume of array). BPXA will apply appropriate adjustments to the estimated safety zones (see Table 3 in the application or Table 1 above) based on measurements of the 880 in^3 (two 440 in^3) array. Results from measurements of the 440 in^3 and 70 in^3 data will be used for the implementation of mitigation measures to power down the sound source and reduce the size of the safety zones when required.

MMOs on board the vessels play a key role in monitoring the safety zones and implementing the mitigation measures. Their primary role is to monitor marine mammals near the seismic source vessel during all daylight airgun operations and during any nighttime start-up of the airguns. These observations will provide the real-time data needed to implement the key mitigation measures described below. When marine mammals are observed within or about to enter designated safety zones, airgun operations will be powered down (or shut down if necessary) immediately. These safety zones are defined as the distance from the source to a received level of 190 dB for pinnipeds and 180 dB for cetaceans. A specific dedicated vessel monitoring program to detect aggregations of baleen whales (12 or more) within the 160–dB zone or 4 or more bowhead whale cow-calf pairs within the 120–dB zone is not considered applicable here as none of these situations are expected in the proposed survey based on the estimated

safety zones. Monitoring options will be reconsidered if radii measured in the field are significantly larger than the estimated radii (and extend to areas where bowhead whales can be expected).

Speed and Course Alterations

If a marine mammal (in water) is detected outside the safety radius and, based on its position and the relative motion, is likely to enter the safety radius, the vessel's speed and/or direct course would be changed in a manner that does not compromise safety requirements. The animal's activities and movements relative to the seismic vessel will be closely monitored to ensure that the individual does not approach within the safety radius. If the mammal appears likely to enter the safety radius, further mitigative actions will be taken, i.e., either further course alterations or power-down or shutdown of the airgun(s).

Power-down Procedure

A power-down involves decreasing the number of airguns in use such that the radii of the 190–dB and 180–dB zones are decreased to the extent that observed marine mammals are not in the applicable safety zone. Situations that would require a power-down are listed below.

(1) When the vessel is changing from one source line to another, one airgun or a reduced number of airguns is operated. The continued operation of one airgun or a reduced airgun array is intended to: (a) alert marine mammals to the presence of the seismic vessel in the area and (b) retain the option of initiating a ramp up to full operations under poor visibility conditions.

(2) If a marine mammal is detected outside the safety radius but is likely to enter the safety radius, and if the vessel's speed and/or course cannot be changed to avoid the animal from entering the safety zone. As an alternative to a complete shutdown, the airguns may be powered- down before the animal is within the safety zone.

(3) If a marine mammal is already within the safety zone when first detected, the airguns may be powered-down immediately if this is a reasonable alternative to a complete shutdown. This decision will be made by the MMO and can be based on the results obtained from the acoustic measurements for the establishments of safety zones.

Following a power-down, operation of the full airgun array will not resume until the marine mammal has cleared the safety zone. The animal will be considered to have cleared the safety zone if it:

(1) Is visually observed to have left the safety zone;

(2) Has not been seen within the zone for 15 min in the case of small odontocetes and pinnipeds; or

(3) Has not been seen within the zone for 30 min in the case of mysticetes (large odontocetes do not occur within the study area).

Shutdown Procedure

A shutdown procedure involves the complete turn off of all airguns. Ramp-up procedures will be followed during resumption of full seismic operations. The operating airgun(s) will be shut down completely during the following situations:

(1) If a marine mammal approaches or enters the applicable safety zone, and a power-down is not practical or adequate to reduce exposure to less than 190 dB (rms; pinnipeds) or 180 dB (rms; cetaceans).

(2) If a marine mammal approaches or enters the estimated safety radius around the reduced source that will be used during a power-down.

Airgun activity will not resume until the marine mammal has cleared the safety radius. The animal will be considered to have cleared the safety radius as described above for power-down procedures.

Ramp-up Procedure

A ramp-up procedure will be followed when the airgun array begins operating after a specified duration with no or reduced airgun operations. The specified duration depends on the speed of the source vessel, the size of the airgun array that is being used, and the size of the safety zone, but is often about 10 min.

NMFS requires that, once ramp-up commences, the rate of ramp-up be no more than 6 dB per 5 min period. Ramp-up will likely begin with the smallest airgun, in this case, 70 in3. The precise ramp-up procedure has yet to be determined, but BPXA intends to follow the ramp-up guideline of no more than 6 dB per 5 min period (unless otherwise required). A common procedure is to double the number of operating airguns at 5–min intervals. During the ramp-up, the safety zone for the full 8–gun array will be maintained. A ramp-up procedure can be applied only in the following situations:

(1) If, after a complete shutdown, the entire 180 dB safety zone has been visible for at least 30 min prior to the planned start of the ramp-up in either daylight or nighttime. If the entire safety zone is visible with vessel lights and/or night vision devices, then ramp-up of the airguns from a complete shutdown may occur at night.

(2) If one airgun has operated during a power-down period, ramp-up to full power will be permissible at night or in poor visibility, on the assumption that marine mammals will either be alerted by the sounds from the single airgun and could move away or may be detected by visual observations.

(3) If no marine mammals have been sighted within or near the applicable safety zone during the previous 15 min in either daylight or nighttime, provided that the entire safety zone was visible for at least 30 min.

Poor Visibility Conditions

BPXA plans to conduct 24–hr operations. Regarding nighttime observations, note that there will be no periods of total darkness until mid-August. MMOs are proposed not to be on duty during ongoing seismic operations at night, given the very limited effectiveness of visual observation at night. At night, bridge personnel will watch for marine mammals (insofar as practical) and will call for the airguns to be shut down if marine mammals are observed in or about to enter the safety zones. If a ramp-up procedure needs to be conducted following a full shutdown at night, two MMOs need to be present to monitor for marine mammals near the source vessel and to determine if proper conditions are met for a ramp-up. The proposed provisions associated with operations at night or in periods of poor visibility include:

(1) During any nighttime operations, if the entire 180–dB safety radius is visible using vessel lights and/or night vision devices, then start of a ramp-up procedure after a complete shutdown of the airgun array may occur following a 30–min period of observation without sighting marine mammals in the safety zone.

(2) If during foggy conditions or darkness (which may be encountered starting in late August), the full 180–dB safety zone is not visible, the airguns cannot commence a ramp-up procedure from a full shutdown.

(3) If one or more airguns have been operational before nightfall or before the onset of foggy conditions, they can remain operational throughout the night or foggy conditions. In this case, ramp-up procedures can be initiated, even though the entire safety radius may not be visible, on the assumption that marine mammals will be alerted by the sounds from the single airgun and have moved away.

BPXA has considered the use of passive acoustic monitoring (PAM) in

conjunction with visual monitoring to allow detection of marine mammals during poor visibility conditions, such as fog. The use of PAM for this specific survey might not be very effective because the species most commonly present (ringed seal) is not vocal during this time period.

Proposed Monitoring and Reporting Plan

BPXA proposes to sponsor marine mammal monitoring during the Liberty seismic survey in order to implement the proposed mitigation measures that require real-time monitoring, to satisfy the anticipated monitoring requirements of the IHA, and to meet any monitoring requirements agreed to as part of the POC/CAA. The monitoring plan is described below.

The monitoring work described here is planned as a self-contained project independent of any other related monitoring projects that may occur simultaneously in the same area. Provided that an acceptable methodology and business relationship can be worked out in advance, BPXA is prepared to work with other energy companies in its efforts to manage, understand, and fully communicate information about environmental impacts related to its activities.

Vessel-based Visual Monitoring by MMOs

There will be three MMOs on each source vessel during the entire survey. These vessel-based MMOs will monitor marine mammals near the seismic source vessels during all daylight hours and during any ramp-up of airguns at night. In case the source vessels are not shooting but are involved in the deployment or retrieval of receiver cables, the MMOs will remain on the vessels and will continue their observations. The main purpose of the MMOs is to monitor the established safety zones and to implement the mitigation measures described above.

The main objectives of the visual marine mammal monitoring from the seismic source vessels are as follows:

(1) To form the basis for implementation of mitigation measures during the seismic operation (e.g., course alteration, airgun power-down, shutdown and ramp-up);

(2) To obtain information needed to estimate the number of marine mammals potentially affected, which must be reported to NMFS within 90 days after completion of the 2008 seismic survey program;

(3) To compare the distance and distribution of marine mammals relative to the source vessel at times with and without seismic activity; and

(4) To obtain data on the behavior and movement patterns of marine mammals observed and compare those at times with and without seismic activity.

Note that potential to successfully achieve objectives 3 and 4 is subject to the number of animals observed during the survey period.

Two MMOs will also be placed on the mothership the *Arctic Wolf* during its transit from Homer or Anchorage, via the Chukchi Sea and around Barrow to the survey area. Presence of MMOs on this vessel is to prevent any potential impact on beluga whales during the spring hunt, in addition to other measures that will be taken in close communication with the whale hunters of Pt. Lay and Kotzebue, Alaska. According to BPXA, it will be important that at least one Alaska native resident who speaks Inupiat be placed on this vessel.

MMO Protocol – BPXA intends to work with experienced MMOs that have had previous experience working on seismic survey vessels, which will be especially important for the lead MMO. At least one Alaska native resident who speaks Inupiat and is knowledgeable about the marine mammals of the area is expected to be included as one of the team members aboard both source vessels and the mother ship.

At least one observer will monitor for marine mammals at any time during daylight hours and nighttime ramp-ups after a full shutdown (and if the entire safety zone is visible). There will be no periods of total darkness until mid-August. Two MMOs will be on duty whenever feasible and practical, as the use of two simultaneous observers will increase the early detectability of animals present near the safety zone of the source vessels. MMOs will be on duty in shifts of maximum 4 hours, but the exact shift regime will be established by the lead MMO in consultation with each MMO team member.

Before the start of the seismic survey, the lead MMO will explain the function of the MMOs, their monitoring protocol, and mitigation measures to be implemented to the crew of the seismic source vessels *Peregrine* and *Miss Dianne*. Additional information will be provided to the crew by the lead MMO that will allow the crew to assist in the detection of marine mammals and (where possible and practical) in the implementation of mitigation measures.

Both the *Peregrine* and *Miss Dianne* are relatively small vessels but form suitable platforms for marine mammal observations. Observations will be made from the bridges, which are respectively approximately 4.5 m (approximately 15 ft) and approximately 3.7 m (approximately 12 ft) above sea level, and where MMOs have the best view around the vessel. During daytime, the MMO(s) will scan the area around the vessel systematically with reticle binoculars (e.g., 7 50 Fujinon) and the naked eye. During any periods of darkness, night vision devices will be available (ITT F500 Series Generation 3 binocular-image intensifier or equivalent), if and when required. Laser rangefinding binoculars (Leica LRF 1200 laser rangefinder or equivalent) will be available to assist with distance estimation; these are useful in training observers to estimate distances visually, but are generally not useful in measuring distances to animals directly.

Communication Procedures – When marine mammals in the water are detected within or about to enter the designated safety zones, the airgun(s) power-down or shutdown procedures need to be implemented immediately. To assure prompt implementation of power-downs and shutdowns, multiple channels of communication between the MMOs and the airgun technicians will be established. During the power-down and shutdown, the MMO(s) will continue to maintain watch to determine when the animal(s) are outside the safety radius. Airgun operations can be resumed with a ramp-up procedure (depending on the extent of the power-down) if the MMOs have visually confirmed that the animal(s) moved outside the safety zone, or if the animal(s) were not observed within the safety zone for 15 min (pinnipeds) or for 30 min (cetaceans). Direct communication with the airgun operator will be maintained throughout these procedures.

Data Recording – All marine mammal observations and any airgun power-down, shutdown, and ramp-up will be recorded in a standardized format. Data will be entered into a custom database using a notebook computer. The accuracy of the data entry will be verified by computerized validity data checks as the data are entered and by subsequent manual checking of the database. These procedures will allow initial summaries of data to be prepared during and shortly after the field program and will facilitate transfer of the data to statistical, graphical, or other programs for further processing and archiving.

Acoustic Measurements and Monitoring

Acoustic measurements and monitoring will be conducted for three different purposes: (1) To establish the

distances of the safety zones; (2) to measure source levels (i.e., received levels referenced to 1 m (3 ft) from the sound source) of each vessel of the seismic fleet to obtain knowledge on the sounds generated by the vessels; and (3) to measure received levels offshore of the barrier islands from the seismic sound source.

Verification and Establishment of Safety Zones – Prior to, or at the beginning of the seismic survey, acoustic measurements will be conducted to calculate received sound levels as a function of distance from the airgun sound source. These measurements will be conducted for different discharge volumes.

The results of these acoustic measurements will be used to re-define the safety zone distances for received levels of 190 dB, 180 dB, and 160 dB. The 160–dB received level is monitored to avoid any behavioral disturbances of marine mammals that may be in the area. The distances of the received levels as a function of the different sound sources (varying discharge volumes) will be used to guide power-down and ramp-up procedures. A preliminary report describing the methodology and results of the measurement for at least the 190–dB and 180–dB (rms) safety zones will be submitted to NMFS within 72–hrs of completion of the measurements.

Measurements of Vessel Sounds – BPXA intends to measure vessel sounds of each representative vessel. The exact scope of the source level measurements (back-calculated as received levels at 1 m (3 ft) from the source) should follow a pre-defined protocol to eliminate the complex interplay of factors that underlie these measurements, such as bathymetry, vessel activity, location, season, etc. Where possible and practical the monitoring protocol will be developed in alignment with other existing vessel source level measurements.

Received Sound Levels Offshore the Barrier Islands – The proposed seismic survey will take place inside the barrier islands, and, as such, the sounds from the seismic survey activities are not expected to propagate much beyond the shallow areas formed by these barrier islands. However, because the survey might extend partly into September/October, when bowheads migrate past the area, and there are some slightly deeper water channels in between the barrier islands, BPXA intends to develop a simple acoustic monitoring plan to measure received sound levels outside the barrier islands during the seismic survey.

Aerial Surveys

During the July and August timeframe, no bowhead whales are expected to be present in or close to the survey area, so no aerial surveys are planned during this timeframe. If the survey continues into September or October, after the bowhead whale hunt and in compliance with the CAA, aerial surveys will be conducted bi-weekly, when conditions allow, until three days after the seismic survey and cover the area immediately offshore of the barrier islands. If other operators conduct surveys in the vicinity, cooperation regarding sharing data or flight time can be considered, provided that an acceptable methodology and business relationship can be worked out in advance.

Reporting

A report on the preliminary results of the acoustic verification measurements, including as a minimum the measured 190- and 180–dB (rms) radii of the airgun sources, will be submitted within 72–hrs after collection of those measurements at the start of the field season. This report will specify the distances of the safety zones that were adopted for the survey.

A report on BPXA's activities and on the relevant monitoring and mitigation results will be submitted to NMFS within 90 days after the end of the seismic survey. The report will describe the operations that were conducted, the measured sound levels, and the cetaceans and seals that were detected near the operations. The report will be submitted to NMFS, providing full documentation of methods, results, and interpretation pertaining to all acoustic and vessel-based marine mammal monitoring. The 90–day report will summarize the dates and locations of seismic operations, and all whale and seal sightings (dates, times, locations, activities, associated seismic survey activities). Marine mammal sightings will be reported at species level, however, especially during unfavorable environmental conditions (e.g., low visibility, high sea states) this will not always be possible. The number and circumstances of ramp-up, power-down, shutdown, and other mitigation actions will be reported. The report will also include estimates of the amount and nature of potential impact to marine mammals encountered during the survey.

ESA

NMFS has previously consulted under section 7 of the ESA on the issuance of IHAs for seismic survey activities in the Beaufort and Chukchi Seas. NMFS issued a Biological Opinion on June 16, 2006, regarding the effects of this action on ESA-listed species and critical habitat under the jurisdiction of NMFS. The Opinion concluded that this action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. A copy of the Biological Opinion is available at: *http://www.mms.gov/alaska/ref/BioOpinions/ARBOIII-2.pdf*.

National Environmental Policy Act (NEPA)

In 2006, the MMS prepared Draft and Final Programmatic Environmental Assessments (PEAs) for seismic surveys in the Beaufort and Chukchi Seas. NMFS was a cooperating agency in the preparation of the MMS PEA. On November 17, 2006 (71 FR 66912), NMFS and MMS announced that they were preparing a DPEIS in order to assess the impacts of MMS' annual authorizations under the Outer Continental Shelf Lands Act to the U.S. oil and gas industry to conduct offshore geophysical seismic surveys in the Chukchi and Beaufort Seas off Alaska and NMFS' authorizations under the MMPA to incidentally harass marine mammals while conducting those surveys.

On March 30, 2007 (72 FR 15135), the Environmental Protection Agency (EPA) noted the availability for comment of the NMFS/MMS DPEIS. Based upon several verbal and written requests to NMFS for additional time to review the DPEIS, EPA has twice announced an extension of the comment period until July 30, 2007 (72 FR 28044, May 18, 2007; 72 FR 38576, July 13, 2007). Because of this delay in completion of a Final PEIS, NMFS determined that it would need to update the 2006 PEA in order to meet its NEPA requirements. This approach was warranted as it was reviewing five proposed Arctic seismic survey IHAs for 2008, well within the scope of the PEA's eight consecutive seismic surveys. To update the 2006 Final PEA, NMFS is currently preparing an EA which incorporates by reference the 2006 Final PEA and other related documents. The necessary NEPA analysis will be concluded prior to making a determination on the issuance of the IHA to BPXA.

Preliminary Determinations

Based on the information provided in BPXAs application, this document, and the MMS Final PEA, NMFS has preliminarily determined that the impact of BPXA conducting seismic surveys in the Liberty Prospect, Foggy

Island Bay, Beaufort Sea in 2008 may result, at worst, in a temporary modification in behavior (Level B Harassment) of small numbers of six species of marine mammals, will have no more than a negligible impact on the affected species or stocks, and that there will not be any unmitigable adverse impacts to subsistence communities, provided the mitigation measures described above are implemented.

NMFS has preliminarily determined that the short-term impact of conducting seismic surveys in the Liberty Prospect area of the U.S. Beaufort Sea may result, at worst, in a temporary modification in behavior by certain species of marine mammals. While behavioral and avoidance reactions may be made by these species in response to the resultant noise, this behavioral change is expected to have a negligible impact on the animals. While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals (which vary annually due to variable ice conditions and other factors) in the area of seismic operations, the number of potential harassment takings is estimated to be small (less than one percent of any of the estimated population sizes) and has been mitigated to the lowest level practicable through incorporation of the measures mentioned previously in this document. In addition, no take by death and/or serious injury is anticipated, and the potential for temporary or permanent hearing impairment will be avoided through the incorporation of the mitigation and monitoring measures proposed above. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the planned area of operations during the season of operations.

NMFS has preliminarily determined that the proposed seismic activity by BPXA in the Beaufort Sea in 2008 will not have an unmitigable adverse impact on the subsistence uses of bowhead whales and other marine mammals. This determination is supported by the information in this **Federal Register** Notice, including: (1) the fall bowhead whale hunt in the Beaufort Sea will either be governed by a CAA between BPXA and the AEWC and village whaling captains or by mitigation measures contained in the IHA; (2) the CAA or IHA conditions will significantly reduce impacts on subsistence hunters to ensure that there will not be an unmitigable adverse impact on subsistence uses of marine mammals; (3) because ringed seals are hunted mainly from October through June, although they are available year-round; however, the seismic survey will not occur during the primary period when these seals are typically harvested; (4) the main seal hunts that occur during the open water season occur in areas farther west than the Liberty Prospect, so it should not conflict with harvest activities; and (5) specific provisions to avoid interference with the seal hunts will be integrated into the survey in compliance with the CAA where applicable.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to BPXA for conducting a seismic survey in the Liberty Prospect, Foggy Island Bay, Beaufort Sea in 2008, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: April 23, 2008.

Helen Golde,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–9682 Filed 5–1–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2008–DARS–0042]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 2, 2008.

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 239, Acquisition of Information Technology, and the associated clauses at DFARS 252.239–7000 and 252.239–7006; OMB Control Number 0704–0341.

Type of Request: Extension.

Number of Respondents: 521.

Responses per Respondent: 3.76.

Annual Responses: 1,959.

Average Burden per Response: .828 hours.

Annual Burden Hours: 1,622.

Needs and Uses: This requirement provides for the collection of information from contractors regarding security of information technology; tariffs pertaining to telecommunications services; and proposals from common carriers to perform special construction under contracts for telecommunications services. Contracting officers and other DoD personnel use the information to ensure that information systems are protected; to participate in the establishment of tariffs for telecommunications services; and to establish reasonable prices for special construction by common carriers.

Affected Public: Business or other for-profit; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 25, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9624 Filed 5–1–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2007–OS–0094]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 2, 2008.

Title, Form, and OMB Number: Request for Government Approval for Aircrew Qualifications and Training, DD Form 2627 and Request for Approval of Contractor Flight Crewmember, DD Form 2628; OMB Control Number 0704–0347.

Type of Request: Extension.

Number of Respondents: 42.

Responses per Respondent: 2.

Annual Responses: 84.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 7.

Needs and Uses: The information collection requirement is necessary to request qualification training for contractor crewmembers. The DD Form 2628 requests approval for contractor personnel to function as a flight crewmember.

Affected Public: Individuals or households; business or other for profit; not-for-profit institutions; state, local or tribal government.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Sharon Mar.

Written comments and recommendations on the proposed information collection should be sent to Ms. Mar at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. Comments may be e-mailed to Ms. Mar at *Sharon_Mar@omb.eop.gov*.

You may also submit comments, identified by docket number and title, by the following method:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 25, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9713 Filed 5–1–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2008–OS–0043]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995*, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed new public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 1, 2008.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) (Military Personnel Policy/Accession Policy), *Attn:* Dr. Jane Arabian, 4000 Defense Pentagon, Washington, DC 20301–4000 or call at (703) 697–9271.

Title and OMB Control Number: Utility of Test Preparation Guides and Education Programs in Enhancing Recruit Candidate Performance on the Armed Services Vocational Aptitude Battery (ASVAB), OMB Number 0704–TBD.

Needs and Uses: The 2007 National Defense Authorization Act (NDAA), section 546, directs the Secretary of Defense to conduct a test of the utility of test preparation guides in enhancing recruit candidate performance on the Armed Services Vocational Aptitude Battery (ASVAB). The ASVAB is a cognitive ability test used to select and classify applicants for enlistment into the U.S. military. This information data collection is needed to meet the following objectives, as stated in the NDAA, to examine: The degree to which test preparation assistance degrades test reliability and accuracy, the degree to which test preparation assistance allows more accurate testing of skill aptitudes and mental capability, and to recommend a role for test preparation assistance in military recruiting.

Affected Public: Individuals or households.

Annual Burden Hours: 33,350.

Number of Respondents: 145,000.

Responses per Respondent: 1 or 2.

Average Burden per Response: 12 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The 2007 National Defense Authorization Act (NDAA), section 546, directs the Secretary of Defense to conduct a test of the utility of test preparation guides in enhancing recruit candidate performance on the Armed Services Vocational Aptitude Battery (ASVAB). The instrument used to collect the information is the ASVAB Preparation Questionnaire, which covers: (a) ASVAB test taking history, (b) ASVAB preparation behaviors, (c) academic history, and (d) language spoken and education level of parents.

The potential respondent universe consists of all military applicants who complete the ASVAB when taken at Military Entrance Processing Stations (MEPS) and Military Entrance Testing Sites (METS). The questionnaire will be administered immediately after the applicant completes the ASVAB. Computer administration will be used in the MEPS and paper and pencil in the METS. The information collected will be used for program planning, and to compile the congressionally-mandated report.

Dated: April 23, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9715 Filed 5–1–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[No. DoD–2007–HA–0004]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 2, 2008.

Title and OMB Number: Defense Medical Human Resources System Internet (DMHRSi); OMB Control Number 0720-TBD.

Type of Request: New.

Number of Respondents: 85,000.

Responses per Respondent: 1.

Annual Responses: 85,000.

Average Burden per Response: .125.

Annual Burden Hours: 10,625.

Needs and Uses: DMHRSi is a Joint Medical Information system software application that provides the Military Health System (MHS) with a comprehensive enterprise human resource system with capabilities to manage personnel, manpower, education and training, labor cost assignment and readiness functional areas. It has built-in safeguards to limit access and visibility of personal or sensitive information in accordance with the Privacy Act of 1974. The application will account for everyone in the MHS—Active Duty, Reserves, National Guard, government civilian, contractors and volunteers assigned or borrowed—this also includes non-appropriated fund employees and foreign nationals.

Affected Public: Federal government; Individuals or households; Business or other for-profit; not-for-profit institutions.

Frequency: Quarterly, biennially, semi-annually; annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 25, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9718 Filed 5–1–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket No. USAF–2007–0027]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 2, 2008.

Title, Form, and OMB Number: Application for Appointment as Reserve of the Air Force or USAF Without Component; Air Force (AF) Form 24; OMB Control Number 0701–0096.

Type of Request: Extension.

Number of Respondents: 5,899.

Responses per Respondent: 1.

Annual Responses: 5,899.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 1,966.

Needs and Uses: The information collection requirement is necessary for providing information to determine if applicant meets established qualifications for appointment as a Reserve (Air National Guard of the United States (ANGUS) and United States Air Force Reserve (USAFR)) or in the USAF without component. Use of the Social Security Number (SSN) is necessary to make positive identification of an applicant and his or her records.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Sharon Mar.

Written comments and recommendations on the proposed information collection should be sent to Ms. Mar at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. Comments may be e-mailed to Ms. Mar at *Sharon_Mar@omb.eop.gov*.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 25, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9628 Filed 5–1–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket No. USA–2007–0032]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 2, 2008.

Title, Form, and OMB Number: Shipper' Export Declaration (SED) Program; ENG Form 7513; OMB Control Number 0710–0013.

Type of Request: Extension.

Number of Respondents: 14,300.

Responses per Respondent: 6.8.

Annual Responses: 97,240.

Average Burden per Response: Approximately 11 minutes.

Annual Burden Hours: 17,000.

Needs and Uses: The Corps uses the data from the program to satisfy its mission. The Corps is responsible for the operation and maintenance of the nation's waterway system to ensure efficient and safe passage of commercial and recreational vessels. The support and management of economically sound navigation projects are dependent upon reliable navigation data as mandated by the River and Harbor Appropriations Act of September 22, 1922 (42 Stat. 1043), as amended and codified in 33 U.S.C. 555. The data collected on the form provides baseline, essential waterborne transportation information necessary for the Corps to perform its mission.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Jim Laity.

Written comments and recommendations on the proposed information collection should be sent to Mr. Laity at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 25, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9620 Filed 5–1–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket No. USA–2007–0030]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 2, 2008.

Title, Form, and OMB Number: West Point Engineering Graduates Surveys—2009; OMB Control Number 0702–0116.

Type of Request: Extension.

Number of Respondents: 1,421.

Responses per Respondent: 1.

Annual Responses: 1,421.

Average Burden per Response: .58 hour.

Annual Burden Hours: 824.

Needs and Uses: An assessment of perceptions of graduates on the effectiveness of the U.S. Military Academy programs and curricula is needed for periodic accreditation by the Accreditation Board or Engineering and Technology. The information collected will be used to evaluate programs/curricula and make changes deemed advisable.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Sharon Mar.

Written comments and recommendations on the proposed information collection should be sent to Ms. Mar at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. Comments may be e-mailed to Ms. Mar at *Sharon_Mar@omb.eop.gov*.

You may also submit comments, identified by docket number and title, by the following method:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 25, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9621 Filed 5–1–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket No. USA–2007–0033]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 2, 2008.

Title, Form, and OMB Number: Description of Vessels, Description of Operations; ENG Forms 3931 and 3932; OMB Control Number 0710–0009.

Type of Request: Extension.

Number of Respondents: 3,058.

Responses per Respondent: 1.

Annual Responses: 3,058.

Average Burden per Response: 40 minutes.

Annual Burden Hours: 2,048.

Needs and Uses: The Corps of Engineers uses ENG Forms 3931 and 3932 as the basic instruments to collect vessel and operating descriptions for use in waterborne commerce statistics. These data constitute the sole source for domestic vessel characteristics and operating descriptions for domestic vessels operating on U.S. navigable waterways. These data are collected from vessel operating companies. These data are essential to plans for maintaining U.S. navigable waterways. These data are also critical to the enforcement of the ''Harbor maintenance Tax'' authorized under section 1402 of Public Law 99–662.

Affected Public: Business or other for-profit.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Jim Laity.

Written comments and recommendations on the proposed information collection should be sent to Mr. Laity at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 25, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9625 Filed 5–1–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket No. USA–2007–0034]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 2, 2008.

Title, Form, and OMB Number: Estuary Habitat Restoration Program Project Application; ENG Form 6019–R; OMB Control Number 0710–0014.

Type of Request: Extension.

Number of Respondents: 100.

Responses per Respondent: 1.

Annual Responses: 100.

Average Burden per Response: 10 hours.

Annual Burden Hours: 1,000.

Needs and Uses: The Corps will solicit applications for estuary habitat restoration projects under section 104 of the Estuary Restoration Act 2000. Requested information will include proposed project location, types and acreage of habitat to be restored, and project description including restoration techniques, project goals and expected benefits, monitoring plan, costs, and other supporting information. Project applications may be submitted either electronically or in paper format. This information is needed to select projects for funding.

Affected Public: State, local, or tribal government and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Jim Laity.

Written comments and recommendations on the proposed information collection should be sent to Mr. Laity at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 25, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9626 Filed 5–1–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket No. USA–2007–0031]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 2, 2008.

Title, Form, and OMB Number: Freight Carrier Registration Program (FCRP); SDDC Form 410; OMB Control Number 0702–0121.

Type of Request: Extension.

Number of Respondents: 430.

Responses per Respondent: 1.

Annual Responses: 430.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 108.

Needs and Uses: The FCRP is designed to protect the interest of the Government and to ensure that the Department of Defense deals with responsible carriers having the capability to provide quality and dependable service. Information is vital in determining capability to perform

quality service transporting DoD freight. Carriers will furnish SDDC with information to assist in determining through other public records whether the company and its officers are responsible contractors.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Sharon Mar.

Written comments and recommendations on the proposed information collection should be sent to Ms. Mar at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. Comments may be e-mailed to Ms. Mar at *Sharon_Mar@omb.eop.gov*.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 25, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9630 Filed 5–1–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Supplemental Environmental Impact Statement/Environmental Impact Report (SEIS/EIR) for the Seven Oaks Dam To Implement Measures To Sustain Federally-Listed Species as Identified in the 2002 Biological Opinion Within the Woolly Star Preserve Area in San Bernardino County, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent.

SUMMARY: The purpose of the study is to develop implementation plans to sustain federally-listed species within the Woolly Star Preserve Area, including the Slender-horned spineflower, San Bernardino Kangaroo Rat, and Santa Ana Woolly Star. As a requirement of the Biological Opinion (2002), for construction and operation of Seven Oaks Dam (SOD), the Corps prepared a Multi-Species Habitat Management Plan (MSHMP) to identify potential management measures and implementation strategies. Recommendations in the Draft MSHMP have been developed in collaboration with the U.S. Fish and Wildlife Service, California Department of Fish and Game, and other stakeholders. The Draft MSHMP identifies non-structural and structural measures. Non-structural measures could include, but are not limited to, herbicide treatment for non-native invasive grass control and providing water to the mitigation area through pipelines or trucks to hydraulically spread sand for substrate enhancement. Structural measures could include, but not limited to, controlled releases from SOD and dikes (permanent and/or temporary) used to direct hydraulic spreading of sand for substrate enhancement. The SEIS/EIR will examine the details of the measures identified above and other feasible alternatives based on hydrological, geotechnical, environmental, and technical factors. Management activities would be conducted within the Woolly Star Preserve Area and other adjacent lands.

DATES: Submit comments to Ms. Megan Wong at the address listed below, on or before June 15, 2008.

ADDRESSES: U.S. Army Corps of Engineers, Los Angeles District, CESPL–PD–RN, c/o Megan Wong, P.O. Box 532711, Los Angeles, CA 90053–2325.

FOR FURTHER INFORMATION CONTACT: Ms. Megan Wong, Project Environmental Coordinator, at (213) 452–3859 or e-mail at *Megan.T.Wong@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. Authorization

The Santa Ana Mainstem flood control project was authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113) and modified by section 104 of the Energy and Water Development Appropriations Act, 1988 (101 Stat. 1329–11), section 102(e) of the Water Resources Development Act of 1990 (104 Stat. 4611), and section 311 of the Water Resources Development Act of 1996 (110 Stat. 3713).

2. Background

Seven Oaks Dam is one component of the Santa Ana River Mainstem Project (SARP), which provides flood risk management along the Santa Ana River. The SARP extends approximately 75 miles from the upper Santa Ana River Canyon in the San Bernardino Mountains downstream to its confluence with the Pacific Ocean at Newport Beach, California. Seven Oaks Dam was constructed between 1994 and 1999, is a 550-foot high earthen dam with a gross retention capacity of 145,600 acre-feet at the spillway crest elevation (USACE 2000a). Environmental impacts and mitigation associated with construction of the SARP were addressed in the 1988 Supplemental Environmental Impact Statement (SEIS) associated with the Phase II General Design Memorandum (GDM) on the Santa Ana River Mainstem Including Santiago Creek, California (USACE 1988a). Because federally-listed endangered species may be present and critical habitat occurs in the action area of this major construction project, the U.S. Army Corps of Engineers (USACE) prepared biological assessments (BAs) and engaged in informal and formal consultation with the U.S. Fish and Wildlife Service (USFWS) pursuant to section 7(a)(2) of the Endangered Species Act (ESA).

The U.S. Fish and Wildlife Service (USFWS) issued biological opinions (BOs) in 1989 and 2002 and it was determined by the USFWS that the SARP would not jeopardize the continued existence of the Santa Ana woolly star, slender-horned spineflower, San Bernardino kangaroo rat, and least bell's vireo with implementation of proposed compensatory mitigation (including land acquisition, preservation, and/or enhancement) and additional conservation measures (USFWS 1989, 2002). The 1989 BO addresses compensation, reasonable and

prudent measures, and conservation recommendations specific to woolly star and least bell's vireo. The 2002 BO addresses additional conservation measures for multi-species habitat management to sustain SBKR, spineflower, and woolly star on WSPA lands.

3. Scoping Process

a. A scoping meeting is scheduled on May 15, 2008, 6:30 p.m., at the San Bernardino County Flood Control District, 825 E. Third Street, San Bernardino, CA 92415. The Public Scoping meeting will be announced by means of a letter, public announcements and news releases. Potential impacts and benefits associated with the various alternatives will be evaluated in the SEIS/EIR. Resource categories that will be analyzed are: Physical environment, geology, biological resources, air quality, water quality, recreational usage, aesthetics, cultural resources, transportation, noise, hazardous waste, socioeconomics and safety.

b. Participation of affected Federal, State and local resource agencies, and concerned interest groups/individuals is encouraged in the scoping process. Public participation will be especially important in defining the scope of analysis in the Supplemental EIS/EIR, identifying significant environmental issues and impact that require analysis in the Supplemental EIS/EIR and providing useful information such as published and unpublished data, personal knowledge of relevant issues and recommending alternatives to be considered.

c. Those interested in providing information or data relevant to the environmental or social impacts that should be included or considered in the environmental analysis can furnish this information by writing to the points of contact indicated above or by attending the public scoping meeting. A mailing list will also be established so pertinent data may be distributed to interested parties.

Dated: April 22, 2008.

Thomas H. Magness,

Colonel, U.S. Army, District Commander.

[FR Doc. E8–9488 Filed 5–1–08; 8:45 am]

BILLING CODE 3710–KF–P

DEPARTMENT OF DEFENSE

Department of the Navy

[No. USN–2007–0035]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 2, 2008.

Title, Form, and OMB Number: Marine Corps Marathon Race Applications; OMB Control Number 0703–0053.

Type of Request: Revision.

Number of Respondents: 40,939.

Responses per Respondent: 1.

Annual Responses: 40,939.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 2,729.

Needs and Uses: The information collection requirement is necessary to obtain and record the information of runners to conduct the races, for timing purposes and for statistical use.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Sharon Mar.

Written comments and recommendations on the proposed information collection should be sent to Ms. Mar at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. Comments may be e-mailed to Ms. Mar at *Sharon_Mar@omb.eop.gov*.

You may also submit comments, identified by docket number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 25, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9623 Filed 5–1–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[No. USN–2007–0051]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 2, 2008.

Title, Form, and OMB Number: Camp Lejeune Notification Registry; OMB Control Number 0703–TBD.

Type of Request: New.

Number of Respondents: 1,600.

Responses per Respondent: 1.

Annual Responses: 1,600.

Average Burden per Response: Approximately 6 minutes.

Annual Burden Hours: 170.

Needs and Uses: The information collection requirement is used to obtain and maintain contact information of people who may have been exposed to contaminated drinking water aboard Marine Corps Base Camp Lejeune, NC, as well as other parties who are interested in the issue. The information will be used to provide notifications and updated information to such persons regarding possible contamination of the drinking water on Camp Lejeune.

Affected Public: Individuals or households; Federal government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Sharon Mar.

Written comments and recommendations on the proposed information collection should be sent to Ms. Mar at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. Comments may be e-mailed to Ms. Mar at *Sharon_Mar@omb.eop.gov*.

You may also submit comments, identified by docket number and title, by the following method:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 25, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9712 Filed 5–1–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[No. USN–2008–0011]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 2, 2008.

Title, Form, and OMB Number: Evaluation of Young Marines Drug Education Program; OMB Control Number 0703–TBD.

Type of Request: New.

Number of Respondents: 1,325.

Responses per Respondent: 1.189.

Annual Responses: 1,575.

Average Burden per Response: 39.85 minutes.

Annual Burden Hours: 1,046.

Needs and Uses: The information collection requirement is necessary for the Naval Health Research Center to carry out the research study it has been tasked to perform. This research study will assess the effectiveness of a Marine Corps-sponsored youth development program, the Young Marines, in reducing drug use and promoting a healthy, drug-free lifestyle among its youth participants. The information collected will be used to describe how the program is affecting drug behaviors and related measures and will allow recommendations to be made to improve youth drug education. Respondents to this study will include youth, approximately ages 11 through 18 years, in the Young Marines program and Young Marine adult leaders.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Sharon Mar.

Written comments and recommendations on the proposed information collection should be sent to Ms. Mar at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. Comments may be e-mailed to Ms. Mar at *Sharon_Mar@omb.eop.gov*.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 25, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9714 Filed 5–1–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Extension of Public Comment Period for Draft Environmental Impact Statement for the Proposed Homeporting of Additional Surface Ships at Naval Station Mayport, Florida

AGENCY: Department of Navy, DoD.

ACTION: Notice.

SUMMARY: Under the National Environmental Policy Act, the U.S. Environmental Protection Agency published a notice of availability on March 28, 2008 in the **Federal Register** (FR Doc. E8–6424, page 16672) for the Draft Environmental Impact Statement (Draft EIS) for Mayport Naval Station Project, Proposed Homeporting of Additional Surface Ships, Several Permits, Mayport (EIS No. 20080103). This notice announces the extension of the public comment period from May 12, 2008 to May 27, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. Will Sloger, Naval Facilities Engineering Command Southeast, telephone: (843) 820–5797.

SUPPLEMENTARY INFORMATION: Comments on the Mayport Draft EIS should be addressed to Mr. Will Sloger, Naval Facilities Engineering Command Southeast, P.O. Box 190010, North Charleston, South Carolina 29419–9010; telephone: (843) 820–5797. Comments must be postmarked not later than May 27, 2008 to ensure they become part of the official record. All comments will be addressed in the Final EIS.

An electronic copy of the Draft EIS is also available for public viewing at *http://www.MayportHomeportingEIS.com*.

Dated: April 29, 2008.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–9707 Filed 5–1–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 1, 2008.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 28, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Impact Aid Program Application for Section 8003 Assistance.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 504,306.

Burden Hours: 143,346.

Abstract: The U.S. Department of Education is requesting approval for the Application for Assistance under Section 8003 of Title VIII of the Elementary and Secondary Education Act (ESEA) as amended by No Child Left Behind (NCLB). This application is otherwise known as Impact Aid Basic Support Payments. Local Educational Agencies (LEAs) whose enrollments are adversely affected by Federal activities use this form to request financial assistance. Regulations for the Impact Aid Program are found at 34 CFR 222. The statute and regulations for this program require a variety of data from applicants annually to determine eligibility for the grants and the amount of grant payment under the statutory formula. The least burdensome method of collecting this required information is for each applicant to submit these data through a web-based electronic application hosted on the Department of Education's e-Grants website. This application was previously approved under OMB 1810–0036, along with a separate application for Section 8002, payments for Federal property, another distinct formula that requires different data from applicant LEAs. To facilitate more efficient clearance processes for both applications this year and in future years, the Department is separating these two applications into two paperwork approval packages. The Section 8002 application will be submitted under the OMB 1810–0036 number that both applications previously have been cleared under. There are no substantive changes to this application. The Department of Education is requesting renewal of its three-year clearance under a new collection number.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3656. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E8–9641 Filed 5–1–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Centers for Independent Living; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008

Catalog of Federal Domestic Assistance (CFDA) Number: 84.132A.

Dates: Applications Available: May 2, 2008.

Deadline for Transmittal of Applications: June 2, 2008.

Deadline for Intergovernmental Review: July 31, 2008.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program provides support for planning, conducting, administering, and evaluating centers that comply with the standards and assurances in section 725 of part C of title VII of the Rehabilitation Act of 1973, as amended (Act), consistent with the design included in the State plan for establishing a statewide network of centers.

Program Authority: 29 U.S.C. 796f–1.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, and 97. (b) The regulations for this program in 34 CFR parts 364 and 366.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $154,046.

Estimated Number of Awards: 1.

States and territories	Estimated available funds	Estimated number of awards
American Samoa	$154,046	1

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* To be eligible to apply, an applicant must—

(a) Be a consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agency;

(b) Have the power and authority to—

(1) Carry out the purpose of part C of title VII of the Act and perform the functions listed in section 725(b) and (c) of the Act and subparts F and G of 34 CFR part 366 within a community located within a State or in a bordering State; and

(2) Receive and administer—

(i) Funds under 34 CFR part 366;

(ii) Funds and contributions from private or public sources that may be used in support of a center; and

(iii) Funds from other public and private programs;

(c) Be able to plan, conduct, administer, and evaluate a center consistent with the standards and assurances in section 725(b) and (c) of the Act and subparts F and G of 34 CFR part 366;

(d) Either—

(1) Not currently be receiving funds under part C of chapter 1 of title VII of the Act; or

(2) Propose the expansion of an existing center through the establishment of a separate and complete center (except that the governing board of the existing center may serve as the governing board of the new center) at a different geographical location;

(e) Propose to serve one or more of the geographic areas that are identified as unserved or underserved by the States and territories listed under *Estimated Number of Awards;* and

(f) Submit appropriate documentation demonstrating that the establishment of a new center is consistent with the design for establishing a statewide network of centers in the State plan of the State or territory whose geographic area or areas the applicant proposes to serve.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone, toll free: 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *http://www.ed.gov/pubs/edpubs.html* or at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.132A.

Individuals with disabilities can obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the person or team listed under *Alternative Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

3. *Submission Dates and Times:*

Applications Available: May 2, 2008.

Deadline for Transmittal of Applications: June 2, 2008.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: July 31, 2008.

4. *Intergovernmental Review:* This competition 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 competition.

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 electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications.

Applications for grants under the Centers for Independent Living program, CFDA Number 84.132A, must be submitted electronically using the Governmentwide Grants.gov Apply site at *http://www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Centers for Independent Living program at *http://www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.*, search for 84.132, not 84.132A).

Please note the following:

• When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*

• To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*). These steps include: (1) Registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D-U-N-S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance).

• You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked

no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Thomas Kelley, U.S. Department of Education, 400 Maryland Avenue, SW., room 5055 Potomac Center Plaza, Washington, DC 20202–2800. FAX: (202) 245–7593.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail.

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service:
U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.132A), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier:
U.S. Department of Education, Application Control Center, Stop 4260, Attention: (CFDA Number 84.132A), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery.

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.132A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 366.27 and are listed in the application package.

2. *Review and Selection Process:* An additional factor we consider in selecting an application for an award is the comments regarding the application, if any, by the State Independent Living Council in the State or territory in which the applicant is located.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Pursuant to the Government Performance and Results Act of 1993 (GPRA), the Department measures outcomes in the following three areas to evaluate the overall effectiveness of projects funded under this competition: (1) The effectiveness of individual services in enabling consumers to access previously unavailable transportation, appropriate accommodations to receive health care services, and/or assistive technology resulting in increased independence in at least one significant life area; (2) the effectiveness of individual services designed to help consumers move out of institutions and into community-based settings; and (3) the extent to which projects are participating in community activities to expand access to transportation, health care, assistive technology and housing for individuals with disabilities in their communities. Grantees will be required to report annually on the percentage of their consumers who achieve their individual goals in the first two areas and on the percentage of their staff, board members, and consumers involved in community activities related to the third area.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Thomas Kelley, U.S. Department of Education, 400 Maryland Avenue, SW., room 5055, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7404.

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Alternative Format: Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact

person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

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Dated: April 29, 2008.

Tracy R. Justesen,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E8–9786 Filed 5–1–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance: Roundtable

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of an Opening Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming roundtable of the Advisory Committee on Student Financial Assistance (The Advisory Committee). This notice also describes the functions of the Advisory Committee. Notice of this roundtable required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATES: *Date and Time:* Friday, June 13, 2008, beginning at 9 a.m. and ending at approximately 4:30 p.m.

ADDRESSES: Wyatt Center Rotunda, Peabody College of Education, Vanderbilt University, 1930 South Drive, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Dr. Michelle Asha Cooper, Deputy Director, Advisory Committee on Student Financial Assistance, Capitol Place, 80 F Street, NW., Suite 413, Washington, DC 20202–7582, (202) 219–2099.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1–800–8339.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under Section 491 of the Higher Education Act of 1965 as amended by Public Law 100–50 (20 U.S.C. 1098). The Advisory Committee serves as an independent source of advice and counsel to the Congress and the Secretary of Education on student financial aid policy. Since its inception, the congressional mandate requires the Advisory Committee to conduct objective, nonpartisan, and independent analyses on important aspects of the student assistance programs under Title IV of the Higher Education Act, and to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students. In addition, Congress expanded the Advisory Committee's mission in the Higher Education Amendments of 1998 to include several important areas: Access, Title IV modernization, distance education, and early information and needs assessment. Specifically, the Advisory Committee is to review, monitor and evaluate the Department of Education's progress in these areas and report recommended improvements to Congress and the Secretary.

The roundtable in Tennessee will focus on ways to ensure access to college for low- and middle-income students and the possible impact of our nation's current economic situation on college access and persistence for students.

This day-long discussion will address broad economic issues related to various areas of the higher education enterprise. Issues addressed will include:

- How will the subprime credit crisis and worsening economic conditions affect access to and persistence in college?
- How might current demographic trends exacerbate the impact?
- How will student aid of all types from all sources be affected?
- What will be the impact on institutional financing, state appropriations, and charitable giving?
- Are recently planned solutions likely to be adequate?
- What additional steps must be taken at the federal, state, and institutional levels?

Individuals who will need accommodations for a disability in order to attend the roundtable (i.e., interpreting services, assistive listening devices, and/or materials in alternative format) should notify the Advisory Committee no later than Thursday, June 5, 2008 by contacting Ms. Tracy Jones at (202) 219–2099 or via e-mail at *tracy.deanna.jones@ed.gov.* We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The roundtable site is accessible to individuals with disabilities.

Space for the roundtable is limited and you are encouraged to register early if you plan to attend. You may register by sending an e-mail to the following address: *ACSFA@ed.gov* or *Tracy.Deanna.Jones@ed.gov.* Please include your name, title, affiliation, complete address (including internet and e-mail address, if available), and telephone and fax numbers. If you are unable to register electronically, you may fax your registration information to the Advisory Committee staff office at (202) 219–3032. You may also contact the Advisory Committee staff directly at (202) 219–2099. The registration deadline is Monday, June 2, 2008.

Records are kept for Advisory Committee proceedings, and are available for inspection at the Office of the Advisory Committee on Student Financial Assistance, Capitol Place, 80 F Street, NW., Suite 413, Washington, DC from the hours of 9 a.m. to 5:30 p.m. Monday through Friday, except Federal holidays. Information regarding the Advisory Committee is available on the Committee's Web site, *http://www.ed.gov/ACSFA.*

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Dated: April 28, 2008.

William J. Goggin,

Executive Director, Advisory Committee on Student Financial Assistance.

[FR Doc. E8–9651 Filed 5–1–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Title III of the Elementary and Secondary Education Act of 1965 (ESEA), as Amended by the No Child Left Behind Act of 2001 (NCLB)

AGENCY: Office of English Language Acquisition, U.S. Department of Education.

ACTION: Notice of proposed interpretations.

SUMMARY: The Secretary of Education (Secretary) proposes interpretations of several provisions of Title III of the ESEA regarding the annual administration of English language proficiency (ELP) assessments to limited English proficient (LEP) students served by Title III, the establishment and implementation of annual measurable achievement objectives (AMAOs) for States and subgrantees receiving Title III funds, and State and local implementation of Title III accountability provisions.

Comments: The Department is accepting comments on this notice of proposed interpretations in order that the Department may provide additional clarification, detail, or guidance regarding these interpretations before issuing a notice of final interpretations.

DATES: We must receive your comments on or before June 2, 2008.

ADDRESSES: Address all comments about this notice of proposed interpretations to Richard L. Smith, Office of English Language Acquisition, U.S. Department of Education, 400 Maryland Avenue, SW., Room 10087, Potomac Center Plaza, Washington, DC 20202, Attention: Comments on Title III Notice of Proposed Interpretations.

If you prefer to send your comments through the Internet, use the following address: *LEP.Partnership@ed.gov*.

You must use the term ''Comments on the Title III Notice of Proposed Interpretations'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Richard L. Smith. Telephone: (202) 245–7100.

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 may 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**.

During and after the comment period, individuals may inspect all public comments by appointment with the contact person listed under **FOR FURTHER INFORMATION CONTACT**. The comments will be available for distribution electronically, to the extent feasible, and will be available at the Department's Office of English Language Acquisition, U.S. Department of Education, 550 12th Street, SW., Room 10081, Potomac Center Plaza, Washington, DC between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays. On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Background: The intent of this notice is to ensure that all States understand and implement the requirements of Title III in accordance with the Secretary's ''bright-line'' principles of NCLB—including annual assessments of and accountability for all students—as they apply to the implementation of Title III.

One of the key goals of Title III of the ESEA is to ensure that LEP students attain English language proficiency, attain high levels of academic achievement in English, and meet the same challenging State academic content and student academic achievement standards that all children are expected to meet. To achieve this goal, Title III grants provide States and their subgrantees [1] with funds to implement language instruction educational programs to help LEP students acquire English and achieve at high levels in the core academic subjects. Title III subgrantees are required to use Title III funds to support (1) high-quality professional development designed to improve services to LEP students, and (2) high-quality language instruction educational programs that are designed to increase the English proficiency and academic achievement of LEP students. Title III does not require subgrantees to use any particular curriculum or approach to language instruction, except that the language instruction must be, as required in section 3113(b)(6) of the ESEA, tied to scientifically based research on teaching LEP students and demonstrated to be effective.

The enactment of NCLB marked the first time States were required to establish ELP standards for LEP students. Under the statute, States must assess, on an annual basis, the progress of LEP students enrolled in language instruction educational programs funded under Title III.[2] States must also define annual measurable achievement objectives (AMAOs) and measure improvements in the development of and attainment of English proficiency by LEP students served by Title III.

The Department recognizes that the specific definition of the term ''LEP students served by Title III'' and similar terms used throughout this notice may vary across States and subgrantees based on the design of particular language instruction educational programs and professional development programs implemented using Title III funds. For example, States and subgrantees may, for Title III accountability purposes, define ''Title III-served LEP students'' or ''LEP students served by language education instructional programs under Title III'' as all LEP students in an LEA or subgrantee jurisdiction. States and subgrantees may also define ''Title III-served LEP students'' as only those LEP students within an LEA or subgrantee jurisdiction who specifically receive Title III-funded services.[3] The Department intends that the interpretations proposed in this notice apply to all such definitions.

As States have implemented Title III assessment and accountability requirements, they have faced numerous challenges and posed a number of questions to the Department about the law's requirements. This notice of proposed interpretations is intended to help States address those challenges by answering their questions and providing them with guidance on the implementation of Title III consistent with the basic tenets and goals of NCLB.

The following is a brief summary of the basic requirements of Title III to which the proposed interpretations apply. First, each State's Title III ELP standards must be based on four

[1] The majority of ''subgrantees'' under Title III are local educational agencies (LEAs). However, ''subgrantees'' may also include groups of LEAs in which one or more of the LEAs is too small to be individually eligible to apply for a Title III grant; these LEAs may join together to form consortia in order to qualify to receive the minimum amount of a Title III subgrant, $10,000.

[2] In addition to the ELP assessment provisions in Title III, Title I of the ESEA requires an annual assessment of all LEP students that measures LEP students' speaking, listening, reading, and writing skills in English.

[3] For accountability purposes, the Department expects States to have a clear policy for how subgrantees define which students are considered to be served by Title III. States should articulate clear guidance to subgrantees about how they are expected to identify who is served by Title III programs so that Title III-served LEP students are identified consistently across subgrantees with similar program designs.

language domains—speaking, listening, reading, and writing—and be aligned with the achievement of challenging academic content and student achievement standards (section 3113(b)(2)). In addition, each State's ELP assessment must be administered annually to students served by Title III (section 3113(b)(3)(D)), be valid and reliable (section 3122(a)(3)(A)(ii)), and provide for the evaluation of LEP students' levels of speaking, reading, writing, listening, and comprehension in English (section 3121(d)(1)).[4] Title III requires that States ensure that all subgrantees comply with the requirement to annually assess the English proficiency of all LEP students, consistent with section 1111(b)(7) of the ESEA.

Under Title III, States and their subgrantees are accountable for meeting AMAOs that relate to LEP students' development and attainment of English proficiency and academic achievement. Each State must set AMAO targets, make determinations on whether subgrantees are meeting those targets, and report annually on subgrantees' performance in meeting those targets.

Title III accountability provisions apply to the States and to subgrantees. Title III accountability requirements do not, in general, apply to individual schools and do not apply to individual LEP students.

The first required AMAO (AMAO 1) focuses on the extent to which LEP students served by Title III in a State and a particular LEA are making progress in learning English. The second AMAO (AMAO 2) focuses on the extent to which LEP students served by Title III in a State and in their LEA are attaining proficiency in English. Both of these AMAOs use measures derived, in large part, from the results of the required annual State ELP assessment. The third AMAO (AMAO 3) is based on whether the LEP subgroup in the State and in its LEA makes adequate yearly progress (AYP) in reading/language arts and mathematics, as defined by the State under section 1111(b)(2)(B) in Title I of the ESEA.[5]

Title III requires subgrantees to notify parents of LEP students participating in language instruction educational programs funded under Title III if the subgrantee does not meet all three of the AMAO targets. If a subgrantee does not meet the State's AMAO targets for two consecutive years, the subgrantee is required to develop and submit an improvement plan to the State and the State is required to provide technical assistance to the subgrantee in developing the improvement plan. If a subgrantee does not meet AMAO targets for four consecutive years, the subgrantee is required to undertake corrective actions.

In developing this notice, the Department examined current State policies and practices regarding implementation of Title III assessment and accountability requirements, and the extent to which these may have been implemented inconsistently or improperly.[6] The Department also considered issues and concerns identified during consultations with State representatives and experts.

Proposed Interpretations

1. Annual ELP Assessments of LEP Students

Background: Section 3113(b)(3)(D) of the ESEA requires SEAs receiving grants under Title III, part A to ensure that eligible entities receiving a subgrant annually assess the English proficiency of all LEP students participating in a Title III-funded program, consistent with section 1111(b)(7) of Title I of the ESEA. Section 1111(b)(7) requires States, in their plans under Title I, to demonstrate that LEAs in the State provide an annual assessment of English proficiency that measures the oral language (speaking and listening), reading, and writing skills of all LEP students in the schools served by the SEA.

Interpretation: The Secretary proposes to interpret section 3113(b)(3)(D) to require that all LEP students be assessed annually with an assessment or assessments that measure each and every one of the language domains of speaking, listening, reading, and writing.

Explanation: Some States have asked the Department to allow them to exempt a LEP student from an annual ELP assessment in any domain in which the student has achieved proficiency. For example, States have requested that a LEP student who scores proficient in the domains of speaking and listening, but not in reading or writing, continue to be annually assessed only in reading and writing, but not in speaking and listening, until such time as the student becomes proficient in all domains.

Based on the Secretary's proposed interpretation, States would not be able to forgo assessing a LEP student in any domain of the required annual ELP assessment. LEP students who score at or above proficient in a domain would have to continue to be assessed in all four domains of language as long as the student is identified as LEP. States would not be able to, in effect, ''bank'' the proficient scores of LEP students on ELP assessments in a particular domain until such time as the student is proficient in all domains and exits the LEP subgroup. This proposed interpretation is consistent with the clear language of the ESEA, which requires, without exception, that LEP students be assessed in all domains on an annual basis.

2. Use of Annual ELP Assessment Scores for AMAOs 1 and 2

Background: Section 3121(d)(1) of Title III requires States to evaluate the progress of LEP students toward attaining English proficiency, including LEP students' levels of comprehension, speaking, listening, reading, and writing in English. Section 3122(a)(3)(A)(i) and (ii) of Title III requires that States develop AMAOs that include annual increases in the number or percentage of children making progress in learning English and annual increases in the number or percentage of students attaining English proficiency by the end of each school year. States have asked the Department to provide guidance on the extent to which they may take into account student performance in each of the English language domains when setting the accountability targets for making progress in learning English (AMAO 1) and demonstrating proficiency in English (AMAO 2) under Title III.

Interpretation for AMAO 1: With regard to AMAO 1, the Secretary proposes to interpret Title III to allow States to base their student performance expectations and accountability (i.e., AMAO 1) targets for progress on assessment results derived from either (1) separate student performance levels or scores in each of the language domains or (2) a single composite score or performance level derived by combining performance scores across domains, so long as such a composite score can be demonstrated to be a valid and effective measure of a student's progress in each of the English language proficiency domains. The Secretary also

[4] The Department permits States to derive a score to reflect LEP student performance in the domain of comprehension based on the four assessment domains required by both Title I (section 1111(b)(7)) and Title III (section 3113(b)(3)(D))—speaking, listening, reading, and writing—rather than testing the performance of LEP students separately in the domain of comprehension.

[5] For Title III accountability purposes, AMAO 3—or AYP—is calculated at the subgrantee/LEA and State levels. For Title I accountability purposes, AYP is also calculated at the school level.

[6] Under 34 CFR 80.40(a), States are responsible for oversight and monitoring of their subgrantees' performance under the subgrant as a way of ensuring legislative and regulatory compliance with Title III. For more information, see *http://www.ed.gov/policy/fund/reg/edgarReg/edgar.html.*

proposes to interpret Title III to allow States to determine their AMAO 1 targets based on progress in one or more of the language domains, rather than requiring student progress separately in each and every one of the language domains, so long as the targets provide for meaningful progress toward attaining English language proficiency.

Explanation for AMAO 1: Some States previously may have been advised that, in setting AMAO targets for the State and for subgrantees regarding progress in learning English (AMAO 1), their accountability targets had to reflect LEP student progress in each and every one of the separate five domains for each and every annual ELP assessment administration. Under this proposed interpretation, however, States would have more discretion to set student performance expectations and accountability targets for AMAO 1, so long as the targets provide for meaningful progress toward attaining English language proficiency and overall student performance on the State's ELP assessment is improving. In the case of States measuring progress of LEP students using separate ELP domain scores, progress measures could include improvements in some but not all domains for AMAO 1. In the case of States using composite ELP assessment scores, progress measures could include improvements in some but not all domains, so long as a student's overall performance on the ELP assessment is improving. The Department recognizes that, given the nature of language acquisition, LEP students may make meaningful progress in learning English without necessarily making progress in each and every domain in a given school year. For the purposes of Title III accountability, this proposed interpretation would allow AMAO 1 targets to recognize such progress.

Interpretation for AMAO 2: With regard to AMAO 2, attaining English language proficiency, the Secretary proposes to interpret Title III to allow States to base their student performance expectations and accountability targets for attainment on assessment results derived from either (1) separate student performance levels or scores in each of the language domains or (2) a single composite score or performance level derived by combining performance scores across domains, provided that such a composite score can be demonstrated to be a valid and effective measure of a student's proficiency in each of the English language proficiency domains.

In setting student performance expectations and accountability targets for attaining proficiency in English (AMAO 2), it is the Secretary's proposed interpretation of Title III that a LEP student must score proficient or above in each and every language domain required under Title III in order to be considered to have ''attained proficiency'' on a State's ELP assessment. If a State's ELP assessment generates a composite score, the State would have to demonstrate that an overall proficient ELP score represents proficiency in all domains for students served by Title III.

Explanation for AMAO 2: The Department has received questions from States about whether students must attain proficiency in each language domain required under Title III to be considered to have scored as proficient overall on the State ELP assessment required under Title III. This proposed interpretation is intended to clarify for States the distinction between the use of assessment scores for AMAO 1 and AMAO 2.

With respect to measuring progress, the Department recognizes that, due to the nature of language acquisition, it is possible for LEP students to make meaningful progress in learning English without evenly and consistently demonstrating progress in each of the language domains Title III requires for evaluating LEP student performance. Therefore, under this proposed interpretation, States would have discretion in how they factor LEP student progress in each domain and across domains into overall AMAO 1 targets. However, with respect to AMAO 2, this measure is intended to mark a completion point at which LEP students have acquired adequate skills in each of the language domains to be considered to have attained ''proficiency'' in English. Proficiency in English in each domain is critical to succeeding academically when the language of instruction is English. This is consistent with the definition of LEP, in section 9101(25) of the ESEA, which provides that a student can be LEP if the student's difficulty in reading, speaking, writing, or understanding English causes the student difficulty in achieving academically when the language of instruction is English.

Therefore, it is the Secretary's proposed interpretation that students must reach, and AMAO 2 targets must reflect, a proficient level of performance in each and every domain of English required to be evaluated under Title III.

3. Students Included in Title III Accountability

Background: Section 3122(a)(1) of the ESEA requires States to develop AMAOs for LEP students served under Title III. The AMAOs relate to students' development and attainment of English proficiency while meeting challenging State academic content and student academic achievement standards required by section 1111(b)(1) of Title I of the ESEA. The AMAOs must include— (1) At a minimum, annual increases in the number or percentage of LEP children making progress in learning English; (2) at a minimum, annual increases in the number or percentage of LEP children attaining English proficiency by the end of each school year, as determined through a valid and reliable assessment of English proficiency, consistent with section 1111(b)(7); and (3) making AYP for the LEP subgroup, as described in section 1111(b)(2)(B) of Title I of the ESEA. States must set annual targets for each AMAO and measure the progress of each subgrantee in meeting the targets.

The Department is aware that some States treat AMAO 1 and AMAO 2 as mutually exclusive, such that LEP students served under Title III are included in either AMAO 1 or AMAO 2, but not both. The Department is also aware that some States identify a subgroup of Title III-served students as ''eligible'' to be included in AMAOs, which excludes some Title III-served LEP students from AMAO targets, calculations, and determinations.

Interpretation: The Secretary proposes to interpret Title III to require that *all* LEP students served by programs under Title III be included in *all* AMAO targets, calculations, and determinations. In addition, the Secretary proposes to interpret Title III, consistent with Title I, as requiring all LEP students attending a public school within a State or subgrantee's jurisdiction—not only those LEP students served by Title III programs—to be included in targets, calculations, and determinations for purposes of determining whether a State or Title III subgrantee meets AMAO 3.

Explanation: This proposed interpretation is consistent with the plain language of Title III, which makes no provision for excluding any LEP students from AMAO targets, calculations, and determinations. For AMAO 1 and AMAO 2, while the Department recognizes that States and subgrantees have discretion, for Title III purposes, to define ''Title III-served LEP students'' or ''LEP students served by language education instructional programs under Title III'' as all LEP students in an LEA or as only LEP students specifically receiving Title III-funded services, this proposed interpretation would mean that the performance of *all* LEP students who a

State and subgrantee define as served under Title III must be included in accountability determinations for both AMAO 1 and AMAO 2.

In the case of AMAO 3, this proposed interpretation would mean that all LEP students—not only those LEP students specifically served by Title III programs—would be required to be included in targets, calculations, and determinations for purposes of determining whether a State or Title III subgrantee met the AMAO.[7] For Title III subgrantees, this means that all LEP students in the subgrantee's jurisdiction would be required to be included in AMAO 3. For States, this would mean that all LEP students in the LEP subgroup Statewide would be required to be included in AMAO 3. This proposed interpretation is consistent with the provisions of Title I, which require that all LEP students be included in accountability determinations, including AYP determinations.[8]

4. Exclusion of LEP Students ''Without Two Data Points'' From AMAO 1

Background: Section 3122(a)(3)(A)(i) of the ESEA requires States to develop AMAOs for LEP student progress in learning English. Thus, AMAO 1 requires that States and subgrantees, at a minimum, show annual increases in the number or percentage of LEP children making progress in learning English.

In paragraph 3 of this notice, the Department has set forth its proposed interpretation that all LEP students served by Title III must be included in Title III accountability determinations. In this paragraph, the Department addresses the more specific question of whether States would be permitted to exclude from AMAO 1 calculations and determinations LEP students who do not have ''two data points,'' that is, students who have not participated in two consecutive and consistent administrations of the annual ELP assessment required under Title III.

Interpretation: The Secretary proposes to interpret the requirement in section 3122(a)(3)(A)(i) of the ESEA to include all LEP students served by Title III in measurements of student progress in English (AMAO 1). This would mean that all such students would have to be included regardless of whether they have participated in at least two consecutive and consistent annual administrations of an ELP assessment required under section 3113 of the ESEA. Under this proposed interpretation, all LEP students served by programs under Title III would have to be included in AMAO 1 determinations.

If a State does not have the requisite two years of data for some LEP students served by Title III in the State, the State would be permitted to propose to the Department an alternative method of calculating AMAO 1. The Department would require that the alternative method for measuring progress under AMAO 1 be based on research on how LEP children acquire proficiency in English and include reliable measures of growth in English language proficiency.

Under this proposed interpretation, the Secretary also would allow States to include criteria—in addition to progress on an annual ELP assessment—to be factored into progress determinations for AMAO 1, even for students who have participated in two consecutive administrations of the required annual ELP assessments.

Explanation: To be consistent with NCLB's purpose to include *all* students in State assessment and accountability systems, the Department no longer would permit States and LEAs to exclude LEP students without two consecutive annual ELP assessment scores from AMAO 1 calculations and determinations. The Department recognizes, however, that there will be students who may not have attended a school long enough to have participated in two administrations of the required annual ELP assessment (e.g., highly mobile students or migrant students new to the country or to a State or school system). Accordingly, for these students, in the absence of data for two years from the State's ELP assessment, the Department would require States to propose to the Department an alternative method of calculating AMAO 1. To ensure accuracy and validity, this alternative method for measuring progress under AMAO 1 would need to be based on research on how LEP children acquire proficiency in English and include reliable measures of growth in English language proficiency. A State could, for example, propose to allow its subgrantees to use the results of ELP placement assessments or other local ELP assessments to measure progress for LEP students served by Title III who do not have two consecutive ELP assessment scores.

The Secretary also would allow States to include criteria—in addition to progress on an annual ELP assessment—to be factored into progress determinations for AMAO 1, even for students who have participated in two consecutive administrations of the required annual ELP assessments. While the Department does not believe many States follow this practice, we believe it is important to permit this option for States that wish to factor additional relevant language acquisition data into progress measures. However, even if a State uses additional criteria, at a minimum Title III-served LEP students who have participated in two consecutive administrations of the required ELP assessments would be required to make progress on the ELP assessment to be counted towards a subgrantee meeting AMAO 1.

5. Attainment of English Language Proficiency and ''Exiting'' the LEP Subgroup

Background: Section 3122(a)(3)(A)(ii) of the ESEA requires States to develop AMAOs for Title III-served LEP student attainment of proficiency in English, as determined through a valid and reliable assessment of English proficiency. AMAO 2 requires that States and subgrantees, at a minimum, show annual increases in the number or percentage of LEP children attaining English proficiency.

The Department understands that some States are using criteria, in addition to the results of a valid and reliable ELP assessment, to determine whether subgrantees meet AMAO 2. The Department also understands that in many States, LEP students are now considered proficient in English for the purposes of Title III accountability determinations but are not considered proficient for the purposes of determining whether such students are prepared to ''exit'' the LEP subgroup under Title I or are no longer eligible for services under Title III. For example, the Department has learned that some States require LEP students to demonstrate proficiency on content assessments before exiting the LEP subgroup. Some

[7] In addition, States may choose to use the flexibility granted to States by the Secretary to include former LEP students in AYP calculations for the LEP subgroup for up to two years after such students have exited the LEP subgroup. See 34 CFR 200.20(f)(2)(i)(A); *http://www.ed.gov/legislation/FedRegister/finrule/2006-3/091306a.html* and *http://www.ed.gov/policy/elsec/guid/lepguidance.doc.*

[8] We note that under our regulations in 34 CFR 200.20(f), some LEP students may not be included in AYP determinations because of their recently arrived status. Furthermore, if a student has not been enrolled in the same school or LEA for a full academic year as defined by the State, such a student may be excluded from AYP calculations. However, other than these exceptions permitted in calculating AYP under Title I, this proposed interpretation provides that all LEP students must be included in Title I accountability determinations and, therefore, in AMAO 3 determinations. For more information on recently arrived LEP students see 34 CFR 200.20(f)(2)(i)(A); *http://www.ed.gov/legislation/FedRegister/finrule/2006-3/091306a.html.* For more information on other exceptions permitted in AYP calculations, such as full academic year enrollment, see Title I guidance at *http://www.ed.gov/policy/landing.jhtml.*

States also consider LEP students' achievement in content classes when determining whether the students will exit the LEP subgroup.

Interpretation: It is the Secretary's proposed interpretation of section 3122(a)(3)(A)(ii) of the ESEA that State definitions of English language proficiency for the purposes of setting targets for AMAO 2—increasing the number or percentage of LEP students attaining English language proficiency—be consistent with and reflect the same criteria States use to determine that students from the LEP subgroup no longer need services under Title III and are prepared to exit the LEP subgroup for Title I accountability purposes.[9]

Explanation: This proposed interpretation would not require States to change their exit criteria for LEP students. Under this proposed interpretation, the Secretary would continue to permit States and subgrantees to use criteria in addition to ELP assessment results to determine a student's LEP status, as long as those criteria are applied consistently across all subgrantees in a State. However, this proposed interpretation requires that States make their AMAO 2 targets, calculations, and determinations consistent with their determination of LEP status, such that a student considered ''proficient'' in English for the purposes of AMAO 2 and Title III accountability would also necessarily be prepared to exit the LEP subgroup based on the State's definition of LEP under Title I and its criteria for determining when a LEP student is no longer in need of a language instruction educational program.

Likewise, any additional criteria a State uses under Title I for determining when a LEP student exits the LEP subgroup would have to be incorporated into that State's criteria for AMAO 2.

The Secretary believes that if a State determines students to be eligible for Title III services because such students have limited proficiency in English, then the criteria for attaining proficiency for AMAO 2 should be consistent with the criteria the State establishes for determining that LEP students no longer need Title III services. Thus, under the proposed interpretation, students would not be considered proficient for the purposes of AMAO 2 until they are also considered proficient by the State for the purposes of exiting the LEP subgroup, i.e., students would have to be proficient on a State's ELP assessment and meet any other criteria used by a State to determine that a student can exit the LEP subgroup.

6. Use of Minimum Subgroup Sizes in Title III Accountability

Background: Section 3122(a)(3)(A)(ii) of Title III requires that States' AMAOs for LEP student proficiency in English be determined by a valid and reliable assessment of English proficiency consistent with section 1111(b)(7) of Title I of the ESEA.

States have asked the Department to provide guidance on whether States may apply minimum subgroup sizes to the AMAO calculations and determinations. It is also the Department's understanding that numerous States are already implementing minimum subgroup size policies as part of their AMAO determinations.

Interpretation: The Secretary proposes to interpret section 3122(a)(3)(A) of the ESEA to permit States to apply minimum subgroup sizes to AMAO calculations and determinations under Title III, consistent with the minimum subgroup size policies that the State applies to AYP determinations for the LEP subgroup and that have been approved by the Department in the State's Accountability Workbook for Title I.

Explanation: This proposed interpretation is based on the statutory requirement that AMAO determinations be made based on valid and reliable measures of student performance on ELP assessments. In this context, a minimum subgroup size reflects the number of Title III-served LEP students who need to be enrolled in a district for the ELP assessment scores of those students, taken together, to be a reliable basis for making judgments about how that subgrantee is performing.

The Department is not encouraging States to adopt minimum subgroup size policies for purposes of complying with Title III's accountability provisions and does not believe it will be necessary for most States to adopt such policies. Title III accountability requirements apply only at the LEA/subgrantee and State levels, not to individual schools, where there are often smaller numbers of LEP students or frequent fluctuations in student populations that might make use of small subgroup sizes necessary. Furthermore, LEAs with very small numbers of LEP students are not typically eligible for Title III grant funds, so this proposed interpretation would not affect them.

However, under this proposed interpretation, a State would be permitted to apply the same minimum subgroup size policies for Title III accountability purposes as the State applies to AYP determinations for the LEP subgroup and that have been approved by the Department in the State's Accountability Workbook for Title I. Policies designed to ensure that assessment results are used to make valid and reliable accountability determinations would have to be applied consistently across the State for Title III subgrantees. Under no circumstances could a State allow different subgrantees to use different minimum subgroup sizes for Title III accountability purposes.

7. All LEP Students, Adequate Yearly Progress, and AMAO 3

Background: Section 3122(a)(3)(A)(iii) of the ESEA requires States to develop an AMAO for making adequate yearly progress for limited English proficient children as described in section 1111(b)(2)(B) of Title I of the ESEA.

In paragraph 3 of this notice, the Department has set forth its proposed interpretation that all LEP students served by Title III must be included in Title III accountability determinations. In this paragraph, the Department addresses the more specific question of whether States must include all LEP students—whether or not served by Title III—in determining whether the State or the subgrantee has met AMAO 3.

Interpretation: The Secretary proposes to interpret section 3122(a)(3)(A)(iii) of the ESEA to require that the LEP students included in AMAO 3 be the same LEP students referred to in section 1111(b)(2)(B) of Title I of the ESEA—that is, all students counted in the LEP subgroup for AYP purposes.[10] The setting of targets, calculations, and determinations of AMAO 3 would not be limited to, or based on, only the expectations for LEP students served by Title III. It is the Secretary's proposed interpretation that for a subgrantee or State to meet AMAO 3, the subgrantee or State would have to meet the overall AYP achievement targets for the LEP subgroup in both reading and mathematics.

Explanation: Early interpretations of AMAO 3 by Department staff may have led some States to believe that they

[9] States must define AMAO 2 criteria consistently with the criteria the State uses to determine that students from the LEP subgroup are prepared to exit LEP status for Title I accountability purposes. However, AMAO 2 calculations do not include former LEP students who, while they have exited the LEP subgroup, may still be included in the subgroup for two years for the purposes of Title I AYP calculations.

[10] This includes former LEP students if a State chooses to use the flexibility granted to States by the Secretary to include former LEP students for up to two years in AYP calculations.

needed to include only those LEP students receiving Title III services when calculating AYP for purposes of meeting AMAO 3. This may have led some States to make one AYP determination for Title III purposes and a separate AYP determination for Title I purposes.

However, one of the key purposes of AMAO 3 is to tie accountability under Title III to accountability under Title I to ensure that LEP students achieve to the same high standards as all students are expected to meet in the core content areas. The Department believes that it is a more accurate interpretation of the statute that LEAs and subgrantees be required to use the same criteria for determining AYP under AMAO 3 as they use to determine AYP for the LEP subgroup at the LEA level under Title I.

For Title III subgrantees, this proposed interpretation means that all LEP students in the subgrantee's jurisdiction would have to be included in AMAO 3 targets and calculations. For States, this proposed interpretation means that the Statewide LEP subgroup, representing all LEP students in the State, whether or not they are specifically served by Title III programs, would have to be included in AMAO 3 targets and calculations.

The Department would consider other methods for calculating AMAO 3 but only in special circumstances regarding Title III consortia, in which several otherwise separate LEAs have formed a group for funding purposes. (See the considerations outlined in paragraph 9 of this notice regarding accountability requirements for Title III consortia).

8. AMAOs and the Use of Cohorts

Background: Section 3122(a)(2)(A) of the ESEA requires that AMAOs be developed in a manner that reflects the amount of time an individual student has been enrolled in a language instruction educational program.

States have some discretion in how to consider the amount of time a student has had access to a language instruction educational program when developing AMAO targets. Some States have appropriately considered empirical data, student demographics, and instructional practices in setting overall AMAO targets for English language acquisition by LEP students served under Title III. To date, the Department also has allowed States to establish different AMAO targets for different ''cohorts'' of LEP students based on characteristics of LEP students other than their access to English language instruction. For example, some States have established cohorts based on student proficiency level, the number of years a student has been in the United States, or the likelihood a student will reach proficiency in English in a given year.

Interpretation: With this notice of interpretation, the Secretary proposes to interpret Title III to mean that (a) States may, but are not required to, establish ''cohorts'' for AMAO targets, calculations, and determinations; and (b) States may set separate AMAO targets for separate groups or ''cohorts'' of LEP students served by Title III based only on the amount of time (for example, number of years) such students have had access to language instruction educational programs.

Explanation: The plain language of Section 3122(a)(2)(A) specifically provides that, in developing AMAOs, States must take into account the time a student has spent in a language instruction educational program. It would, therefore, be inconsistent with this statutory language to set different expectations for different LEP students served by Title III based on their current language proficiency, time in the United States, or any other criteria other than time in a language instruction educational program.

Moreover, the purpose of the accountability requirements in Title III is to ensure that the language instruction educational programs in which LEP students are enrolled are accountable for helping all LEP students acquire English. Consistent with the basic principles of NCLB, under this proposed interpretation, subgrantee accountability would not be defined by the characteristics of LEP students themselves, but by the quality of, and student access to, language instruction educational programs that help LEP students learn English.

To the extent that States choose to define ''cohorts'' of LEP students based on their time in language instruction educational programs to set, calculate, and determine AMAO 1 or AMAO 2, the State, LEA, or subgrantee would have to meet all of the AMAO targets applied to each cohort of LEP students.

For example, if a State chooses to set two separate AMAO targets for progress (AMAO 1)—one for students with less than three years of access to a language instruction educational program and one for students with three or more years of access to a language instruction educational program—the State, LEAs, and subgrantees would have to meet both targets (i.e., both the target for students with less than three years of language instruction and the target for students with more than three years of language instruction) for that entity to meet the AMAO. For a subgrantee to meet an AMAO overall, all cohorts for which the State has set separate targets would have to meet the AMAO targets.

9. Determining AMAOs for Consortia

Background: Section 3113(b)(5)(A) of Title III requires States to submit a plan to the Secretary describing how the agency will hold eligible entities accountable for meeting all AMAOs described in section 3122.

Under Title III, an SEA can make subgrants to eligible entities, which include LEAs applying individually or as part of a group or consortium. Because section 3114(b) of the ESEA does not permit States to award Title III grants in amounts smaller than $10,000, a consortium arrangement can be used by a group of LEAs that are not individually eligible for Title III funds due to the small number of LEP students in their LEAs.

To date, some Department officials have communicated to States that AMAOs must be calculated for consortia by compiling ELP assessment data and other applicable data from each of the LEAs in the consortium and determining, based on those data, whether the consortium has met the State's AMAOs. In the case of AMAO 3 (i.e., AYP for the LEP subgroup), Department staff, in some cases, have required States to aggregate and compile results across LEAs and compute a new ''consortium AYP.'' The Department is also aware that some States use different approaches to calculating AMAOs for various consortia within their States.

Interpretation: The Secretary requires States to hold consortia, like any other eligible subgrantee, accountable for meeting AMAOs. However, the Secretary proposes to interpret Title III to allow States discretion on whether to treat subgrantees that consist of more than one LEA as a single entity or as separate entities for the purpose of calculating each of the three AMAOs required under Title III. States would, for example, be permitted to combine data across LEAs in a consortium or treat LEAs within a consortium separately for the purposes of accountability determinations. Except as described in the following paragraphs, a State would have to apply a uniform approach to all the consortia in the State.

Explanation: The Department is proposing this interpretation to ensure that consortia are held accountable for meeting AMAOs. The Department believes this will best be accomplished if States adopt an approach that is generally consistent in implementing AMAOs for consortia within each State. To the degree a State does not adopt a

uniform approach, however, the Department would require a State to demonstrate that its method for calculating AMAOs for consortia would hold all consortia accountable for ensuring that LEP students acquire English language skills and make AYP.

If a State intends to, among other things, combine assessment or other data, apply a minimum group size (''n''-size) or confidence intervals, create a ''consortium AYP'' calculation, or treat individual LEAs separately for the purposes of calculating AMAOs, the State would have to describe its methods and rationale in its State Title III plan.

If a State intends to change the way it computes AMAOs for consortia, or wishes to propose criteria for using different approaches based on the characteristics of consortia, the Secretary would require the State to submit, for approval, an amendment to its Title III Consolidated State application, required under section 3113 of the ESEA.

10. Implementation of Corrective Actions Under Title III

Background: Section 3122(b) of the ESEA describes the actions that a State and subgrantee must take if the subgrantee fails to meet Title III AMAOs for two or four consecutive years. If a State determines that a subgrantee has failed to make progress toward meeting the AMAOs for two consecutive years, the State must require the subgrantee to develop an improvement plan. The improvement plan must specifically address the factors that prevented the subgrantee from meeting the AMAOs. If a State determines that an eligible subgrantee has not met the AMAOs for four consecutive years, the State must—(1) Require the subgrantee to modify its curriculum, program, and method of instruction; or (2) determine whether the subgrantee should continue to receive Title III funds and require the subgrantee to replace educational personnel relevant to the subgrantee's failure to meet the objectives. Furthermore, section 3302 of Title III requires that parents of LEP students served by a subgrantee receive notice each year that a subgrantee does not meet AMAOs.

Interpretation: Through this notice, the Secretary intends to reinforce the proper implementation of the requirements of section 3122(b). First, the Department proposes to interpret this provision to require that *all* States comply with Title III requirements and make determinations for each of the three AMAO targets—making progress in English proficiency (AMAO 1), attaining English proficiency (AMAO 2), and AYP for the LEP subgroup (AMAO 3)—for *every* Title III subgrantee in the State for *every* school year. Not meeting any one of the three AMAO targets in a given school year constitutes not meeting AMAOs.

The Department also proposes to interpret Title III to require that States annually inform their subgrantees when the subgrantees do not meet the State's AMAO targets—for each and every AMAO target the subgrantee does not meet. In addition, States and subgrantees must communicate AMAO determinations to the parents of LEP students served by subgrantees' Title III programs when subgrantees do not meet AMAOs.

Explanation: In monitoring State compliance with Title III, the Department has become aware that some States have made AMAO determinations and reported those determinations to the Department, but have neither informed subgrantees of the AMAO determinations nor implemented any measures to address subgrantees' failures to meet the AMAOs. The purpose of including these interpretations in this notice is to be clear that States must communicate with Title III subgrantees and the parents of students served by or identified for services by the subgrantees about student progress and achievement, as well as provide parents with information about their child's education; these requirements are central to the purposes and goals of NCLB.

Thus, the Department expects States, on an annual basis, to maintain evidence that (a) the State has informed a subgrantee if the subgrantee did not meet one or more AMAO, (b) the subgrantee has notified parents that it did not meet one or more AMAO, (c) the State has provided required technical assistance to the subgrantee, and (d) the State has implemented required measures to address the subgrantee's failure to meet the AMAOs. The Department may review this evidence as part of its annual desk audits and on-site monitoring in order to ensure that Title III corrective action requirements are being appropriately and effectively implemented.

Proposed Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) (APA), this notice is an interpretative rule and therefore is exempt from the notice-and-comment rulemaking requirements under the APA. Notwithstanding this exemption, the Department is soliciting public comment on these proposed interpretations so that we can provide additional details and clarifications in a notice of final interpretations.

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 review 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.

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Dated: April 29, 2008.

Margaret Spellings,

Secretary of Education.

[FR Doc. E8–9708 Filed 5–1–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Biomass Research and Development Technical Advisory Committee

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

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under the Biomass Research and Development Act of 2000. The Federal Advisory Committee Act (Pub. L. No. 92–463, as amended) requires that agencies publish these notices in the **Federal Register** to allow for public participation. This notice announces the meeting of the Biomass Research and

Development Technical Advisory Committee.

Dates and Times: May 20, 2008 at 12:30 p.m. to 5 p.m., May 21, 2008 at 8 a.m. to 12:30 p.m.

ADDRESSES: Iowa Corn Promotion Board—Board Room, 5505 NW 88th Street, Johnston, Iowa 50131, Phone: (515) 225–9242.

FOR FURTHER INFORMATION CONTACT: Valri Lightner, Designated Federal Officer for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586–0937 or Carolyn Clark at (202) 586–8077; E-mail: *cclark@bcs-hq.com*.

SUPPLEMENTARY INFORMATION: *Purpose of Meeting:* To provide advice and guidance that promotes research and development leading to the production of biobased fuels and biobased products.

Tentative Agenda: Agenda will include the following:

- Update on the 2007 Joint Solicitation and Farm Bill;
- Update on the 2008 Joint Solicitation and Biomass R&D Board Activities;
- Update on FY 2008 and FY 2009 USDA Renewable Energy Budget;
- Discussion of FY 2008 Annual Recommendations;
- Presentation on the Future State of Cellulosic Biofuels.

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you should contact Valri Lightner at 202–586–0937; E-mail: *valri.lightner@ee.doe.gov* or Carolyn Clark at (202) 586–8077; E-mail: *cclark@bcs-hq.com*. You must make your request for an oral statement at least 5 business days before the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chair of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Chair will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on April 28, 2008.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E8–9676 Filed 5–1–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

April 25, 2008.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–59–000.

Applicants: Harbinger Capital Partners Master Fund I; Harbinger Capital Partners Special Situation.

Description: Supplement to Section 203 Application of Harbinger Capital Partners Master Fund I, Ltd., *et al.*

Filed Date: 04/24/2008.

Accession Number: 20080425–5028.

Comment Date: 5 p.m. Eastern Time on Monday, May 5, 2008.

Docket Numbers: EC08–74–000.

Applicants: Stargen CO IGP, LLC; Stargen CO ILP, L.L.C., Thermo Cogeneration Partnership L.P.

Description: Stargen CO IGP, LLC and Stargen CO ILP, LLC *et al.* submits the Joint Application for Authorization Under Section 203 of the Federal Power Act and Request for Confidential Treatment, Expedited Action and Waivers etc.

Filed Date: 04/18/2008.

Accession Number: 20080422–0154.

Comment Date: 5 p.m. Eastern Time on Friday, May 09, 2008.

Docket Numbers: EC08–76–000.

Applicants: Macquarie Group Limited.

Description: Macquarie Group Limited submits application under 203 of the Federal Power Act for a modification of the foreign utility company acquisition verification procedure under rule 33, (c) (5) of the Commission's regulations.

Filed Date: 04/22/2008.

Accession Number: 20080424–0124.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Docket Numbers: EC08–77–000.

Applicants: Whiting Clean Energy, Inc., BP Alternative Energy North America, Inc., NiSource Inc., PEI Holdings, Inc.

Description: Whiting Clean Energy, Inc. *et al.* submits Joint Application for Authorization under 203 of the Federal Power Act and Request for Expedited Treatment.

Filed Date: 04/22/2008.

Accession Number: 20080424–0127.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Docket Numbers: EC08–78–000.

Applicants: Duke Energy Ohio, Inc.; Cinergy Corp.; Cinergy Power Investments, Inc.; Generating Facility LLCs.

Description: Application for Authorization of Disposition of Jurisdictional Assets Under Section 203 of the Federal Power Act of Cinergy Corp., *et al.*

Filed Date: 04/23/2008.

Accession Number: 20080424–5015.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Docket Numbers: EC08–79–000.

Applicants: West Valley Leasing Company, LLC; CER Generation II, LLC.

Description: West Valley Leasing Co., LLC and CER Generation II LLC request that FERC authorize the transaction and establish a notice period of 21 days.

Filed Date: 04/22/2008.

Accession Number: 20080425–0010.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG08–65–000.

Applicants: CER Generation II, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of CER Generation II, LLC.

Filed Date: 04/22/2008.

Accession Number: 20080422–5149.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Docket Numbers: EG08–66–000.

Applicants: Tuolumne Wind Project, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status for Tuolumne Wind Project LLC.

Filed Date: 04/22/2008.

Accession Number: 20080422–5151.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER91–569–041.

Applicants: Entergy Services, Inc.

Description: Entergy Arkansas Inc. *et al.* submits a report to FERC re a non-material change in status pursuant to the requirements of Order 652.

Filed Date: 04/23/2008.

Accession Number: 20080424–0231.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Docket Numbers: ER96–2602–009; ER96–2601–020.

Applicants: Dayton Power and Light Company, The; DPL Energy, LLC.

Description: The Dayton Power and Light Co. and DPL Energy, LLC submits a revised and supplement market power analysis etc.

Filed Date: 04/23/2008.

Accession Number: 20080424–0221.

Comment Date: 5 p.m. Eastern Time on Monday, May 5, 2008.

Docket Numbers: ER04–157–027; ER04–714–017; EL05–89–006.

Applicants: Bangor Hydro-Electric Company; New England Transmission Owners; Florida Power & Light Co. New England.

Description: New England Transmission Owners submits compliance filing pursuant to FERC's March 24 Order.

Filed Date: 04/23/2008.

Accession Number: 20080425–0008.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Docket Numbers: ER05–1358–003.

Applicants: KGEN Hinds LLC.

Description: Refund Compliance Report of KGen Hinds LLC.

Filed Date: 04/23/2008.

Accession Number: 20080424–5026.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Docket Numbers: ER05–1394–003.

Applicants: KGen Hot Spring LLC.

Description: KGen Hot Spring LLC, Refund Report.

Filed Date: 04/23/2008.

Accession Number: 20080423–5092.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Docket Numbers: ER05–1419–003.

Applicants: Hot Spring Power Company, LP.

Description: Hot Spring Power Company, LP's Refund Report.

Filed Date: 04/23/2008.

Accession Number: 20080424–5004.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Docket Numbers: ER05–1511–001; ER05–1511–002.

Applicants: Noble Thumb Windpark I, LLC.

Description: Noble Thumb Windpark I, LLC withdraws their Notice of Non-Material Change in Status in connection with their 48 MW wind-powered generation project etc.

Filed Date: 04/18/2008.

Accession Number: 20080423–0018.

Comment Date: 5 p.m. Eastern Time on Friday, May 09, 2008.

Docket Numbers: ER06–456–014; ER06–954–010; ER06–1271–009; ER07–424–005.

Applicants: PJM Interconnection L.L.C.

Description: PJM Interconnection, LLC submits its compliance filing to address the Cost Allocations included in the 5/21/07 compliance filing consistent with the PJM Tariff Provisions Accepted in Opinion 494–A.

Filed Date: 04/21/2008.

Accession Number: 20080424–0006.

Comment Date: 5 p.m. Eastern Time on Monday, May 12, 2008.

Docket Numbers: ER06–738–010; ER06–739–010; ER03–983–009; ER07–501–006; ER02–537–013; ER07–758–005.

Applicants: Fox Energy Company LLC, Birchwood Power Partners, L.P., Inland Empire Energy Center, L.L.C., Shady Hills Power Company, L.L.C., Cogen Technologies Linden Ventures, L.P., East Coast Power Liden Holding, LLC; EFS Parlin Holdings LLC.

Description: Notice of Change in Status of East Coast Power Linden Holding, LLC, *et al.*

Filed Date: 04/21/2008.

Accession Number: 20080422–5083.

Comment Date: 5 p.m. Eastern Time on Monday, May 12, 2008.

Docket Numbers: ER06–1331–002; ER01–2543–004; ER01–2544–004; ER01–2545–004; ER01–2546–004; ER01–2547–004; ER03–1182–005; ER04–698–005; ER99–415–015.

Applicants: CalPeak Power LLC; CalPeak Power-Panoche LLC; CalPeak Power-Vaca Dixon LLC; CalPeak Power-El Cajon LLC; Calpeak Power-Enterprise, LLC; Calpeak Power-Border, LLC; Tyr Energy, LLC; Tor Power, LLC; Commonwealth Chesapeake Company, LLC.

Description: CalPeak Power, LLC *et al.* submits additional minor revisions to their market-based rate tariffs to comply with Order 697.

Filed Date: 04/22/2008.

Accession Number: 20080424–0204.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Docket Numbers: ER08–396–001.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc *et al.* submits Substitute Second Revised Sheet 174 and Substitute Second Revised Sheet 178 to Attachment H–1 of Westar's Open Access Transmission Tariff etc.

Filed Date: 04/22/2008.

Accession Number: 20080423–0024.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Docket Numbers: ER08–396–002.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc and Kansas Gas and Electric Company submits Substitute First Revised Sheet 175 *et al.* to Attachment H–1 of their Open Access Transmission Tariff, effective 6/1/08.

Filed Date: 04/23/2008.

Accession Number: 20080424–0237.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Docket Numbers: ER08–519–001.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits their compliance filing to comply with FERC's directives in the March 31, 2008 Order.

Filed Date: 04/21/2008.

Accession Number: 20080423–0019.

Comment Date: 5 p.m. Eastern Time on Monday, May 12, 2008.

Docket Numbers: ER08–523–001.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection LLC submits Substitute Fourth Revised Sheet 22A *et al.* to FERC Electric Tariff, Sixth Revised Volume 1.

Filed Date: 04/23/2008.

Accession Number: 20080424–0233.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Docket Numbers: ER08–831–001.

Applicants: Progress Energy, Inc.

Description: Carolina Power & Light and Florida Power Corp submits correction to April 11, 2008 Section 205 filing letter.

Filed Date: 04/22/2008.

Accession Number: 20080423–0020.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Docket Numbers: ER08–842–001.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc submits revisions to its Open Access Transmission Tariff and Market Administration and Control Area Services Tariff filed on 4/17/08.

Filed Date: 04/23/2008.

Accession Number: 20080424–0160.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Docket Numbers: ER08–851–000.

Applicants: Valencia Power, LLC.

Description: Valencia Power, LLC submits proposed FERC Electric Tariff, Original Volume 1.

Filed Date: 04/21/2008.

Accession Number: 20080423–0017.

Comment Date: 5 p.m. Eastern Time on Monday, May 12, 2008.

Docket Numbers: ER08–852–000.

Applicants: Glacial Energy Holdings.

Description: Glacial Energy Holdings request acceptance of FERC Electric Tariff, Original Volume 1 under which Glacial will engage in wholesale electric

power and energy transactions and the grant of certain blanket approvals etc.

Filed Date: 04/21/2008.

Accession Number: 20080423–0016.

Comment Date: 5 p.m. Eastern Time on Monday, May 12, 2008.

Docket Numbers: ER08–853–000.

Applicants: Public Service Company of New Mexico.

Description: Public Service Company of New Mexico submits an Engineering, Procurement and Construction Agreement dated 4/11/08 with the High Lonesome Wind Ranch LLC.

Filed Date: 04/21/2008.

Accession Number: 20080423–0015.

Comment Date: 5 p.m. Eastern Time on Monday, May 12, 2008.

Docket Numbers: ER08–854–000.

Applicants: Midwest Independent Transmission System.

Description: Midwest Independent Transmission System Operator, Inc submits a Facilities Construction Agreement.

Filed Date: 04/22/2008.

Accession Number: 20080423–0014.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Docket Numbers: ER08–855–000.

Applicants: ISO New England Inc. and New England Power Pool Participants Committee.

Description: ISO New England, Inc and New England Power Pool Participants Committee submits amendments to the ISO Financial Assurance Policies and Billing Policy etc.

Filed Date: 04/22/2008.

Accession Number: 20080423–0013.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Docket Numbers: ER08–856–000.

Applicants: Southern Company Services, Inc.

Description: Alabama Power Co *et al.* submits Revision 6 to the Agreement for Network integration Transmission Service.

Filed Date: 04/22/2008.

Accession Number: 20080423–0021.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Docket Numbers: ER08–857–000.

Applicants: Southwestern Public Service Company.

Description: Southwestern Public Service Company submits the proposed electric coordination tariff and demand charge compliance filing, a Power Purchase Agreement dated 10/20/06 with Lea Power Partners, LLC etc.

Filed Date: 04/21/2008.

Accession Number: 20080423–0022.

Comment Date: 5 p.m. Eastern Time on Monday, May 12, 2008.

Docket Numbers: ER08–858–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection LLC submits two executed agreement for long-term point-to-point transmission service with Consolidated Edison Company of New York and a new Schedule C to the Joint Operating Agreement.

Filed Date: 04/22/2008.

Accession Number: 20080424–0005.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Docket Numbers: ER08–859–000.

Applicants: Luna Energy Investments LLC.

Description: Luna Energy Investments, LLC submits an amended petition for acceptance of FERC Electric Tariff, Original Volume 1.

Filed Date: 04/22/2008.

Accession Number: 20080424–0004.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Docket Numbers: ER08–861–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator Inc et al. submits an executed Large Generator Interconnection Agreement with the Noble Clinton Windpark I, LLC.

Filed Date: 04/23/2008.

Accession Number: 20080424–0235.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Docket Numbers: ER08–862–000.

Applicants: Midwest Independent Transmission System.

Description: Midwest Independent Transmission System Operator Inc submits a Transmission to Transmission Interconnection Agreement with Northern States Power Company.

Filed Date: 04/23/2008.

Accession Number: 20080424–0228.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Docket Numbers: ER08–863–000.

Applicants: Interstate Power and Light Company.

Description: Interstate Power and Light Company submits Rates for Wholesale Production Service.

Filed Date: 04/23/2008.

Accession Number: 20080424–0227.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Docket Numbers: ER08–864–000.

Applicants: Montgomery L' Energia Power Partners LP.

Description: Montgomery L'Energia Power Partners, LP submits an application for authorization to make wholesale sales of energy, capacity and ancillary services at negotiated, market-based rates.

Filed Date: 04/23/2008.

Accession Number: 20080424–0234.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES08–45–000.

Applicants: American Transmission Company LLC; ATC Management Inc.

Description: Application for Authorization to Issue Securities under Section 204 of the Federal Power Act of American Transmission Company LLC and ATC Management Inc.

Filed Date: 04/23/2008.

Accession Number: 20080424–5012.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA07–103–002.

Applicants: Portland General Electric Company.

Description: Portland General Electric Company submits revised tariff sheets for OATT filing to comply with FERC's letter Order No. 890 Attachment C, Compliance Filing issued March 25, 2008.

Filed Date: 04/24/2008.

Accession Number: 20080424–5040.

Comment Date: 5 p.m. Eastern Time on Thursday, May 15, 2008.

Docket Numbers: OA07–83–001.

Applicants: Avista Corporation.

Description: Avista Corporation submits its Compliance filing as required by Letter Order issued March 25, 2008.

Filed Date: 04/24/2008.

Accession Number: 20080424–5090.

Comment Date: 5 p.m. Eastern Time on Thursday, May 15, 2008.

Docket Numbers: OA07–107–001.

Applicants: Tucson Electric Power Company.

Description: Tucson Electric Power Company submits Second Revised Sheet 96 *et al.* to their FERC Electric Tariff, Fourth Revised Volume 2, effective 9/11/07.

Filed Date: 04/23/2008.

Accession Number: 20080424–0230.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Docket Numbers: OA07–108–001.

Applicants: UNS Electric, Inc.

Description: UNG Electric Inc submits Second Revised Sheet 90 *et al.* to FERC Electric Tariff, First Revised Volume 1.

Filed Date: 04/23/2008.

Accession Number: 20080424–0232.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 14, 2008.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH08–23–000.

Applicants: Boralex Inc.

Description: FERC–65A Exemption Notification of Boralex Inc.

Filed Date: 04/22/2008.

Accession Number: 20080422–5125.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 13, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–9663 Filed 5–1–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR07–6–001]

Worsham-Steed Gas Storage, L.P.; Notice of Compliance Filing

April 25, 2008.

Take notice that on April 17, 2008, Worsham-Steed Gas Storage, L.P. filed a Statement of Operating Conditions in compliance with section 284.123(e) of the Commission's Regulations and Ordering Paragraph (C) of the Commission's letter order issued on May 11, 2007, in Docket No. PR07–6–000.

Any person desiring to participate in this proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the 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 online 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 Friday, May 2, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9773 Filed 5–1–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP07–62–000; CP07–63–000; CP07–64–000; CP07–65–000]

AES Sparrows Point LNG, LLC; Mid-Atlantic Express, L.L.C; COE Application No. CENAB–OP–RMN (2007–01644–M16); Notice of Availability of the Draft Environmental Impact Statement for the Proposed Sparrows Point LNG Terminal and Pipeline Project

April 25, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) in cooperation with the U.S. Army Corps of Engineers (COE), the U.S. Coast Guard, (Coast Guard), and the U.S. Environmental Protection Agency (EPA) has prepared a draft Environmental Impact Statement (EIS) for a liquefied natural gas (LNG) import terminal expansion and natural gas pipeline facilities proposed by AES Sparrows Point LNG, LLC and Mid-Atlantic Express, L.L.C. (collectively referred to as AES) in the above-referenced dockets. The draft EIS was prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project with appropriate mitigating measures, as recommended, would have mostly limited adverse environmental impact.

This is a joint public notice by the FERC and COE to advertise:

- The availability of the draft EIS;
- The scheduling of the joint FERC public meetings/COE public hearings on June 9, 11, and 12, 2008; and
- The submission of a Department of the Army permit application CENAB–OP–RMN (AES Sparrows Point LNG & Mid-Atlantic Express LLC/Dredging & Pipeline) 2007–01644–M16.

AES proposes to construct and operate an LNG import terminal in an industrial port setting on Sparrows

Point, in Baltimore County, Maryland. The LNG terminal would consist of facilities capable of unloading LNG ships, storing up to 480,000 cubic meters (m^3) of LNG (10.2 billion cubic feet of natural gas equivalent), vaporizing the LNG, and sending out natural gas at a baseload rate of 1.5 billion cubic feet per day (Bcfd). The maximum potential gas sendout capacity without expansion is 1.595 Bcfd. Mid-Atlantic Express proposes to interconnect the LNG facilities with three existing interstate natural gas pipelines by construction of a single, approximate 88 mile pipeline north, to the vicinity of Eagle, Pennsylvania.

The draft EIS addresses the potential environmental effects of the construction and operation of the following LNG terminal and natural gas (steel) pipeline facilities.

- A ship unloading facility, with two berths, capable of receiving LNG ships with capacities up to 217,000 m^3;
- Three 160,000 m^3 (net capacity) full-containment LNG storage tank, comprised of 9 percent nickel inner tank, pre-stressed concrete outer tank, and a concrete roof;
- A closed-loop shell and tube heat exchanger vaporization system;
- Various ancillary facilities including administrative offices, warehouse, main control room, security building, and a platform control room;
- Meter and regulation station within the LNG Terminal site;
- Dredging an approximate 118 acre area in the Patapsco River to −45 feet below mean lower low water to accommodate the LNG vessels; and
- Approximately 88 miles of 30-inch-diameter natural gas pipeline (steel) (approximately 48 miles in Maryland and 40 miles in Pennsylvania), a pig launcher and receiver facility at the beginning and ending of the pipeline, 9 mainline valves, and three meter and regulation stations, one at each of three interconnection sites at the end of the pipeline.

COE Permitting Requirements

AES Sparrows Point LNG, LLC and Mid-Atlantic Express, L.L.C. have applied, concurrently, to the COE for a Department of the Army Individual permit pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) for proposed dredging and structures in and under navigable waters of the United States and the discharge of dredged, excavated, and/or fill material into waters of the United States, including jurisdictional wetlands, to construct the preferred alternative identified in the draft EIS. The decision whether to issue the permits will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed project on the public interest. The project would result in permanent and temporary impacts to approximately 19.43 acres of wetlands (including the permanent conversion of approximately 4.5 acres of forested wetlands to emergent or scrub/shrub wetlands), and 14,002 linear feet (4.07 acres) of streams. See Table 4.4.2–1 and Appendix I in the draft EIS for each stream/wetland crossing location, description, and impact. In addition, the applicant is proposing to dredge approximately 3.7 million cubic yards of sediment from an approximate 118 acre area in the Patapsco River to −45 feet below mean lower low water, and dispose of the dredge material by beneficial reuse (e.g., abandoned mine reclamation, landfill capping), or disposal in a landfill. The applicant has not submitted an aquatic resources compensatory mitigation plan to the COE; however, it is anticipated that a compensatory mitigation plan will be included in the final EIS.

The decision will reflect the national concern for the protection and utilization of important resources. The benefits, which would be reasonably expected to accrue from the proposed project, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposed work, will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, consideration of property ownership, and in general, the needs and welfare of the people.

The COE is soliciting comments from the public; federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of the proposed project. Any comments received will be considered by the COE to determine whether to issue, modify, condition or deny a permit for the proposal. To make this decision, the COE uses comments received to access impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above.

The evaluation of the impact of the work described above on the public interest will also include application, by the COE, of the Guidelines [section 404(b)(1)] promulgated by the Administrator, EPA, under authority of section 404 of the CWA.

For COE permitting purposes, the applicant is required to obtain a Water Quality Certification in accordance with Section 401 of the CWA from the Maryland Department of the Environment (MDE) and the Pennsylvania Department of Environmental Protection (PDEP). The COE hereby requests that MDE and PDEP review the proposed discharges for compliance with the applicable water quality standards. The Section 401 certifying agencies have a statutory limit of one year in which to make their decisions. Additionally, for COE permitting purposes, the applicant is required to obtain Coastal Zone Management Consistency concurrence from the MDE, as well. It should be noted that the MDE has a statutory limit of 6 months in which to make its consistency determination.

Joint FERC Public Meetings/COE Public Hearings are held to provide interested individuals with the opportunity to present information about the effects of the project, including its social, economic and environmental effects. These meetings/hearings provide the opportunity for interested parties to present views, opinions, and information that will be considered by the FERC and the COE in evaluating the proposed project.

Coast Guard Permitting Requirements

The Coast Guard within the U.S. Department of Homeland Security is also participating as a cooperating agency in the preparation of the EIS because it exercises regulatory authority over LNG facilities that affect the safety and security of port areas and navigable waterways under Executive Order 10173; the Magnuson Act (50 U.S.C. 191); the Ports and Waterways Safety Act of 1972, as amended (33 U.S.C. 1221, *et. seq.*); and the Maritime Transportation Security Act of 2002 (46 U.S.C. 701). The Coast Guard also has authority for LNG facility plan review, approval and compliance verification as provided in Title 33 Code of Federal Regulations (CFR) Part 105, and siting as it pertains to the management of vessel traffic in and around the LNG facility. As required by its regulations, the Coast Guard is responsible for issuing a Letter of Recommendation (LOR) as to the suitability of the waterway for LNG marine traffic. The Coast Guard plans to adopt the EIS if it adequately covers the impacts associated with issuance of the LOR.

Comment Procedures and FERC Public Meetings/COE Public Hearings

Any person wishing to comment on the draft EIS may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received and properly recorded:

- Send an original and two copies of your comments to: Kimberly D. Bose, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.
- Reference Docket Nos. CP07–62–000, CP07–63–000, CP07–64–000, and CP07–65–000.
- Label one copy of the comments for the attention of Gas Branch 2.
- Mail your comments so that they will be received in Washington, DC on or before June 16, 2008.

The Commission strongly encourages electronic filing of any comments or interventions to this proceeding. See 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the link to *''Documents and Filings''* and ''eFiling.'' eFiling is a file attachment process and requires that you prepare your submission in the same manner as you would if filing on paper, and save it to a file on your hard drive. New eFiling users must first create an account by clicking on *''Sign up''* or *''eRegister.''* You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.'' In addition, there is a *''Quick Comment''* option available, which is an easy method for interested persons to submit text only comments on a project. The *Quick-Comment User Guide* can be viewed at *http://www.ferc.gov/docs-filing/efiling/quick-comment-guide.pdf.* Quick Comment does not require a FERC eRegistration account; however, you will be asked to provide a valid email address. All comments submitted under either eFiling or the Quick Comment option are placed in the public record for the specified docket or project number(s).

The COE public hearings provide members of the public the opportunity to present views, opinions, and information which will be considered by the COE in evaluating the Department of the Army permit. All comments received will become part of the formal project record. Copies of any written statements expressing concern for aquatic resources may be submitted to:

- Mr. Joseph P. DaVia, U.S. Army Corps of Engineers, Baltimore District, Attention: CENAB–OP–RMN, P.O. Box 1715, Baltimore, Maryland 21203–1715.

The COE public hearing comment period closes on June 26, 2008.

In addition to or in lieu of sending written comments, we invite you to attend one of the FERC public meetings/COE public hearings we have scheduled at 7 p.m. (EDT) as follows:

Monday, June 9, 2008, Patapsco High School auditorium, 8100 Wise Avenue, Baltimore, MD, 410–887–7060.

Wednesday, June 11, 2008, East Brandywine Fire Hall, 2096 Bondsville Road, Downingtown, PA, (610) 269–1817.

Thursday, June 12, 2008, Richlin Ballroom, 1700 Van Bibber Rd., Edgewood, MD, (410) 671–7500.

Interested groups and individuals are encouraged to attend and present oral comments on the draft EIS. Transcripts of the meetings will be prepared.

After these comments are reviewed, any significant new issues are investigated, and modifications are made to the draft EIS, a final EIS will be published and distributed by the staff. The final EIS will contain the staff's responses to timely comments received on the draft EIS.

Comments will be considered by the Commission but will not serve to make the commenter a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Anyone may intervene on this proceeding based on this draft EIS. You must file your request to intervene as specified above.[1] You do not need intervenor status to have your comments considered.

The draft EIS has been placed in the public files of the FERC and is available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

The draft EIS is also available for review and inspection (not for distribution) at the locations listed below:

Chester County Library, 450 Exton Square Parkway, Exton, PA 19341.

Harford County Public Library, Bel Air Branch, 100 E. Pennsylvania Ave., Bel Air, MD 21014.

North Point Library, 1716 Merritt Boulevard, Baltimore, MD 21222.

U.S. Army Corps of Engineers, Baltimore District, Regulatory Branch, City Crescent Building, 10 South Howard Street, Baltimore, MD 21201, (410) 962–3670.

U.S. Army Corps of Engineers, Philadelphia District, Regulatory Branch, John Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107, (215) 656–6836.

Hard-copies of the draft EIS have been mailed to federal, state, and local agencies; public interest groups; individuals and affected landowners who requested a copy of the draft EIS or provided comments during scoping; libraries; newspapers; and parties to this proceeding. In the alternate, those persons or organizations who were identified as potential stakeholders on this environmental mailing list are receiving an Executive Summary document and a full version of the draft EIS on CD–ROM. A limited number of documents and CD–ROMs are available from the Public Reference Room identified above. In addition, hard-copies of the document are also available for reading at public libraries along the proposed project route, listed above.

To reduce printing and mailing costs, the final EIS will be issued in both CD–ROM and hard-copy formats. In a separate mailing, the parties on the current mailing list for the draft EIS will be sent a postcard providing an opportunity for them to select which format of the final EIS they wish to receive. The FERC strongly encourages the use of the CD–ROM format in its publication of large documents. If you wish to receive a paper copy of the final EIS instead of CD–ROM, you must return the postcard indicating that choice.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits (i.e., CP07–62) in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to the eSubscription link on the FERC Internet Web site.

It is requested that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9774 Filed 5–1–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6698–5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 11, 2008 (73 FR 19833).

Draft EISs

EIS No. 20070524, ERP No. D–BLM–J65502–00. PROGRAMMATIC EIS—Oil Shale and Tar Sands Resource Management (RMP) Amendments to Address Land Use Allocations in Colorado, Utah and Wyoming.

Summary: EPA expressed environmental concerns about the potential for adverse impacts to air quality, surface water and groundwater. In addition, EPA suggested that the final EIS should strengthen the No Action alternative analysis, broaden the alternative analysis, and consider reasonably foreseeable development scenarios in the cumulative impacts analysis. Rating EC2.

EIS No. 20080002, ERP No. D–BLM–K08066–CA. Sunrise Powerlink Transmission Line Project, Proposed Land Use Plan Amendment, Construction and Operation of a New 91-mile 500 kilovolt (kV) Electric Transmission Line from Imperial Valley Substation (in Imperial Co. near the City of El Centro) to a New Central East Substation (in Central San Diego Co,) Imperial and San Diego Counties, CA.

Summary: EPA expressed environmental concerns about potential adverse impacts to watershed resources, air quality, and the Anza-Borrego Desert State Park. We recommend further discussion on basic project objectives, including the demonstration of purpose and need and the disclosure of economic costs and benefits. Rating EC2.

EIS No. 20080021, ERP No. D–SFW–L64053–AK. Yukon Flats National Wildlife Refuge Project, Proposed Federal and Public Land Exchange, Right-of-Way Grant, Anchorage, AK.

Summary: EPA expressed concerns about potential habitat fragmentation impacts; the lack of appraisal information and other data for exchange lands; and the limited range and number of alternatives considered. Rating EC2.

EIS No. 20080037, ERP No. D–AFS–L65548–ID. Yakus Creek Project, Proposes Timber Harvest, Watershed Improvement, and Access Management Activities, Lochsa Ranger District, Clearwater National Forest, Idaho County, ID.

Summary: EPA supports actions to improve forest and watershed health. However, the final EIS should consider increasing the rate of decommissioning closed roads and review the need for the proposed OHV connector trails which could potentially adversely impact water quality in source water areas. Rating EC1.

EIS No. 20080045, ERP No. D–BIA–K69008–CA. North Fork Rancheria of Mono Indians Fee-to-Trust and Casino/Hotel Project, Proposed 305-Acres-Fee-to-Trust Land Acquisition in Unincorporated Madera County, CA.

Summary: EPA expressed environmental concerns about potential groundwater impacts, and requested that a mitigation monitoring and enforcement program be included in the final EIS. Rating EC2.

EIS No. 20080048, ERP No. D–BLM–J67034–MT. Montana Tunnels Mine Project, Proposed M-Pit Mine Expansion to Existing Mine Pit to Access and Mine Additional Ore Resources, Jefferson County, MT.

Summary: EPA identified potential significant adverse impacts to water quality that should be avoided by ensuring that metals contamination of surface and ground-water will be adequately mitigated, and that pollutant loads are consistent with TMDLs for impaired waters. EPA requested that the final EIS include information regarding mine site water management, TMDL consistency, mitigation, closure, and bonding. Rating EO2.

EIS No. 20080070, ERP No. D–AFS–K65338–AZ. Warm Fire Recovery Project, Removal of Fire-Killed Trees Reforestation, Fuel Reduction and Road Reconstruction of Wildland Fire Burn Portion, Coconino County, AZ.

Summary: EPA expressed concern about water resource and habitat impacts. EPA requested additional information on these impacts and suggested that the selection of Alternative 3—Winter Logging would reduce many of the impacts. Rating EC2.

EIS No. 20080076, ERP No. D–AFS–L65549–ID. Bussel 484 Project Area, Manage the Project Area to Achieve Desired Future Conditions for Vegetation, Fire, Fuels, Recreation, Access, Wildlife, Fisheries, Soil and Water, Idaho Panhandle National Forest, St. Joe Ranger District, Shoshone County, ID.

Summary: EPA supports the proposed actions for managing forest health goals at the landscape level. However, EPA has environmental concerns with impacts to water quality from new road construction in the Bussel Creek Trail; impacts to riparian resources along the Norton Creek and Lines Creek trails under the proposed alternative; and the proposed time line for riparian plantings (10–15 years). The final EIS should include information on mitigation and whether new roads will be temporary. Rating EC1.

EIS No. 20080078, ERP No. D–AFS–J65512–MT. Butte Lookout Project, Proposed Timber Harvest, Prescribed Burning, Road Work and Management Activities, Missoula Ranger District, Lola National Forest, Missoula County, MT.

Summary: EPA supports activities to reduce bark beetle infestations and risks of wildfire, rehabilitate degraded watersheds, and provide timber for local and regional economies. However, EPA expressed environmental concerns about water quality impacts from logging and road construction and available funding to implement road decommissioning to achieve consistency with the downstream Lolo Creek TMDL. Rating EC2.

EIS No. 20080079, ERP No. D–USN–A11081–00. Introduction of the P–8A MMA into the U.S. Navy Fleet, To Provide Facilities and Functions That Support the Homebasing of 12 P–8A Multi-Mission Maritime Aircraft (MMA) Fleet Squadrons (72 Aircraft) and one Fleet Replacement Squadron (FRS), which include the Following Installations: Naval Air Station Jacksonville, FL; Naval Air Station

Whidbey Island, WA; Naval Air Station North Island, CA; Marine Corps Base HI and Kaneohe Bay, HI.

Summary: EPA does not object to the proposed action. Rating LO.

EIS No. 20080063, ERP No. DS–USN–K11119–HI. Hawaii Range Complex (HRC) Project, Additional Information, To Support and Maintain Navy Pacific Fleet Training, and Research, Development, Test, and Evaluation (RDT&E) Operations, Kauai, Honolulu, Maui and Hawaii Counties, HI.

Summary: EPA expressed concerns about impacts to marine mammals from mid-frequency active (MFA) sonar. Rating EC2.

EIS No. 20080084, ERP No. DS–AFS–J65448–UT. West Bear Vegetation Management Project, Additional Information To Improve a Portion of the Cumulative Effects Analysis and Correct the Soils Analysis, Timber Harvesting, Prescribed Burning, Roads Construction, Township 1 North, Range 9 East, Salt Lake Principle Meridian, Evanston Ranger District, Wasatch-Cache National Forest, Summit County, UT.

Summary: This DSEIS responded adequately to our concerns on soil erosion and compactions; therefore, EPA does not object to the proposed action. Rating LO.

EIS No. 20080096, ERP No. DS–NOA–K39102–CA. Cordell Bank, Gulf of the Farallones and Monterey Bay National Marine Sanctuaries, Updated Information, Proposes a Series of Regulatory Changes, Offshore of Northern/Central, CA.

Summary: EPA does not object to the proposed project. Rating LO.

Final EISs

EIS No. 20080082, ERP No. F–AFS–L65542–ID. Cherry Dinner Project, Management of Vegetation, Hazardous Fuels, and Access Plus Watershed Improvements, Amendment to the Forest Plan, Palouse Ranger District, Clearwater National Forest, Latah County, ID.

Summary: EPA does not object to the proposed action.

EIS No. 20080085, ERP No. F–NPS–L65515–WA. Olympic National Park General Management Plan, Implementation, Clallam, Grays Harbor, Jefferson and Mason Counties, WA.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20080100, ERP No. F–AFS–L65482–ID. Aspen Range Timber Sale and Vegetation Treatment Project, New Updated Version, Preferred Alternative is 5, Proposal To Treat Forested and Nonforested Vegetation, Caribou-Targhee National Forest, Soda Springs Ranger District, Caribou County, ID.

Summary: EPA supports the Preferred Alternative that decreases roads in riparian areas and meets Forest Plan standards and guidelines including Goshawk Habitat.

EIS No. 20080108, ERP No. FR–WPA–K08024–CA. Sacramento Area Voltage Support Project, Revision to FSEIS Filed February 2008, Selected Preferred Alternative B, Proposal to Build a Double-Circuit 230-kV Transmission Line, Placer, Sacramento and Sutter Counties, CA.

Summary: No formal comment letter was sent to the preparing agency.

Dated: April 29, 2008.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E8–9709 Filed 5–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6698–4]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 04/21/2008 through 04/25/2008 Pursuant to 40 CFR 1506.9.

EIS No. 20080155, Final EIS, AFS, MT, Cooney McKay Forest Health and Fuels Reduction Project, Proposed to Restore Desirable Vegetative Conditions, Swan Valley near Condon, Swan Lake Ranger District, Flathead National Forest, Lake and Missoula Counties, MT, Wait Period Ends: 06/02/2008, Contact: Joleen Dunham 406–837–7510.

EIS No. 20080156, Draft EIS, NRC, GA, GENERIC—License Renewal of Nuclear Plants, Supplement 34 to NUREG–1437, Regarding Vogtle Electric Generating Plant Units 1 and 2 (VEGP) near Waynesboro, GA, Comment Period Ends: 07/16/2008, Contact: Justin P. Leous 301–415–2864.

EIS No. 20080157, Final EIS, AFS, WA, Gifford-Pinchot National Forest and Columbia River Gorge National Scenic Area (Washington Portion) Site-Specific Invasive Plant Treatment Project, Implementation, Skamania, Cowlitz, Lewis, Clark, Klickitat Counties, WA, Wait Period Ends: 06/02/2008, Contact: Carol A. Chandler 360–891–5108.

EIS No. 20080158, Final Supplement, IBR, CA, Environmental Water Account (EWA) Project, Preferred Alternative is Fixed Purchase Alternative, Provide an Evaluation of 2004 Final EIS/EIR Environmental Water Account (EWA) and Effects Associated with Extending the Current EWA's through 2011, CA, Wait Period Ends: 06/02/2008, Contact: Sammie Cervantes 916–978–5189.

EIS No. 20080159, Second Draft Supplement, NOA, 00, Atlantic Mackerel, Squid and Butterfish, Fishery Management Plan, Amendment No. 10, Develop a Rebuilding Program that Allows the Butterfish Stock to Rebuild in the Shortest Amount of Time Possible, Exclusive Economic Zone (EEZ) off the U.S. Atlantic Coast, Comment Period Ends: 06/16/2008, Contact: Patricia A. Kurkul 978–281–9250.

EIS No. 20080160, Draft EIS, SFW, CA, Cullinan Ranch Unit Restoration Project, Proposing a Restoration Plan for 1,500 Acres of Former Hayfield Farm Land, San Pablo Bay, Issuance of Permits and/or Approval from Section 7 Endangered Species Act and U.S. Army COE Section 404 Permit, San Pablo Bay National Wildlife Refuge, CA, Comment Period Ends: 06/17/2008, Contact: Christy Smith 707–769–4200.

EIS No. 20080161, Final EIS, NPS, 00, Quarry Visitor Center Treatment Project, To Address the Structural Deterioration, Dinosaur National Monument, CO and UT, Wait Period Ends: 06/02/2008, Contact: Tom Thomas 303–969–2310.

EIS No. 20080162, Draft EIS, FRC, MD, Sparrows Point Liquefield Natural Gas (LNG) Import Terminal Expansion and Natural Gas Pipeline Facilities, Construction and Operation, Application Authorization, U.S. COE Section 10 and 404 Permits, Baltimore County, MD, Comment Period Ends: 06/16/2008, Contact: Andy Black 1–866–208–3372.

EIS No. 20080163, Draft EIS, AFS, AK, Spencer Mineral Materials Project, Proposal to Develop and Extract Quarry Rock and Gravel from a Site near Spencer Glacier, Chugach National Forest, Kenal Borough, AK, Comment Period Ends: 06/16/2008, Contact: Alice Allen 605–673–4853.

EIS No. 20080164, Draft EIS, NRC, PA, GENERIC—License Renewal of Nuclear Plants, Supplement 35 to NUREG–1437, Regarding Susquehanna Steam Electric Station, Units 1 and 2, Issuing Nuclear Power Plant Operating Licenses for a 20-Year Period, PA, Comment Period Ends: 07/21/2008, Contact: Drew Stuyvenberg 301–415–4006.

EIS No. 20080165, Draft EIS, FHW, 00, Interstate 5 Columbia River Crossing Project, Bridge, Transit, and Highway Improvements, from State Route 500 in Vancouver, WA to Columbia Boulevard in Portland, OR, Funding, U.S. COE Section 10 & 404 Permits, NPDES Permit, Comment Period Ends: 07/01/2008, Contact: John McAvoy 360–619–7591.

Amended Notices

EIS No. 20080134, Draft EIS, NPS, MI, Sleeping Bear Dunes National Lakeshore, General Management Plan and Wilderness Study, Implementation, Benzie and Leelanau Counties, MI, Comment Period Ends: 06/13/2008, Contact: Nick Chevance 402–661–1844. Revision to FR Notice Published 04/18/2008: Correction of Comment from 6/02/2008 to 6/13/2008

EIS No. 20080139, Draft EIS, FHW, MN, Trunk Highway 23 and U.S. Highway 71 Project, Construction of One or More Grade-Separated Bridge Crossings, Dovre Township, Northeast of Wilmar County, Kandiyohi, MN, Comment Period Ends: 06/06/2008, Contact: Lowell Flaten 320–214–6367. Revision of FR Notice Published 04/18/2008: Extending Comment Period from 6/02/2008 to 06/06/2008.

Dated: April 29, 2008.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E8–9744 Filed 5–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8561–4; Docket ID No. EPA–HQ–ORD–2008–0165]

Draft Toxicological Review of Propionaldehyde: In Support of Summary Information on the Integrated Risk Information System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of peer-review meeting.

SUMMARY: EPA is announcing that Versar, Inc., an EPA contractor for external scientific peer review, will convene an independent panel of experts and organize and conduct an external peer-review meeting via teleconference to review the external review draft document titled, ''Toxicological Review of Propionaldehyde: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' (EPA/635/R–08/003A). A 60-day public comment period for the draft document was announced on March 6, 2008 (73 FR 12171–12172). The draft document was prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development. The public comment period and the external peer-review meeting are separate processes that provide opportunities for all interested parties to comment on the document.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

Versar, Inc. invites the public to register to attend this meeting as observers. In addition, Versar, Inc. invites the public to give oral and/or provide written comments at the meeting regarding the draft document under review. The draft document and EPA's peer-review charge are available primarily via the Internet on NCEA's home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea*. In preparing a final report, EPA will consider the Versar, Inc. report of the comments and recommendations from the external peer-review meeting and any public comments that EPA receives.

DATES: The peer-review panel meeting will begin on May 29, 2008, at 10:30 a.m. and end at 2:30 p.m. EST. As announced on March 6, 2008 (73 FR 12171–12172), the 60-day public comment period began March 6, 2008, and ends May 5, 2008. Technical comments should be in writing and must be received by EPA by May 5, 2008.

ADDRESSES: The peer-review meeting will be held via teleconference. The EPA contractor, Versar, Inc., is organizing, convening, and conducting the peer-review meeting. To attend the meeting, register by May 23, 2008, by calling Versar, Inc. at 703–750–3000 ext. 316, sending a facsimile to 703–642–6954, or sending an e-mail to *ssarraino@versar.com*. You may also register via the Internet at *http://epa.versar.com/propionaldehyde*.

The draft ''Toxicological Review of Propionaldehyde: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' is available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea*. A limited number of paper copies are available from the Information Management Team, NCEA; telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title, ''Toxicological Review of Propionaldehyde: In Support of Summary Information on the Integrated Risk Information System (IRIS).'' Copies are not available from Versar, Inc.

FOR FURTHER INFORMATION CONTACT: Questions regarding information, registration, access or services for individuals with disabilities, or logistics for the external peer-review meeting should be directed to Stephanie Sarraino, Versar, Inc., Springfield, VA 22151; telephone: 703–750–3000 ext. 316; facsimile: 703–642–6954; e-mail *ssarraino@versar.com*. To request accommodation of a disability, please contact Versar, Inc. preferably at least 10 days prior to the meeting, to give as much time as possible to process your request.

If you need technical information about the document, please contact John Stanek, National Center for Environmental Assessment (NCEA); telephone: 919–541–1048; facsimile: 919–541–0245; e-mail: *stanek.john@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Information About the Project/Document

The draft Toxicological Review of Propionaldehyde is a new assessment and provides scientific information on the effects pertaining to exposure to propionaldehyde. Propionaldehyde was nominated by the EPA Office of Air and Radiation in 2000 and 2001 and by the Office of Air Quality Planning and Standards in 2003 as a chemical listed for monitoring under the Clean Air Act. Propionaldehyde is a colorless liquid with a suffocating, fruity odor. It is used in the manufacturing of propionic acid and polyvinyl and other plastics, in the synthesis of rubber chemicals, and as a disinfectant and preservative. The chemical is released to the environment primarily through the combustion of wood, gasoline, diesel fuel, and polyethylene. Propionaldehyde is also a component of cigarette smoke and a food additive/flavoring agent. Although no studies on the effects of propionaldehyde administered by the oral route have been performed, based on its expected daily intake (below 1800 ug/day) and eventual metabolism in the citric acid cycle, it does not appear to be a safety concern for public health via ingestion. Thus, the most probable route

of exposure of concern to the general population is by inhalation. The assessment will present reference values for the noncancer effects of propionaldehyde (RfD and RfC), where supported by available data, and a cancer assessment.

II. Meeting Information

Members of the public may attend the meeting as observers, and there will be a limited time for comments from the public. Please let Versar, Inc. know if you wish to make comments during the meeting. Space is limited, and reservations will be accepted on a first-come, first-served basis.

Dated: April 24, 2008.

Rebecca Clark,

Director, National Center for Environmental Assessment.

[FR Doc. E8–9734 Filed 5–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2008–0321; FRL–8561–5]

Protection of Stratospheric Ozone: Request for Critical Use Exemption Applications for the Years 2010 and 2011

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Solicitation of Applications and Information on Alternatives.

SUMMARY: EPA is soliciting applications for the critical use exemption from the phaseout of methyl bromide for 2011 and beyond. In addition, applicants who missed last year's deadline to submit a critical use application for an exemption in the year 2010 may file a supplemental application in response to this notice. This exemption is an annual exemption and all entities interested in obtaining a critical use exemption must provide EPA with technical and economic information to support a ''critical use'' claim and must do so by the deadline specified in this notice even if they have previously applied for an exemption. Today's notice also invites interested parties to provide EPA with new data on the technical and economic feasibility of methyl bromide alternatives.

DATES: Applications for the critical use exemption must be postmarked on or before July 31, 2008. The response period reflects the clarifications and reduction of burden in the application.

ADDRESSES: Applications for the methyl bromide critical use exemption should be submitted in duplicate (two copies) by mail to: U.S. Environmental Protection Agency, Office of Air and Radiation, Stratospheric Protection Division, Attention Methyl Bromide Review Team, Mail Code 6205J, 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by courier delivery (other than U.S. Post Office overnight) to: U.S. Environmental Protection Agency, Office of Air and Radiation, Stratospheric Protection Division, Attention Methyl Bromide Review Team, 1310 L St., NW., Room 1047E, Washington, DC 20005. EPA also encourages users to submit their applications electronically to Jeremy Arling, Stratospheric Protection Division, at *arling.jeremy@epa.gov.* If the application is submitted electronically, applicants must fax a signed copy of Worksheet 1 to Jeremy Arling at 202–343–2338 by the application deadline.

FOR FURTHER INFORMATION CONTACT:

General Information: U.S. EPA Stratospheric Ozone Information Hotline, 1–800–296–1996; also *http://www.epa.gov/ozone/mbr.*

Technical Information: Colwell Cook, U.S. Environmental Protection Agency, Office of Pesticide Programs (7503P), 1200 Pennsylvania Ave., NW., Washington, DC 20460, 703–308–8146, E-mail: *cook.colwell@epa.gov.*

Economic Information: Elisa Rim, U.S. Environmental Protection Agency, Office of Pesticide Programs (7503P), 1200 Pennsylvania Ave., NW., Washington, DC 20460, 703–308–8123, E-mail: *rim.elisa@epa.gov.*

Regulatory Information: Jeremy Arling, U.S. Environmental Protection Agency, Stratospheric Protection Division (6205J), 1200 Pennsylvania Ave., NW., Washington, DC 20460, 202–343–9055, E-mail: *arling.jeremy@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What do I need to know to respond to this request for applications?
  A. Who can respond to this request for information?
  B. Whom can I contact to find out if a consortium is submitting an application form for my methyl bromide use?
  C. How do I obtain an application form for the methyl bromide critical use exemption?
  D. What alternatives must applicants address when applying for a critical use exemption?
  E. What portions of the applications will be considered confidential business information?
  F. Must I submit a ''Notice of Intent to Apply?''
  G. What if I submit an incomplete application?
  H. What if I applied for a critical use exemption in a previous year?
II. What is the legal authority for the critical use exemption?
  A. What is the Clean Air Act (CAA) authority for implementing the critical use exemption to the methyl bromide phaseout?
  B. What is the Montreal Protocol authority for granting a critical use exemption after the methyl bromide phaseout?
III. How is the U.S. implementing the critical use exemption?
  A. When will the exemption become available to U.S. users of methyl bromide?
  B. What is the projected timeline for the critical use exemption application process?

I. What do I need to know to respond to this request for applications?

A. Who Can Respond to This Request for Information?

Entities interested in obtaining a critical use exemption must complete the application form available at *http://www.epa.gov/ozone/mbr.* The application form may be submitted either by a consortium representing multiple users who have similar circumstances or by individual users who anticipate needing methyl bromide in 2011 and beyond and believe there are no technically and economically feasible alternatives. EPA encourages groups of users with similar circumstances of use to submit a single application (for example, any number of pre-plant users with similar soil, pest, and climactic conditions can join together to submit a single application). In some instances, state agencies will assist users with the application process (see discussion of voluntary state involvement in Part I.B. below). Given that this is the seventh round of the critical use exemption process, EPA will take a skeptical view regarding supporting new nominations (meaning, specific applicants who have not previously been nominated by the USG for an exemption) unless the applicant demonstrates that an unforeseeable change in circumstances (e.g., withdrawal or significant change in registration status of an alternative) justifies the need.

In addition to requesting information from applicants for the critical use exemption, this solicitation for information provides an opportunity for any interested party to provide EPA with information on methyl bromide alternatives (e.g., technical and/or economic feasibility research). The application form for the methyl bromide critical use exemption and other information on research relevant to alternatives must be sent to the

addresses specified above or emailed to the address specified above. The applicant's signature, which is required in order for EPA to process the application, is on Worksheet 1 of the application. Applicants submitting electronically must also fax a signed copy of Worksheet 1 to Jeremy Arling at 202–343–2338 by the application deadline.

B. Whom Can I Contact To Find out if a Consortium Is Submitting an Application Form for My Methyl Bromide Use?

Please contact your local, state, regional, or national commodity association to find out if they plan on submitting an application on behalf of your commodity group.

Additionally, you should contact your state regulatory agency (generally this will be the State Department of Agriculture or State Environmental Protection Agency) to receive information about their involvement in the process. If your state agency has chosen to participate, EPA encourages all applicants to first submit their applications to the state regulatory agency, which will then forward them to EPA. The National Pesticide Information Center Web site is one resource available for identifying the lead pesticide agency in each state (*http://npic.orst.edu/state1.htm*).

C. How Do I Obtain an Application Form for the Methyl Bromide Critical Use Exemption?

An application form for the methyl bromide critical use exemption can be obtained either in electronic or hard-copy form. EPA encourages use of the electronic form. Applications can be obtained in the following ways:

1. PDF format and Microsoft Excel at EPA's Web site: *http://www.epa.gov/ozone/record/mbr.html;*

2. Hard copy ordered through the Stratospheric Ozone Protection Hotline at 1–800–296–1996;

3. Hard-copy format at DOCKET ID No. EPA–HQ–OAR–2008–0321. The docket can be accessed at the *http://www.regulations.gov* site. To obtain copies of materials in hard copy, please call the EPA Docket Center at 202–564–1744 between the hours of 8:30 a.m.–4:30 p.m. E.S.T., Monday–Friday, excluding holidays, to schedule an appointment. The EPA Docket Center's Public Reading Room address is EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460.

D. What Alternatives Must Applicants Address When Applying for a Critical Use Exemption?

To support the assertion that a specific use of methyl bromide is ''critical,'' applicants are expected to demonstrate that there are no technically and economically feasible alternatives available to the user of methyl bromide. The Parties to the Montreal Protocol have developed an ''International Index'' of methyl bromide alternatives, which lists chemical and non-chemical alternatives, by crop. In February 2008, the United States submitted an index of alternatives, which includes the current registration status of available and potential alternatives, that is available on the Ozone Secretariat Web site (*http://ozone.unep.org/Exemption_Information/Critical_use_nominations_for_methyl_bromide/MeBr_Submissions/USA-ExI_4_1_2008.pdf*). More information about alternatives is available in the 2007 Evaluations of 2007 Critical Use Nominations for Methyl Bromide and Related Matters (*http://ozone.unep.org/teap/Reports/MBTOC/MBCUN-Aug2007.pdf*).

Applicants must address technical, regulatory, and economic issues that limit the adoption of ''chemical alternatives'' and combinations of ''chemical'' and ''non-chemical alternatives'' listed for their crop within the ''U.S. Index'' of Methyl Bromide Alternatives. Applicants must also address technical, regulatory, and economic issues that limit the adoption of ''non-chemical alternatives'' and combinations of ''chemical'' and ''non-chemical alternatives'' listed for their crop in the ''International Index.''

E. What Portions of the Applications Will Be Considered Confidential Business Information?

The person submitting information to EPA in response to this Notice may assert a business confidentiality claim covering part or all of the information by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as ''trade secret,'' ''proprietary,'' or ''company confidential.'' Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the applicant, and may be submitted separately to facilitate identification and handling by EPA. If the applicant desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent, and by means of the procedures, set forth under 40 CFR part 2 subpart B; 41 FR 36752, 43 FR 40000, 50 FR 51661. If no claim of confidentiality accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to the applicant.

If you are asserting a business confidentiality claim covering part or all of the information in the application, please submit a non-confidential version that EPA can place in the public docket for reference by other interested parties. Do not include on the ''Worksheet Six: Application Summary'' page of the application any information that you wish to claim as confidential business information. Any information on Worksheet 6 shall not be considered confidential and will not be treated as such by the Agency. A copy of Worksheet 6 will be placed in the public domain by EPA. Applications that are not confidential business information will be placed in the Docket in their entirety. Please note, claiming business confidentiality may delay the ability of EPA to review your application.

F. Must I Submit a ''Notice of Intent To Apply?''

A ''Notice of Intent to Apply'' is not required, but would facilitate the organization of the application review during the critical use exemption process. If EPA is aware of the consortia and the individuals who intend to submit applications 30 days before the application deadline, the technical experts will be better positioned to review the application. This Notice may be submitted to Jeremy Arling via e-mail at *arling.jeremy@epa.gov* or via U.S. mail to U.S. Environmental Protection Agency, Office of Air and Radiation, Stratospheric Protection Division, 1200 Pennsylvania Ave., NW., 6205J, Washington, DC 20460 or by courier to U.S. Environmental Protection Agency, Office of Air and Radiation, Stratospheric Protection Division, 1310 L St., NW., Room 1047E, Washington, DC 20005.

G. What If I Submit an Incomplete Application?

EPA will not accept any applications postmarked after July 1, 2008. If the application is postmarked by the deadline but is incomplete or missing any data elements, EPA will not accept the application and will not include the application in the U.S. nomination submitted for international consideration. If the application is

substantially complete with only minor errors, corrections will be accepted. EPA reviewers may also call applicants for further clarification of their application, even if it is complete.

All consortia or users who have not applied to EPA in the previous year (2007) must submit an entire completed application with all Worksheets.

H. What If I Applied for a Critical Use Exemption in a Previous Year?

In March 2004 and November 2004, the Parties to the Montreal Protocol decided that critical use exemptions would be granted for one year. As a result, users must apply to EPA for critical use exemptions on an annual basis. However, if a user group submitted a complete application to EPA in 2007, the user is only required to submit revised copies of the certain Worksheets listed below, though the entire application with all Worksheets must be on file with EPA. The following worksheets must be completed in full regardless of whether you submitted an application in 2007: 1, 2B, 2C, 2D, 4, 5, and 6. The remaining worksheets must only be completed if any information has changed since 2007. If a user has previously submitted a critical use exemption application to EPA in 2002, 2003, 2004, 2005, or 2006 (first, second, third, fourth, or fifth rounds) but did not submit an application in 2007 (sixth round) then all of the worksheets in the application must be submitted again in their entirety.

II. What is the legal authority for the critical use exemption?

A. What Is the Clean Air Act (CAA) Authority for Implementing the Critical Use Exemption to the Methyl Bromide Phaseout?

In October 1998, the U.S. Congress amended the Clean Air Act by adding CAA sections 604(d)(6), 604(e)(3), and 604(h) (section 764 of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Pub. L. 105–277; October 21, 1998)). The amendment requires EPA to conform the U.S. phaseout schedule for methyl bromide to the provisions of the Montreal Protocol for industrialized countries. Specifically, the amendment requires EPA to make regulatory changes to implement the following phaseout schedule:

25% reduction (from 1991 baseline) in 1999,

50% reduction in 2001,

70% reduction in 2003,

100% reduction in 2005.

EPA published regulations in the **Federal Register** on June 1, 1999 (64 FR 29240), and November 28, 2000 (65 FR 70795), instituting the phaseout reductions in the production and import of methyl bromide in accordance with the schedule listed above. Additionally, the 1998 amendment allowed EPA to exempt the production and import of methyl bromide from the phaseout for critical uses starting January 1, 2005, ''to the extent consistent with the Montreal Protocol'' (section 764 of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Pub. L. 105–277, October 21, 1998), section 604(d)(6) of the Clean Air Act).

B. What Is the Montreal Protocol Authority for Granting a Critical Use Exemption After the Methyl Bromide Phaseout?

The Montreal Protocol provides an exemption to the phaseout of methyl bromide for critical uses in Article 2H, paragraph 5. The Parties to the Protocol included provisions for such an exemption in recognition that alternatives may not be available by 2005 for certain uses of methyl bromide agreed by the Parties to be ''critical uses.''

In their Ninth Meeting (1997), the Parties to the Protocol agreed to Decision IX/6, setting forth the following criteria for a ''critical use'' determination:

(a) That a use of methyl bromide should qualify as ''critical'' only if the nominating Party [e.g. U.S.] determines that:

(i) The specific use is critical because the lack of availability of methyl bromide for that use would result in a significant market disruption; and

(ii) There are no technically and economically feasible alternatives or substitutes available to the user that are acceptable from the standpoint of environment and health and are suitable to the crops and circumstances of the nomination.

(b) That production and consumption, if any, of methyl bromide for a critical use should be permitted only if:

(i) All technically and economically feasible steps have been taken to minimize the critical use and any associated emission of methyl bromide;

(ii) Methyl bromide is not available in sufficient quantity and quality from existing stocks of banked or recycled methyl bromide, also bearing in mind the developing countries' need for methyl bromide;

(iii) It is demonstrated that an appropriate effort is being made to evaluate, commercialize and secure national regulatory approval of alternatives and substitutes, taking into consideration the circumstances of the particular nomination.

* * * Non-Article 5 Parties [e.g., the U.S.] must demonstrate that research programmes are in place to develop and deploy alternatives and substitutes. * * *

In the context of the phaseout program, the use of the term consumption may be misleading. Consumption does not mean the ''use'' of a controlled substance, but rather is defined as the formula: Consumption = Production + Imports − Exports, of controlled substances (Article 1 of the Protocol and Section 601 of the CAA). A Class I controlled substance that was produced or imported through the expenditure of allowances prior to its phaseout date can continue to be used by industry and the public after that specific chemical's phaseout under EPA's phaseout regulations, unless otherwise precluded under separate regulations.

In addition to the language quoted above, the Parties further agreed to request the Technology and Economic Assessment Panel (TEAP) to review nominations and make recommendations for approval based on the criteria established in paragraphs (a)(ii) and (b) of Decision IX/6.

III. How is the U.S. implementing the critical use exemption?

A. When Will the Exemption Become Available to U.S. Users of Methyl Bromide?

Under the provisions of both the CAA and the Montreal Protocol, the critical use exemption became available to approved users on January 1, 2005. Until that date, all production and import of methyl bromide (except for those quantities that qualify for the quarantine and preshipment exemption) was required to conform to the phaseout schedule listed above (see **SUPPLEMENTARY INFORMATION** section II A). Allowances for subsequent years are authorized through regulations. For more information on the quarantine and preshipment exemption, please refer to 68 FR 238 (January 2, 2003).

B. What Is the Projected Timeline for the Critical Use Exemption Application Process?

There is both a domestic and international component to the critical use exemption process. The following outline projects a timeline for the process for the next three years.

May 2, 2008: Solicit applications for the methyl bromide critical use exemption for 2010 and 2011.

July 31, 2008: Deadline for submitting critical use exemption applications to EPA.

Fall 2008: U.S. government (EPA, Department of State, U.S. Department of Agriculture, and other interested federal agencies) create U.S. Critical Use Nomination package.

January 24, 2009: Deadline for U.S. government to submit U.S. nomination package to the Protocol Parties.

Early 2009: Review of the nomination packages for critical use exemptions by the Technical and Economic Assessment Panel (TEAP) and Methyl Bromide Technical Options Committee (MBTOC).

Mid 2009: Parties consider TEAP/MBTOC recommendations.

November 2009: Parties authorize critical use exemptions for methyl bromide for production and consumption in 2010 (supplemental request) and 2011.

Early-Mid 2010: EPA publishes proposal and final rule for 2010 supplemental request, if applicable.

Mid 2010: EPA publishes proposed rule for allocating critical use exemptions in the U.S. for 2011.

Late 2010: EPA publishes final rule allocating critical use exemptions in the U.S. for the 2011 control period.

January 1, 2011: Critical use exemption permits the limited production and import of methyl bromide beyond the phaseout date for specific uses for the 2011 control period.

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Dated: April 24, 2008.

Brian J. McLean,

Director, Office of Atmospheric Programs.

[FR Doc. E8–9743 Filed 5–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8561–6]

EPA Science Advisory Board Staff Office; Request for Nominations To Augment Expertise on the Ecological Processes and Effects Committee (EPEC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB or the Board) Staff Office is requesting nominations of experts in the area of aquatic toxicology of endocrine disrupting chemicals to augment expertise on the SAB's Ecological Processes and Effects Committee. Nominees will be considered for service on the augmented EPEC to provide advice on a methodology for deriving water quality criteria for the protection of aquatic life based on chemical mode of action.

DATES: Nominations should be submitted by May 16, 2008 per the instructions below.

FOR FURTHER INFORMATION CONTACT: For information regarding this Request for Nominations please contact Dr. Thomas Armitage, Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office, at: *armitage.thomas@epa.gov* or (202) 343–9995. General information concerning the SAB can be found on the EPA Web site at: *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB (42 U.S.C. 4365) is a chartered Federal Advisory Committee that provides independent scientific and technical peer review, advice, consultation, and recommendations to the EPA Administrator on the technical basis for EPA actions. As a Federal Advisory Committee, the SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. C) and related regulations. Generally, SAB meetings are announced in the **Federal Register**, conducted in public view, and provide opportunities for public input during deliberations. Additional information about the SAB and its committees can be obtained on the SAB Web site at: *http://www.epa.gov/sab.*

The EPA has asked the SAB for advice concerning technical challenges and recommendations for deriving aquatic life water quality criteria for emerging contaminants such as pharmaceuticals and personal care products exhibiting endocrine disrupting activity. This advice will be provided by the SAB EPEC augmented with experts in field of aquatic toxicology who have specialized knowledge of the effects of endocrine disrupting chemicals.

Expertise Sought: The SAB Staff Office requests nominations of recognized experts in the field of aquatic toxicology with specific knowledge of the effects of endocrine disrupting chemicals.

How to Submit Nominations: Any interested person or organization may nominate qualified individuals to be considered for appointment on this SAB panel. Candidates may also nominate themselves. Nominations should be submitted in electronic format (which is preferred over hard copy) following the instructions for ''Nominating Experts to Advisory Panels and Ad Hoc Committees Being Formed'' provided on the SAB Web site. The form can be accessed through the ''Public Involvement in Advisory Committee'' link on the blue navigational bar on the SAB Web site at: *http://www.epa.gov/sab.* To receive full consideration, nominations should include all of the information requested.

The nominating form requests contact information about: The person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's curriculum vita; sources of recent grant and/or contract support; and a biographical sketch of the nominee indicating current position, educational background; research activities; and recent service on other national advisory committees or national professional organizations.

Persons having questions about the nomination procedures, or who are unable to submit nominations through the SAB Web site, should contact Dr. Thomas Armitage, DFO, at the contact information provided above in this notice. Non-electronic submissions must follow the same format and contain the same information as the electronic.

The SAB Staff Office will acknowledge receipt of the nomination and inform nominees of the panel for which they have been nominated. From the nominees identified by respondents to this **Federal Register** notice (termed the ''Widecast'') and other sources, the SAB Staff Office will develop a smaller subset (known as the ''Short List'') for more detailed consideration. The Short List will be posted on the SAB Web site at: *http://www.epa.gov/sab* and will include, for each candidate, the nominee's name and biosketch. Public comments on the Short List will be accepted for 7 calendar days. During this comment period, the public will be requested to provide information, analysis or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates for the Committee.

For the SAB, a balanced panel is characterized by inclusion of candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. Public responses to the Short List candidates will be considered in the selection of the panels, along with information

provided by candidates and information gathered by SAB Staff independently of the background of each candidate (e.g., financial disclosure information and computer searches to evaluate a nominee's prior involvement with the topic under review). Specific criteria to be used in evaluation of an individual Panel member include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) absence of financial conflicts of interest; (c) scientific credibility and impartiality; (d) availability and willingness to serve; and (e) ability to work constructively and effectively in committees.

Short List candidates will be required to fillout the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded from the following URL address: *http://yosemite.epa.gov/sab/sabproduct.nsf/Web/Form3110-48/$File/epaform3110-48.pdf.*

Dated: April 28, 2008.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E8–9738 Filed 5–1–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

April 29, 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 comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995, Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Pursuant 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 July 1, 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: Interested parties may submit all PRA comments by e-mail or U.S. 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, send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at 202–418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0466.

Title: Sections 73.1201, 74.783 and 74.1283, Station Identification.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, Local and Tribal Government.

Number of Respondents and responses: 20,000 respondents; 20,000 responses.

Estimated Time per Response: 10 minutes to 1.33 hours.

Frequency of Response: Recordkeeping requirement; Third-party disclosure requirement; On occasion reporting 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: 44,370 hours.

Total Annual Costs: None.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: On November 27, 2007, the Commission adopted a Report and Order in MM Docket 00–168, FCC 07–205, In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations. The Report and Order requires that twice daily, the station identification for television stations must include a notice of the existence, location and accessibility of the station's public file pursuant to 47 CFR 73.1201(b)(3). The notice must state that the station's public file is available for inspection and that consumers can view it at the station's main studio and on its Web site. At least one of the announcements must occur between the hours of 6 p.m. and midnight. 47 CFR 73.1201 (a) requires television broadcast licensees to make broadcast station identification announcements at the beginning and ending of each time of operation, and hourly, as close to the hour as feasible, at a natural break in program offerings. Television and Class A television broadcast stations may make these announcements visually or aurally.

47 CFR 73.1201(b)(1) requires that the official station identification consist of the station's call letters immediately followed by the community or communities specified in its license as the station's location; Provided that the name of the licensee, the station's frequency, the station's channel number, as stated on the station's license, and/or the station's network affiliation may be inserted between the call letters and station location. DTV stations, or DAB Stations, choosing to include the station's channel number in the station identification must use the station's major channel number and may distinguish multicast program streams. For example, a DTV station with major channel number 26 may use 26.1 to identify an HDTV program service and 26.2 to identify an SDTV program service. A radio station operating in DAB hybrid mode or extended hybrid mode shall identify its digital signal, including any free multicast audio programming streams, in a manner that appropriately alerts its audience to the fact that it is listening to a digital audio broadcast. No other insertion between the station's call letters and the community or communities specified in its license is permissible.

47 CFR 73.1201(b)(3) requires that twice daily, the station identification for television stations must include a notice of the existence, location and accessibility of the station's public file. The notice must state that the station's public file is available for inspection and that consumers can view it at the station's main studio and on its Web site. At least one of the announcements must occur between the hours of 6 p.m. and midnight.

47 CFR 74.783(e) permits any low-power television (LPTV) station to request a four-letter call sign after receiving its construction permit. All initial LPTV construction permits will continue to be issued with a five-character LPTV call sign. LPTV respondents are required to use the online electronic system. To enable these respondents to use this online system, the Commission eliminated the requirement that holders of LPTV construction permits submit with their call sign requests a certification that the station has been constructed, that physical construction is underway at the transmitter site, or that a firm equipment order has been placed.

47 CFR 74.783(b) requires licensees of television translators whose station identification is made by the television station whose signals are being rebroadcast by the translator, must secure agreement with this television licensee to keep in its file, and available to FCC personnel, the translator's call letters and location, giving the name, address and telephone number of the licensee or service representative to be contacted in the event of malfunction of the translator.

47 CFR 74.1283(c)(1) requires FM translator stations whose station identification is made by the primary station to furnish current information on the translator's call letters and location. This information is kept in the primary station's files. This information is used to contact the translator licensee in the event of malfunction of the translator.

Federal Communications Commission.

Ruth A. Dancey,

Associate Secretary.

[FR Doc. E8–9727 Filed 5–1–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 08–770]

Notice of Suspension and Initiation of Debarment Proceedings; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the ''Bureau'') gives notice of Mr. Rafael G. Adame's suspension from the schools and libraries universal service support mechanism (or ''E-Rate Program''). Additionally, the Bureau gives notice that debarment proceedings are commencing against him. Mr. Adame, or any person who has an existing contract with or intends to contract with him to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support, may respond by filing an opposition request, supported by documentation to Diana Lee, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554.

DATES: Opposition requests must be received by June 2, 2008. However, an opposition request by the party to be suspended must be received 30 days from the receipt of the suspension letter or June 2, 2008, whichever comes first. The Bureau will decide any opposition request for reversal or modification of suspension or debarment within 90 days of its receipt of such requests.

FOR FURTHER INFORMATION CONTACT: Diana Lee, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554. Diana Lee may be contacted by phone at (202) 418–0843 or e-mail at *diana.lee@fcc.gov.* If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Bureau has suspension and debarment authority pursuant to 47 CFR 54.8 and 47 CFR 0.111. Suspension will help to ensure that the party to be suspended cannot continue to benefit from the schools and libraries mechanism pending resolution of the debarment process. Attached is the suspension letter, DA 08–770, which was mailed to Mr. Adame and released on April 2, 2008. The complete text of the notice of debarment is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. In addition, the complete text is available on the FCC's Web site at *http://www.fcc.gov.* The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY–B420, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via e-mail *http://www.bcpiweb.com.*

Federal Communications Commission.

Trent B. Harkrader,

Deputy Chief, Investigations and Hearings Division, Enforcement Bureau.

The attached is the Suspension and Initiation of Debarment Letter to Mr. Rafael G. Adame.

Federal Communications Commission

Enforcement Bureau

Investigations and Hearings Division

445 12th Street, SW., Suite 4–C330

Washington, D.C. 20554

April 2, 2008

DA 08–770

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED AND FACSIMILE (956–664–2703)

Mr. Rafael G. Adame, c/o Eric Samuel Jarvis, Esq., Alvarez & Jarvis, PC, 6521 N. 10th Street, Suite A, McAllen, TX 78504, E-Mail: *eric@alvarezandjarvis.com*

Re: Notice of Suspension and Initiation of Debarment Proceedings, File No. EB–07–IH–9547

Dear Mr. Adame: The Federal Communications Commission (''FCC'' or ''Commission'') has received notice of your conviction for wire fraud in violation of 18 U.S.C. § 1343 in connection with your participation in the schools and libraries universal service support mechanism (''E-Rate program'').[1] Consequently, pursuant to 47 C.F.R. § 54.8, this letter constitutes official notice of your suspension from the E-Rate program. In addition, the Enforcement Bureau (''Bureau'') hereby

[1] Any further reference in this letter to ''your conviction'' refers to your conviction of seven counts of wire fraud. *United States* v. *Rafael Gongora Adame,* Criminal Docket No. 7:06–CR–1082, CRIMINAL NO. M–06–1082, Judgment (S.D. Tex. filed Mar. 3, 2008 and entered Mar. 11, 2008) (''*Adame Judgment*'').

notifies you that we are commencing debarment proceedings against you.[2]

I. Notice of Suspension

The Commission has established procedures to prevent persons who have ''defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism'' from receiving the benefits associated with that program.[3] On November 19, 2007, the United States District Court of Texas sentenced you to serve three years in prison following your conviction on seven counts of wire fraud in connection with your participation in the E–Rate program.[4] As the owner of ATE Tel, a vendor that provided computer-related goods and services to various school districts, including the Weslaco Independent School District in South Texas, you submitted fraudulent invoices via wire communications to the Universal Service Administrative Company (''USAC'') for reimbursement from the E–Rate program.[5] By making false representations on invoices filed with USAC, you fraudulently obtained more than $106,000 in illegitimate payments from the federal E–Rate program.[6]

Pursuant to section 54.8(a)(4) of the Commission's rules,[7] your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.[8] Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the **Federal Register**.[9]

Suspension is immediate pending the Bureau's final debarment determination. In accordance with the Commission's debarment rules, you may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the **Federal Register**, whichever comes first.[10] Such requests, however, will not ordinarily be granted.[11] The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.[12] Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.[13]

II. Initiation of Debarment Proceedings

Your conviction in connection with the E–Rate program, in addition to serving as a basis for immediate suspension from the program, also serves as a basis for the initiation of debarment proceedings against you. Your conviction falls within the categories of causes for debarment defined in section 54.8(c) of the Commission's rules.[14] Therefore, pursuant to section 54.8(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

As with your suspension, you may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the **Federal Register**.[15] Absent extraordinary circumstances, the Bureau will debar you.[16] Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.[17] If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of the decision in the **Federal Register**.[18]

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for three years from the date of debarment.[19] The Bureau may, if necessary to protect the public interest, extend the debarment period.[20]

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, N.E., Suite 110, Washington, DC 20002, to the attention of Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail),

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[2] 47 C.F.R. 54.8; 47 C.F.R. 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the schools and libraries universal service support mechanism in 2003. *See Schools and Libraries Universal Service Support Mechanism,* Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (''*Second Report and Order*'') (adopting section 54.521 to suspend and debar parties from the E-rate program). In 2007, the Commission extended the debarment rules to apply to all of the Federal universal service support mechanisms. *See Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.,* Report and Order, 22 FCC Rcd 16372, 16410–12 (''*Program Management Order*'') (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (5), (c), (d), (e)(2)(i), (3), (e)(4), and (g)).

[3] *See Second Report and Order,* 18 FCC Rcd at 9225, para. 66; *Program Management Order* 22 FCC Rcd at 16387, para. 32. The Commission's debarment rules define a ''person'' as ''[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however, organized.'' 47 CFR 54.8(a)(6).

[4] *See generally Adame Judgment* at 1.

[5] *United States* v. *Rafael Gongora Adame,* Criminal Docket No. 7:06–CR–1082, CRIMINAL NO. M–06–1082, Indictment, 3 (S.D. Tex. filed Dec. 6, 2006, and entered Dec. 12, 2006) (''*Adame Indictment*''). *See United States* v. *Rafael Gongora Adame,* Criminal Docket No. 7:06–CR–1082, CRIMINAL NO. M–06–1082, Verdict (S.D. Tex. filed Feb. 9, 2007, and entered Mar. 20, 2007) (''*Adame Verdict*''); *Adame Judgment??;* Department of Justice Press Release: *Former Telecom Owner Sentenced to Three Years in Prison for Scheme to Defraud Federal E–Rate Program,* 1 (''*DOJ November 20 Press Release*'') .

[6] *See Adame Judgment; see also DOJ November 20 Press Release* at 1.

[7] 47 CFR 54.8(a)(4). *See Second Report and Order,* 18 FCC Rcd at 9225–9227, paras. 67–74.

[8] 47 CFR 54.8(a)(1), (d).

[9] *Second Report and Order,* 18 FCC Rcd at 9226, para. 69; 47 CFR 54.8(e)(1).

[10] 47 CFR 54.8(e)(4).

[11] *Id.*

[12] 47 CFR 54.8(f).

[13] *See Second Report and Order,* 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5), 54.8(f).

[14] ''Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism.'' 47 CFR 54.8(c). Such activities ''include the receipt of funds or discounted services through [the federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the federal universal service] support mechanisms.'' 47 CFR 54.8(a)(1).

[15] *See Second Report and Order,* 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(3).

[16] *Second Report and Order,* 18 FCC Rcd at 9227, para. 74.

[17] *See id.,* 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

[18] *Id.* The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 CFR 54.8(f).

[19] *Second Report and Order,* 18 FCC Rcd at 9225, para. 67; 47 CFR 54.8(d), 54.8(g).

[20] *Id.*

the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4–C330, Washington, DC 20554, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4–C330, Washington, DC, 20554. You shall also transmit a copy of the response via email to *diana.lee@fcc.gov* and to *vickie.robinson@fcc.gov*.

If you have any questions, please contact Ms. Lee via mail, by telephone at (202) 418–1420 or by e-mail at *diana.lee@fcc.gov*. If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov*.

Sincerely yours,

Trent Harkrader
Deputy Chief, Investigations and Hearings Division, Enforcement Bureau

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail); Duncan S. Currie, Esq., Chief, Dallas Field Office, Antitrust Division, Department of Justice

[FR Doc. E8–9731 Filed 5–1–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE AND TIME: Tuesday, May 6, 2008 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, May 8, 2008 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED: Correction and Approval of Minutes.

ADVISORY OPINION 2008–01: Butler County Democrats for Change (DPAC), by its treasurer, Diane L. Sipe.

Future Meeting Dates.

Management and Administrative Matters.

FOR FURTHER INFORMATION CONTACT: Robert Biersack, Press Officer, Telephone: (202) 694–1220.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mary Dove, Commission Secretary, at (202) 694–1040, at least 72 hours prior to the hearing date.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. E8–9622 Filed 5–1–08; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 16, 2008.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Greg S. Stubbs and Jennifer J. Stubbs, both of Groesbeck, Texas, and Brad Butler and Denise Butler, both of Wortham, Texas; to acquire voting shares of Bi–Stone Bancshares, Inc., and indirectly acquire voting shares of Incommons Bank, N.A., both of Mexia, Texas.

Board of Governors of the Federal Reserve System, April 28, 2008.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E8–9643 Filed 5–1–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 19, 2008.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. JCLL 2007 Irevocable Trust B, JCLL 2007 Irrevocable Trust T, and James A. McLean, as Trustee of the trusts, all of Bozeman, Montana; Plotinus Trust, Ennis, Montana, and Peter T. Combs, Alamos, Sonora, Mexico, as an individual and as Trustee of the trust; C. Bruce Combs, Bozeman, Montana; Timothy Combs, Ennis, Montana; and Virginia B. Combs, Alamos, Sonora, Mexico, as individuals, collectively part of a group acting in concert, to retain and acquire control of Jackass Creek Land & Livestock Company, Ennis, Montana, and thereby indirectly retain and acquire control of the First Madison Valley Bank, Ennis, Montana, and the First Boulder Valley Bank, Boulder, Montana.

Board of Governors of the Federal Reserve System, April 29, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–9670 Filed 5–1–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 27, 2008.

A. Federal Reserve Bank of Atlanta (Steve Foley, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Verity Capital Group, Inc., Dahlonega, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Verity Bank, Winder, Georgia (in organization).

Board of Governors of the Federal Reserve System, April 28, 2008.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E8–9642 Filed 5–1–08; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–244]

Availability of the Draft Report ''Selected Information on Chemical Releases Within Great Lakes Counties Containing Areas of Concern (AOC) (Public Comment Draft 2008)''

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Request for comment.

SUMMARY: This report responds to a request from the International Joint Commission (IJC), the binational organization that works to implement the Great Lakes Water Quality Agreement (GLWQA) between the U.S. and Canada. The GLWQA calls for the two nations to define ''the threat to human health from critical pollutants'' found in the Great Lakes basin.

This notice announces the availability of the draft report entitled ''Selected Information on Chemical Releases Within Great Lakes Counties Containing Areas of Concern (AOC) (Public Comment Draft 2008)''. This report summarizes previously-published public health assessment products and chemical release information for the 26 U.S. AOCs and 54 counties that are in close geographic proximity to those AOCs. This is a descriptive report that does not make associations between health outcomes and chemical exposures. The compilation of environmental data, gathered by ATSDR and the Environmental Protection Agency (EPA), is intended to help decision-makers set future priorities.

DATES: The agency must receive comments on or before June 30, 2008. Comments can be sent via e-mail box *greatlakes@cdc.gov.* Comments received after close of the public comment period will be considered at the discretion of ATSDR on the basis of what is deemed to be in the best interest of the general public.

ADDRESSES: Address all comments concerning this notice to Ms. Olga Dawkins, ATSDR, Division of Toxicology and Environmental Medicine, 1600 Clifton Road, NE., MS F–32, Atlanta, Georgia 30333.

FOR FURTHER INFORMATION CONTACT: Bruce Fowler, Ph.D., Division of Toxicology and Environmental Medicine, Agency for Toxic Substances and Disease Registry, Mailstop F–32, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (770) 488–7250. Electronic access to these documents is also available at the ATSDR Web site: *http://www.atsdr.cdc.gov/.*

SUPPLEMENTARY INFORMATION: The geographic focus of this report is a set of 26 ''Areas of Concern'' (AOCs) along Great Lakes streams, rivers, and lakes. These AOCs are defined under the Agreement as ecologically degraded geographic areas requiring remediation. In response to the IJC request, this report presents previously published public health assessment products and chemical release information for the 54 counties in geographic proximity to one or more of the 26 U.S. AOC. Much of the available data pertain to counties, and not to AOCs. Some AOCs occupy small parts of a single county, while others may reach across more than one county. The data come from publicly available data sets provided by ATSDR and the U.S. EPA.

The GLWQA defines ''critical pollutants'' as substances that persist in the environment, bioaccumulate in fish and wildlife, and are toxic to humans and animals. There are 12 categories of critical pollutants. This report emphasizes the critical pollutants (within the constraints imposed by using existing data) but also presents information on other pollutants, when such information is available and relevant.

This report compiles and presents previously collected environmental data from four sources:

- Data on hazardous waste sites in AOC counties, from evaluations prepared by the Agency for Toxic Substances and Disease Registry (ATSDR);
- Chemical release data from the U.S. Environmental Protection Agency's (EPA) Toxic Release Inventory (TRI);
- Data on pollutant discharges into water, from EPA's National Pollutant Discharge Elimination System (NPDES);
- Data on ''beneficial use impairments'' such as wildlife and drinking water advisories, from each of the Great Lakes states. These data are presented in three ways: In text, in tables, and in Geographic Information System-based (GIS) maps created by ATSDR for each of the 26 U.S. AOCs.

This is a descriptive report that does not make associations between health outcomes and chemical exposures. The compilation of environmental data, gathered by ATSDR and EPA, is intended to help decision-makers set future priorities.

The report is available at the ATSDR Web site, *http://www.atsdr.cdc.gov*,

along with a notice of a 60-day public comment period for the report. Following the close of the comment period, comments will be addressed and, where appropriate, changes will be incorporated into the report. The public comments and other data submitted in response to the **Federal Register** notice will bear the docket control number of ATSDR–244 and can be sent via e-mail box *greatlakes@cdc.gov.* This material is available for public inspection in the Record Room for the Agency for Toxic Substances and Disease Registry, 4770 Buford Highway, Building 106, Atlanta, Georgia 30341 (not a mailing address) between 8 a.m. and 4:30 p.m., Monday through Friday, except on legal holidays.

Dated: April 29, 2008.

Ken Rose,

Director, Office of Policy, Planning, and Evaluation, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

[FR Doc. E8–9742 Filed 5–1–08; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Development, Implementation and Evaluation of Novel Strategies To Reduce Inappropriate Antimicrobial Use in Community and Healthcare Settings, Funding Opportunity Announcement (FOA) CI08–001

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: 12 p.m.–3 p.m., May 20, 2008 (Closed).

Place: Teleconference.

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 applications received in response to ''Development, Implementation and Evaluation of Novel Strategies To Reduce Inappropriate Antimicrobial Use in Community and Healthcare Settings,'' FOA CI08–001.

Contact Person for More Information: Christine Morrison, PhD, Scientific Review Administrator, Office of the Chief Science Officer, CDC, 1600 Clifton Road, NE., Mailstop D74, Atlanta, GA 30333, Telephone 404–639–3098.

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: April 28, 2008.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–9671 Filed 5–1–08; 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): Reducing Prenatal Exposure to Alcohol and Other Co-Occurring Risk Behaviors in the Preconception Period, Funding Opportunity Announcement (FOA) DD 08–003

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: 12:30 p.m.–3:30 p.m., June 18, 2008 (Closed).

Place: Teleconference.

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 applications received in response to ''Reducing Prenatal Exposure to Alcohol and Other Co-Occurring Risk Behaviors in the Preconception Period,'' FOA DD 08–003.

Contact Person for More Information: Juliana Cyril, PhD, M.P.H., Scientific Review Administrator, Office of the Chief Science Officer, CDC, 1600 Clifton Road, NE., Mailstop D74, Atlanta, GA 30333, Telephone 404–639–4639.

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: April 28, 2008.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–9347 Filed 5–1–08; 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): Addressing Emerging Infectious Diseases in the Republic of India, Funding Opportunity Announcement (FOA) IP 08–009

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: 12 p.m.–2 p.m., June 17, 2008 (Closed).

Place: Teleconference.

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 applications received in response to ''Addressing Emerging Infectious Diseases in the Republic of India,'' FOA IP 08–009.

Contact Person for More Information: Trudy Messmer, PhD, Scientific Review Administrator, Coordinating Center for Infectious Diseases, Office of the Director, CDC, 1600 Clifton Road, NE., Mailstop C19, Atlanta, GA 30333, Telephone 404–639–2176.

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: April 28, 2008.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–9515 Filed 5–1–08; 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 Center of Excellence for the Prevention of Childhood Agricultural Injury, Request for Applications (RFA) OH 08–006

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.–5 p.m., May 21, 2008 (Closed).

Place: Marriott Airport, 777 Aten Road, Coraopolis, PA 15108, Telephone (412) 788–8800.

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 applications received in response to ''National Center of Excellence for the Prevention of Childhood Agricultural Injury, RFA OH 08–006.''

Contact Person for More Information: Stephen Olenchock, PhD, Scientific Review Administrator, Office of Extramural Coordination and Special Projects, National Institute for Occupational Safety and Health, CDC, 1095 Willowdale Road, Morgantown, WV 26505, Telephone (304) 285–6271.

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: April 28, 2008.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–9666 Filed 5–1–08; 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): MD STARnet: Expanding Surveillance and Epidemiologic Research for Duchenne and Becker Muscular Dystrophy Funding Opportunity Announcement (FOA) DD08–002

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: 12:30 p.m.–3:30 p.m., June 17, 2008 (Closed).

Place: Teleconference.

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 applications received in response to ''MD STARnet: Expanding Surveillance and Epidemiologic Research for Duchenne and Becker Muscular Dystrophy,'' FOA DD08–002.

Contact Person for More Information: Juliana Cyril, PhD, M.P.H, Scientific Review Administrator, Office of the Chief Science Officer, CDC, 1600 Clifton Road, NE., Mailstop D74, Atlanta, GA 30333, Telephone 404–639–4639.

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: April 28, 2008.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–9711 Filed 5–1–08; 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): Workplace Violence Health Research, Request for Applications (RFA) OH 08–004

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: 8 a.m.–12 p.m., May 21, 2008 (Closed).

Place: Marriott Airport, 777 Aten Road, Coraopolis, PA 15108, telephone (412) 788–8800.

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 applications received in response to ''Workplace Violence Health Research, RFA OH 08–004.''

Contact Person for More Information: Stephen Olenchock, PhD, Scientific Review Administrator, Office of Extramural Coordination and Special Projects, National Institute for Occupational Safety and Health, CDC, 1095 Willowdale Road, Morgantown, WV 26505, Telephone (304) 285–6271.

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: April 28, 2008.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–9736 Filed 5–1–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Environmental Health/Agency for Toxic Substances and Disease Registry

The Board of Scientific Counselors, Centers for Disease Control and Prevention (CDC), National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (NCEH/ATSDR): Meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), CDC and NCEH/ATSDR announce the following committee meeting:

Name: Board of Scientific Counselors (BSC), NCEH/ATSDR.

Times and Dates: 8:30 a.m.–4:30 p.m., May 29, 2008; 8:30 a.m.–12 p.m., May 30, 2008.

Place: Marriott Century Center Hotel, 2000 Century Boulevard, Chamblee, Georgia 30341.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 75 people.

Purpose: The Secretary, Department of Health and Human Services (HHS) and by delegation, the Director, CDC, and Administrator, NCEH/ATSDR, are authorized under Section 301 (42 U.S.C. 241) and Section 311 (42 U.S.C. 243) of the Public Health Service Act, as amended, to: (1) Conduct, encourage, cooperate with, and assist other appropriate public authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments; (2) assist states and their political subdivisions in the prevention of infectious diseases and other preventable conditions and in the promotion of health and well being; and (3) train state and local personnel in health work. The BSC, NCEH/ATSDR provides advice and guidance to the Secretary, HHS; the Director, CDC; and Administrator, ATSDR; and the Director, NCEH/ATSDR, regarding program goals, objectives, strategies, and priorities in fulfillment of the agency's mission to protect and promote people's health. The board provides advice and guidance that will assist NCEH/ATSDR in ensuring scientific quality, timeliness, utility, and dissemination of results. The board also provides guidance to help NCEH/ATSDR work more efficiently and effectively with its various constituents and to fulfill its mission in protecting America's health.

Matters To Be Discussed: An update on NCEH/ATSDR's Office of the Director; update on formaldehyde and FEMA Trailers; report on ATSDR's Great Lakes areas of concern; discussion on the draft Report by the BSC's Peer Review Workgroup for the NCEH/ATSDR Preparedness and Emergency Response Program; discussion on the proposed BSC Program Peer Review of NCEH/ATSDR's internal clearance and external peer review process; update on NCEH/ATSDR Climate Change Initiatives; update on industry challenges to NCEH/ATSDR programs; and updates on public health issues.

Agenda items are tentative and subject to change.

Contact Person for More Information: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR, 4770 Buford Highway, Mail Stop F–61, Chamblee, Georgia 30345; telephone 770/488–0575, fax 770/488–3377; E-mail: *smalcom@cdc.gov*. The deadline for notification of attendance is May 21, 2008.

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: April 28, 2008.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8–9668 Filed 5–1–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–37, CMS–10097 and CMS–10257]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid Program Budget Report; *Use:* The Medicaid Program Budget Report is prepared by the State Medicaid agencies and is used by CMS for developing national Medicaid budget estimates, qualification of budget estimate changes, and the issuance of quarterly Medicaid grant awards.

Form Number: CMS–37 (OMB# 0938–0101); *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 224; *Total Annual Hours:* 7,616.

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* The Annual Medicare Contractor Provider Satisfaction Survey (MCPSS); *Use:* Medicare Contractors are charged with processing Medicare claims and related activities and providers interact with them on a daily basis. The Medicare Contractor Provider Satisfaction Survey (MCPSS) measures this Provider-Contractor relationship. The Contractors are currently using, and will continue to use, the MCPSS results to implement performance improvement activities within their organizations. The MCPSS questionnaire includes the following topics: Provider inquiries, provider outreach & education, claims processing, appeals, provider enrollment, medical review, and provider audit & reimbursement. The Survey is designed to measure provider satisfaction, attitudes, perceptions and opinions about the services provided by their respective Contractor. The results include quantitative data (a satisfaction score) and qualitative information (comments relevant to specific topics).

The 2009 MCPSS will differ from 2008 in two ways, (refer to the specific documents for additional changes): (1) The questionnaire will be slightly modified, including the net addition of two questions; and (2) the definition of a completed survey will be revised. *Form Number:* CMS–10097 (OMB# 0938–0915); *Frequency:* Yearly; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 24,279; *Total Annual Responses:* 24,279; *Total Annual Hours:* 8346.

Type of Information Collection Request: Extension of a currently approved collection;

3. *Type of Information Collection Request:* New collection; Extension of a currently approved collection; *Title of Information Collection:* National Medicare Training Program Training Needs Assessment Survey; *Use:* The Centers for Medicare and Medicaid Services (CMS) is requesting clearance for an Online Needs Assessment Survey that will inform the National Medicare Training Program (NMTP) in their efforts to develop materials vital to the performance of key Medicare partners. NMTP communicates information about a wide array of Medicare topics to a diverse audience of partner organizations through in-person workshops, teleconferences, and Online training materials. These partner organizations include other state and federal agencies, health plans, aging networks/coalitions, long term care institutions, disability/mental health providers and advocates, HIV/AIDS providers, other health care providers and disease-specific advocacy groups, faith based organizations, and racial/ethnic minority organizations. These partners extend the reach of NMTP to population segments that have information barriers, including language, literacy, location, and culture, to help them understand the varied and sometimes complex choices about how they receive their Medicare benefits. This survey will allow NMTP to assess

the education and training needs of its partner organizations on an annual basis, to ensure that they have the information and materials they need to assist the beneficiaries they serve. *Form Number:* CMS–10257 (OMB# 0938-New); *Frequency:* Once; *Affected Public:* Not-for-profit institutions, State, Local and Tribal governments, Federal Government; *Number of Respondents:* 4,000; *Total Annual Responses:* 4,000; *Total Annual Hours:* 1,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *July 1, 2008:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, *Attention:* Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 24, 2008.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E8–9503 Filed 5–1–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Delegation of Authority

Notice is hereby given that I have delegated to the Associate Commissioner, Children's Bureau, Administration for Children, Youth and Families, the following authorities vested in me by the Assistant Secretary for Children and Families by memorandum dated February 16, 2007.

(a) Authorities Delegated.

1. Authority to administer the Child Welfare Services Program, including the State Grant Program, the Research and Demonstration Program and the Training program pursuant to Title IV–B of the Social Security Act, and as amended now and hereafter.

2. Authority to administer the Foster Care Program and Adoption Assistance programs including the Independent Living Initiative under Title IV–E of the Social Security Act, and as amended now and hereafter.

3. Authority to administer the provisions of the Child Abuse Prevention and Treatment Act, 42 U.S.C. 5101 *et seq.,* and as amended now and hereafter.

4. Authority to administer the provisions of the Adoption Opportunities Program under Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act, 42 U.S.C. 5111–5115, and as amended now and hereafter.

5. Authorities and functions vested in the Secretary under the Organic Act of the Children's Bureau (Act of April 9, 1912) 42 U.S.C. 191, *et seq.*, and as amended now and hereafter.

6. Authorities that provide for the establishment of A National Adoption Information Clearinghouse under Section 9442 of the Omnibus Budget Reconciliation Act of 1986, 42 U.S.C. 679a, and as amended now and hereafter.

7. Authorities to administer the Abandoned Infants Assistance Act of 1988, 42 U.S.C. 670 note, and as amended now and hereafter.

8. Authority under Section 13711(a)(2) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66, for the Family Preservation and Support Services program, subpart 2 of the Title IV–B, Child and Family Services, of the Social Security Act 42 U.S.C. 629, and as amended now and hereafter.

9. Authorities vested in the Secretary of Health and Human Services under Section 330F (other than Section 330F(a)(6)(C)) of the Public Health Service Act (42 U.S.C. 254c–6), as amended, titled ''Certain Services for Pregnant Women.''

(b) Limitations.

1. This delegation of authority shall be exercised under the Department's existing policies on delegations and regulations.

2. This delegation excludes the authority to submit reports to Congress and shall be exercised under financial and administrative requirements applicable to all Administration for Children and Families' authorities.

3. The approval or disapproval of grant applications and the making of grant awards require concurrence of the appropriate Grants Officer. The approval or disapproval of contract proposals and awards are subject to the requirements of the Federal Acquisition Regulations and requires the concurrence of the Contracting Officer.

4. This delegation of authority does not include the authority to sign and issue notices of grant awards for Children's Bureau programs.

5. This delegation of authority does not include the authority to appoint Central Office and Regional Office Grant Officers for the administration of Children's Bureau programs.

6. This delegation of authority does not include the authority to appoint Action Officials for Audit Resolution.

7. This delegation of authority does not include the authority to approve or disapprove State requests for Federal financial participation for the costs of automated data processing equipment and services that affect more than one HHS Operating Division.

8. This delegation of authority does not include the authority to conduct hearings.

9. This delegation of authority does not include the authority under section 429 of the Social Security Act.

10. This delegation of authority does not include the authority under section 439 of the Social Security Act, Grants for Programs for Mentoring Children of Prisoners.

11. Any redelegation shall be in writing and prompt notification must be provided to all affected managers, supervisors, and other personnel and requires the concurrence of the Deputy Assistant Secretary for Administration.

(c) Effective Date.

This delegation of authority is effective upon the date of signature.

(d) Effect on Existing Delegations.

As related to the authorities delegated herein, this delegation of authority supersedes all previous delegations of authority.

I hereby affirm and ratify any actions taken by the Associate Commissioner, Children's Bureau, Administration on Children, Youth and Families, which involved the exercise of the authorities delegated herein prior to the effective date of this delegation.

Dated: April 18, 2008,

Joan Ohl,

Commissioner, Administration for Children, Youth and Families.

[FR Doc. E8–9634 Filed 5–1–08; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–E–0282] (formerly Docket No. 2007E–0256)

Determination of Regulatory Review Period for Purposes of Patent Extension; TEKTURNA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for TEKTURNA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6222, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the human drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product TEKTURNA (aliskiren hemifumarate). TEKTURNA is indicated for treatment of hypertension. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for TEKTURNA (U.S. Patent No. 5,559,111) from Novartis Corporation, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated November 21, 2007, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of TEKTURNA represented the first permitted commercial marketing or use of the product. Shortly, thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for TEKTURNA is 2,023 days. Of this time, 1,637 days occurred during the testing phase of the regulatory review period, while 386 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective:* August 22, 2001. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on August 22, 2001.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act:* February 13, 2006. FDA has verified the applicant's claim that the new drug application (NDA) for TEKTURNA (NDA 21–985) was initially submitted on February 13, 2006.

3. *The date the application was approved:* March 5, 2007. FDA has verified the applicant's claim that NDA 21–985 was approved on March 5, 2007.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2,022 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 1, 2008. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by October 29, 2008. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Please note that on January 15, 2008, the FDA Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA through FDMS only.

Dated: April 21, 2008.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E8–9699 Filed 5–1–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cardiac Contractility, Hypertrophy, and Failure Study

Section, June 12, 2008, 8 a.m. to June 13, 2008, 12 p.m., The Westin St. Francis, 335 Powell Street, San Francisco, CA, 94102 which was published in the **Federal Register** on April 22, 2008, 73 FR 21636–21639.

The meeting will be held one day only June 12, 2008, from 8 a.m. to 7 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: April 24, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9561 Filed 5–1–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Hematology and Vascular Biology.

Date: May 20, 2008.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Manjit Hanspal, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7804, Bethesda, MD 20892, 301–435–1195, *hanspalm@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; Shared Instrument Grant Program: Surface Plasmon Resonance (SPR) Instruments.

Date: May 22, 2008.

Time: 10:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Stephen M. Nigida, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892, 301–435–1222, *nigidas@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RMO8–004: New Methodologies for Natural Products Chemistry.

Date: May 26–28, 2008.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Mike Radtke, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, 301–435–1728, *radtkem@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Prokaryotic Cell and Molecular Biology Study Section.

Date: May 29–30, 2008.

Time: 8:30 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Carlyle Hotel, 1731 New Hampshire Avenue, Washington, DC 20009.

Contact Person: Diane L. Stassi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–435–2514, *stassid@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Clinical Research and Field Studies of Infectious Diseases Study Section.

Date: May 30, 2008.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Boston—Downtown, 821 Washington Street, Boston, MA 02111.

Contact Person: Soheyla Saadi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Medical Imaging Study Section.

Date: June 2, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Xiang-Ning Li, PhD, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, 301–435–1744, *lixiang@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Clinical Molecular Imaging.

Date: June 3, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Eileen W. Bradley, DSC, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5100, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Surgery, Anesthesiology and Trauma Study Section.

Date: June 4–5, 2008.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Weihua Luo, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170, *luow@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Cognition and Perception Study Section.

Date: June 5–6, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1000 29th Street, NW., Washington, DC 20007.

Contact Person: Cheri Wiggs, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–1261, *wiggsc@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Hypersensitivity, Autoimmune, and Immune-mediated Diseases Study Section.

Date: June 5–6, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Washington National Airport, 1480 Crystal Drive, Arlington, VA 22202.

Contact Person: Bahiru Gametchu, DVM, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1225, *gametchb@csr.nih.gov*.

Name of Committee: Health of the Population Integrated Review Group; Kidney, Nutrition, Obesity and Diabetes Study Section.

Date: June 5–6, 2008.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sir Francis Drake Hotel, 450 Powell Street, San Francisco, CA 94102.

Contact Person: Christopher T. Sempos, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3146, MSC 7770, Bethesda, MD 20892, (301) 451–1329, *semposch@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Glia Study Section.

Date: June 5–6, 2008.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Peter B. Guthrie, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7850, Bethesda, MD 20892, 301–435–1239, *guthriep@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Academic-Industry Partnership in Cancer Imaging.

Date: June 9, 2008.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Xiang-Ning Li, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, 301–435–1744, *lixiang@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; NIH Rapid Access to Interventional Development Pilot Review.

Date: June 10–11, 2008.

Time: 6 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: James J. Li, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7844, Bethesda, MD 20892, 301–435–2417, *lijames@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Pathogenic Eukaryotes Study Section.

Date: June 12–13, 2008.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Tera Bounds, PhD, DVM, Scientific Review Officer, National Institutes of Health, Center for Scientific Review, PTHE Study Section, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, 301–435–2306, *boundst@csr.nih.gov*.

Name of Committee: Renal and Urological Studies Integrated Review Group; Pathobiology of Kidney Disease Study Section.

Date: June 12–13, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Deca, 4507 Brooklyn Avenue, NE., Seattle, WA 98105.

Contact Person: Krystyna E. Rys-Sikora, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016J, MSC 7814, Bethesda, MD 20892, 301–451–1325, *ryssokok@csr.nih.gov*.

Name of Committee: Biology of Development and Aging Integrated Review Group; Development—1 Study Section.

Date: June 12, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.

Contact Person: Cathy Wedeen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3213, MSC 7808, Bethesda, MD 20892, 301–435–1191, *wedeenc@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurotransporters, Receptors, and Calcium Signaling Study Section.

Date: June 12–13, 2008.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin St. Francis Hotel, 335 Powell Street, San Francisco, CA 94102.

Contact Person: Peter B. Guthrie, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7850, Bethesda, MD 20892, 301–435–1239, *guthriep@csr.nih.gov*.

Name of Committee: Cardiovascular Sciences Integrated Review Group; Electrical Signaling, Ion Transport, and Arrhythmias Study Section.

Date: June 16, 2008.

Time: 8 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.

Contact Person: Rajiv Kumar, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Clinical Neurophysiology, Devices and Neuroprosthetics.

Date: June 16–17, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points Sheraton, 1201 K Street, NW., Washington, DC 20005.

Contact Person: George Ann McKie, DVM, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1124, MSC 7846, Bethesda, MD 20892, 301–435–1049, *mckiegeo@csr.nih.gov*.

Name of Committee: Cardiovascular Sciences Integrated Review Group; Vascular Cell and Molecular Biology Study Section.

Date: June 16–17, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Anshumali Chaudhari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, 301–435–1210, *chaudhaa@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Bacterial Pathogenesis Study Section.

Date: June 17–18, 2008.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1000 29th Street, NW., Washington, DC 20007.

Contact Person: Richard G. Kostriken, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–402–4454, *kostrikr@csr.nih.gov*.

Name of Committee: Health of the Population Integrated Review Group; Social Sciences and Population Studies Study Section.

Date: June 19, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Brookshire Suites, 120 E. Lombard Street, Baltimore, MD 21202.

Contact Person: Bob Weller, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, 301–435–0694, *wellerr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts of Biological Chemistry and Macromolecular Biophysics.

Date: June 19–20, 2008.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Donald L. Schneider, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5160, MSC 7842, Bethesda, MD 20892, 301–435–1727, *schneidd@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Medical Imaging.

Date: June 19–20, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Lombardy, 2019 Pennsylvania Avenue, NW., International Room, Washington, DC 20006.

Contact Person: Leonid V. Tsap, PhD, Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7854, Bethesda, MD 20892, 301–435–2507, *tsapl@csr.nih.gov*.

(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: April 24, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9562 Filed 5–1–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cellular, Molecular and Integrative Reproduction Study Section, June 12, 2008, 8 a.m. to June 13, 2008, 3 p.m., Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD, 20814 which was published in the **Federal Register** on April 22, 2008, 73 FR 21636–21639.

The meeting will be held one day only June 12, 2008, from 8 a.m. to 6 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: April 24, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9559 Filed 5–1–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and 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 Heart, Lung, and Blood Advisory Council.

Date: June 11, 2008.

Open: 8 a.m. to 12 p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Closed: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: Stephen Mockrin, PhD, Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7100, Bethesda, MD 20892, (301) 435–0260, *mockrins@nhlbi.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nhlbi.nih.gov/meetings/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 24, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9557 Filed 5–1–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Loan Repayment Program (L30s).

Date: May 30, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Valerie L Prenger, PhD, Chief Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7214, Bethesda, MD 20892–7924, 301–435–0270, *prengerv@nhlib.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 25, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9637 Filed 5–1–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council for Nursing 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 sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Nursing Research.

Date: May 20–21, 2008.

Open: May 20, 2008, 1 p.m. to Adjournment.

Agenda: Discussion of Program Policies and Issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conf. 6C, Room 10, Bethesda, MD 20892.

Closed: May 21, 2008, 9:15 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conf. 6C, Room 10, Bethesda, MD 20892.

Contact Person: Mary E. Kerr, FAAN, RN, PhD, Deputy Director, National Institute of Nursing, National Institutes of Health, 31 Center Drive, Room 5B–05, Bethesda, MD 20892–2178, 301/496–8230, *kerrme@mail.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nih.gov/ninr/a_advisory.html*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: April 24, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9556 Filed 5–1–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Prevention of Trauma Related Adjustment and Mental Disorders in High-Risk Occupations.

Date: May 28, 2008.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, Telephone Conference Call).

Contact Person: Serena P. Chu, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892, 301–443–0004, *sechu@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: April 24, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9558 Filed 5–1–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and 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 Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

Date: June 6, 2008.

Open: 8:30 a.m. to 12 p.m.

Agenda: To discuss administrative details relating to Council business and special reports,

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Madeline K. Turkeltaub, PhD, Director, Division of Extramural Research Activities, NIH/NIAMS, One Democracy Plaza, 6701 Democracy Blvd, Suite 800, MSC 4872, Bethesda, MD 20892–4872, 301–451–5888, *turkeltm@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the

Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, drivers license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: April 24, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9560 Filed 5–1–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group; Neuroscience of Aging Review Committee.

Date: June 2–3, 2008.

Time: 4 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, Bethesda, MD 20814.

Contact Person: Louise L. Hsu, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–7705, *hsul@exmur.nia.nih.gov.*

Name of Committee: National Institute on Aging Initial Review Group; Behavior and Social Science of Aging Review Committee.

Date: June 5–6, 2008.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Jon E. Rolf, PHD, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue/Room 2C212, Bethesda, MD 20814, (301) 402–7703, *rolfj@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 24, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9563 Filed 5–1–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908), on September 30, 1997 (62 FR 51118), and on April 13, 2004 (69 FR 19644).

A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1042, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Mandatory Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards that laboratories must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines dated April 13, 2004 (69 FR 19644), the following laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.

Aegis Sciences Corporation, 345 Hill Ave., Nashville, TN 37210, 615–255–2400, (Formerly: Aegis Analytical Laboratories, Inc.).

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.

Diagnostic Services, Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 239–561–8200/800–735–5416.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310.

DynaLIFE Dx *, 10150–102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780–451–3702/800–661–9876, (Formerly: Dynacare Kasper Medical Laboratories).

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.

Gamma-Dynacare Medical Laboratories *, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Laboratory Specialists, Inc.).

Kroll Laboratory Specialists, Inc., 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 13112 Evening Creek Drive, Suite 100, San Diego, CA 92128, 858–668–3710/800–882–7272, (Formerly: Poisonlab, Inc.).

Laboratory Corporation of America Holdings, 550 17th Ave., Suite 300, Seattle, WA 98122, 206–923–7020 / 800–898–0180, (Formerly: DrugProof, Division of Dynacare/Laboratory of Pathology, LLC; Laboratory of Pathology of Seattle, Inc.; DrugProof, Division of Laboratory of Pathology of Seattle, Inc.).

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).

MAXXAM Analytics Inc.*, 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905–817–5700, (Formerly: NOVAMANN (Ontario), Inc.).

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Oregon Medical Laboratories, 123 International Way, Springfield, OR 97477, 541–341–8092.

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.

Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555.

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590/800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 866–370–6699/818–989–2521, (Formerly: SmithKline Beecham Clinical Laboratories).

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227.

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176x276.

Southwest Laboratories, 4645 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–364–7400, (Formerly: St. Lawrence Hospital & Healthcare System).

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260.

U.S. Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 13, 2004 (69 FR 19644). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Elaine Parry,

Acting Director, Office of Program Services, SAMHSA.

[FR Doc. E8–9746 Filed 5–1–08; 8:45 am]

BILLING CODE 4160–20–P

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5186–N–18]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: *May 2, 2008.*

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 24, 2008.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E8–9388 Filed 5–1–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Cullinan Ranch Unit Restoration Project, San Pablo Bay National Wildlife Refuge, Solano County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments: Draft environmental impact statement and environmental impact report.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Game (CDFG) are proposing a restoration plan for 1,500 acres (ac) of former hayfield farm land in the San Pablo Bay. This restoration project would combine tidal salt marsh habitat for endangered species, waterfowl, waterbirds, and fish, as well as public access features to increase accessibility to wildlife resource values in the San Pablo Bay, while minimizing project-induced flood impacts to Highway 37. In accordance with the National Environmental Policy Act of 1969 (NEPA), this notice advises other agencies, Tribes, and the public that the draft environmental impact statement and environmental impact report (DEIS/EIR) on the proposed tidal marsh restoration project at Cullinan Ranch, a unit of the San Pablo Bay National Wildlife Refuge (Refuge), Solano and Napa Counties, California, is now available for review. We invite and encourage interested persons to review the document and submit written comments to identify issues related to the alternatives we address in the DEIS/EIR.

DATES: We must receive written comments at the address below on or before June 17, 2008. You may submit comments by any one of the methods we describe under **ADDRESSES**. We will hold a public meeting in May 2008, to solicit comments. See **SUPPLEMENTARY INFORMATION** for more information.

ADDRESSES: The Draft EIS/EIR is available for review at:

- Refuge Headquarters Office, San Pablo Bay National Wildlife Refuge, 2100 Highway 37, Petaluma, CA 94954; (707) 769–4200.
- San Francisco Bay National Wildlife Refuge Complex, 9500 Thornton Avenue, Newark, CA 94560; (510) 792–0222.
- John F. Kennedy Public Library, 505 Santa Clara, Vallejo, CA 94590.
- *http://www.fws.gov/sfbayrefuges/San%20Pablo/SanPablo.htm.*

Written comments and requests for information may be mailed to:

Christy Smith, Refuge Manager, San Pablo Bay National Wildlife Refuge, 7715 Lakeville Highway, Petaluma, California 94954. Written comments may also be sent by facsimile to (707) 769–8106.

FOR FURTHER INFORMATION CONTACT: Christy Smith, Refuge Manager, San Pablo Bay NWR, (707) 769–4200 (phone); *christy_smith@fws.gov* (e-mail), OR Louis Terrazas, Wildlife Refuge Specialist, San Pablo Bay NWR, (707) 769–4200 (phone); *louis_terrazas@fws.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

Location

Located within the existing Refuge boundary, the Cullinan Ranch Unit is bordered by the South Slough and Dutchman Slough to the north and State Route 37 to the south. California Department of Fish and Game Pond 1 borders Cullinan Ranch to the west. Guadalcanal Village Wetlands (Guadalcanal), which is owned by the State of California and is currently being restored to tidal marsh, borders Cullinan Ranch to the east.

Background

The Cullinan Ranch restoration project would restore approximately 1,500 acres of diked baylands to historic tidal conditions by reintroducing tidal flow into the project area. This area, Cullinan Ranch, is located in an area of the Napa River Delta that was historically defined by a network of meandering sloughs and extensive estuarine tidal marshes. Reintroduction of tidal flow will restore vital salt marsh habitat for endangered species, including the salt marsh harvest mouse (*Reithrodontomys raviventris*), and the California clapper rail (*Rallus longirostris obsoletus*), as well as provide foraging and roosting habitat for fish, migratory waterfowl and waterbirds.

The proposed restoration is based on the concept that reintroduction of tidal waters will naturally develop salt-water marsh habitat conditions. The existing perimeter levee currently prevents tidal flows into the area and, as a result, the land has subsided several feet in elevation and becomes inundated with fresh water during the rainy season. Once restored, twice-daily tidal flows would carry and deposit sediment, eventually establishing marsh plain elevations sufficient to support tidal marsh vegetation. As tidal waters enter and exit the site, tidal channels would develop or re-establish from previous channels. Continued tidal action would maintain an active exchange of water, sediment and nutrients between the marsh habitat and the Bay, further enhancing the value of the habitat for plants and wildlife.

In keeping with one of the purposes of the Refuge ''to conserve fish, wildlife, or plants which are listed as endangered species or threatened species,'' the Cullinan Ranch restoration project would restore historic salt marsh habitat for the benefit of threatened and endangered species as well as many other estuarine-dependent species.

We announced a notice of intent to prepare an Environmental Assessment on July 15, 2002, and sent notices to

various newspapers in the San Francisco Bay area. We conducted a public scoping meeting on August 7, 2002 (67 FR 135). We held a second public scoping meeting on March 9, 2007 (72 FR 46). During preparation of the Environmental Assessment, we determined that the scope of the restoration would require an environmental impact statement. On September 6, 2007, we announced a notice of intent to prepare an environmental impact statement and sent notices to various newspapers and interested parties and agencies in the San Francisco Bay area.

Because some of the proposed project area includes State lands, we have prepared the DEIS/EIR to satisfy the requirements of both NEPA and the California Environmental Quality Act (CEQA). The California Department of Fish and Game is the CEQA lead agency for this project. The potential impacts of a ''no-action'' alternative and two ''action'' alternatives are assessed and, where appropriate, mitigation measures are applied to reduce the intensity of the potential effect or to avoid the potential effect.

Alternatives

We identified and analyzed a total of eight alternatives. The alternatives were analyzed based on a set of criteria, including effects to adjacent habitats; effects to the existing levees; effects on the hydrology of the existing slough channels and adjacent water bodies; costs of implementing restoration activities and long-term maintenance; and effects of project construction on existing uses on and adjacent to the Cullinan Ranch Site (Site). We removed five of these alternatives from further consideration because they did not meet the cost and engineering feasibility criteria as set forth by the lead agencies. Many of the alternatives considered were formulated with optional implementation features in order to minimize effects on adjacent habitats (such as the fringe marshes along Dutchman Slough and Pritchett Marsh), such as staging the Proposed Action and/or limiting the amount of tidal exchange. We analyzed these features but removed them from further consideration because hydrologic modeling revealed that they would not significantly reduce adverse effects to adjacent habitats. Based on additional hydrologic modeling and information obtained from the Napa Sonoma Restoration Project (NSRP), the lead agencies carried forward three possible alternatives to environmental analysis: The No-Action Alternative, the Preferred Restoration Alternative, and the Partial Restoration Alternative.

No-Action Alternative

Under the No-Action Alternative, the lead agencies would take no action to restore tidal influence to the Site; however, continued maintenance of the Dutchman and South Slough levees would occur. Under this alternative, because the lead agencies would be required to maintain the northern levee along Dutchman Slough in perpetuity, maintenance activities would likely increase as the levees age and scour increases in response to activities undertaken by the NSRP. Under the No-Action Alternative, the components of the Proposed Action would not be implemented.

Preferred Restoration Alternative

The Preferred Restoration Alternative would restore the entire 1,500-ac Cullinan Ranch Site with implementation of the following project components:

- *Component 1:* Construct boardwalk to provide access to existing electrical towers.
- *Component 2:* Block drainage ditches to promote redevelopment of natural sloughs.
- *Component 3:* Improve the DFG Pond 1 levee and install water control structures.
- *Component 4:* Protect Highway 37 from project-induced flooding and erosion, through levee construction.
- *Component 5:* Construct public access areas.
- *Component 6:* Breach the levees along Dutchman and South Sloughs and Guadalcanal Village.
- *Component 7:* Implement long-term monitoring.

Partial Restoration Alternative

The Partial Restoration Alternative would restore 300 ac of the Cullinan Ranch Site. The Partial Restoration Alternative was developed in order to limit potential impacts to the hydrology of Dutchman Slough. While it would meet the purpose and need of the project, a smaller overall area within Cullinan Ranch would be restored, and connectivity with other adjacent restoration projects would be limited.

The Partial Restoration Alternative would include implementation of the following project components:

- *Component 1:* Block drainage ditches to promote redevelopment of natural Sloughs.
- *Component 2:* Construct internal levee.
- *Component 3:* Protect Highway 37 from project-induced flooding and erosion, through levee construction.
- *Component 4:* Breach the levee along Dutchman Slough.
- *Component 5:* Long-term monitoring.

Public Meeting

We will hold one public meeting in to solicit comments on the DEIS/EIR on May 30, 2008, at the Mare Island Conference Center, 375 G Street, Mare Island, Vallejo, CA 94954, from 3 p.m. to 4 p.m.

Public Comments

We invite the public to comment on the DEIS/EIR during the comment period. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will use the comments to prepare a final environmental impact statement/environmental impact report. A decision will be made no sooner than 30 days after the publication of the final environmental impact statement. We anticipate that a Record of Decision will be issued by the Service in the summer of 2008.

We provide this notice under regulations implementing NEPA (40 CFR 1506.6).

Dated: April 23, 2008.

Ken McDermond,

Acting Regional Director, Region 8.

[FR Doc. E8–9675 Filed 5–1–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2008–N0100; 80221–1113–0000–F5]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We invite the public to comment on the following applications to conduct certain activities with endangered species.

DATES: Comments on these permit applications must be received on or before June 2, 2008.

ADDRESSES: Written data or comments should be submitted to the U.S. Fish

and Wildlife Service, Endangered Species Program Manager, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist, see **ADDRESSES** (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act (16 U.S.C. 1531 et seq.). The U.S. Fish and Wildlife Service (''we'') solicits review and comment from local, State, and Federal agencies, and the public on the following permit requests. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Permit No. TE–180579

Applicant: Dwane N. Oberhoff, Los Osos, California.

The applicant requests a permit to take (harass by survey and handle) the Morro shoulderband snail (*Helminthoglypta waleriana*) in conjunction with surveys throughout the range of the species in California, for the purpose of enhancing its survival.

Permit No. TE–180517

Applicant: Dylan O. Burge, Durham, North Carolina.

The applicant requests a permit to remove/reduce to possession the *Ceanothus ferrisae* (coyote ceanothus) and *Ceanothus roderickii* (pine hill ceanothus) from federal lands in conjunction with genetic research and taxonomic status studies in Santa Clara and El Dorado Counties, California for the purpose of enhancing their survival.

Permit No. TE–180430

Applicant: Jeffrey P. Jorgenson, Sacramento, California.

The applicant requests a permit to take (capture, collect, and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of each species within the jurisdiction of the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Service Office, California, for the purpose of enhancing their survival.

Permit No. TE–180428

Applicant: Ramon E. Aberasturi, Sacramento, California.

The applicant requests a permit to take (capture, collect, and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of each species within the jurisdiction of the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Service Office, California, for the purpose of enhancing their survival.

Permit No. TE–040510

Applicant: Ero Resources Corporation, Boise, Idaho.

The applicant requests an amendment to take (harass by survey, and locate/monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with surveys and monitoring activities throughout the range of the species in California and Nevada for the purpose of enhancing its survival.

Permit No. TE–094308

Applicant: Shay E. Lawrey, San Bernardino, California.

The applicant requests an amendment to take (harass by survey) the southwestern willow flycatcher (*Empidonax trailli extimus*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing its survival.

Permit No. TE–180585

Applicant: Bill A. Arnerich, Santa Rosa, California.

The permittee requests a permit to take (harass by survey, capture, handle, and release) the California tiger salamander (*Ambystoma californiense*) in conjunction with surveys in Sonoma County, California, for the purpose of enhancing its survival.

We solicit public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Dated: April 28, 2008.

Michael Fris,

Acting Regional Director, Region 8, Sacramento, California.

[FR Doc. E8–9672 Filed 5–1–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Extension of the Comment Period for the Draft Environmental Impact Statement for the Proposed Absaloka Mine Crow Reservation South Extension Coal Lease Approval, Mine Development Plan and Related Federal and State Permitting Actions, Big Horn County, MT

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA) is extending by 30 days the public comment period for the Draft Environmental Impact Statement for the Proposed Absaloka Mine Crow Reservation South Extension Coal Lease Approval, Mine Development Plan and Related Federal and State Permitting Actions, announced in the **Federal Register** on March 21, 2008 (73 FR 15189). The closing date for public comments announced in the March 21, 2008, notice was May 5, 2008.

DATES: The extended public comment period closes on June 4, 2008. Written comments on the DEIS must arrive by that date.

ADDRESSES: You may mail or hand-carry written comments to George Gover, Superintendent, Crow Agency, P.O. Box 69, Crow Agency, Montana 59022. You may also comment via the Internet to *westmorelandeis@mt.gov*. Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. Please include your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact Greg Hallsten at (406) 444–3276.

FOR FURTHER INFORMATION CONTACT: Rick Stefanic, (406) 247–7911.

SUPPLEMENTARY INFORMATION:

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the BIA address shown in the **ADDRESSES** section, during business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This notice is published in accordance with section 1503.1 of the Council of Environmental Quality Regulations (40 CFR, Parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Director, Office of Environmental Policy and Compliance, via 516 DM 6.3 B. and Environmental Statement Memorandum ESM04–12.6(e).

Mary Josie Blanchard,

Deputy Director, Office of Environmental Policy and Compliance.

[FR Doc. E8–9703 Filed 5–1–08; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–500–1430–EU]

Notice of Realty Action: Proposed Modified Competitive Sale of Public Land, Conejos County and Competitive Sale of Public Land, Rio Grande County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) hereby provides notice that it will offer one parcel of public land located in Conejos County, Colorado, and one parcel of public land located in Rio Grande County, Colorado, for sale at not less than their respective appraised fair market values. The Conejos County parcel has no legal public access and will be sold by modified competitive sale procedures with bidding limited to adjoining landowners. The Rio Grande County parcel does not have legal public access. However, a successful bidder may be able to obtain private access because of the Parcel's proximity to a county road. This parcel will be sold under competitive sale procedures and is open to any person or entity qualified to bid.

DATES: Comments regarding the proposed sales must be in writing and received by BLM not later than June 16, 2008.

Sealed bids must be received by BLM not later than 4:30 p.m. MDT, July 1, 2008.

ADDRESSES: Address all written comments regarding the proposed sales to San Luis Valley Public Lands Center, 1803 West Highway 160, Monte Vista, Colorado 81144. Comments received in electronic form such as e-mail or facsimile will not be considered.

Address all sealed bids, marked as specified below, to the San Luis Valley Public Lands Center at the address above.

FOR FURTHER INFORMATION CONTACT: Leon Montoya, Realty Specialist, at (719) 852–6219.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of 43 (CFR Parts 2710 and 2720, the following described lands in Conejos and Rio Grande Counties, Colorado, are proposed to be sold pursuant to authority provided in sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended (43 U.S.C. 1713, 1719). The parcels to be sold are identified as suitable for disposal in the San Luis Resource Area Resource Management Plan (1991). Proceeds from sale of these public lands will be deposited in the Federal Land Disposal Account under section 206 of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305).

Publication of this notice in the **Federal Register** shall segregate the lands described below from appropriation under the public land laws, including the mining laws. The segregative effect of this notice shall terminate upon issuance of patent or upon expiration 270 days from the date of publication in the **Federal Register**, whichever occurs first.

Modified Noncompetitive Sate

Parcel 1 (COC–70842)

New Mexico Principal Meridian, Colorado, T. 32 N., R. 10 E., Sec. 6, SE ¼.

The area described contains 160 acres. The appraised market value for Parcel 1 is $23,800. There is no public access to this parcel. There are no encumbrances of record.

Offers to purchase this parcel will be made by sealed bid only. All bids must be received at the San Luis Valley Public Lands Center, 1803 West Highway 160, Monte Vista, Colorado 81144, not later than 4:30 p.m. MDT, July 1, 2008.

Sealed bids for Parcel 1 will be opened to determine the high bid at 10 a.m. MDT, July 2, 2008, at the San Luis Valley Public Lands Center.

The outside of the bid envelope must be clearly marked on the front lower left-hand corner with ''SEALED BID,'' Parcel Number, and bid opening date. Bids must be for not less than the appraised market value for the parcel. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable in U.S. currency to ''DOI–Bureau of Land Management'' for an amount not less than 30 percent of the total amount of the bid. Personal checks will not be accepted.

The bid envelope also must contain a signed statement giving the total amount bid for the Parcel and the bidder's name, mailing address, and phone number. As provided in the regulations at 43 CFR 2711 .3–2(a)(1)(ii), bidders for Parcel 1 shall be designated by the BLM and limited to adjoining landowners. Bids for Parcel 1 submitted by persons or entities other than the designated bidders will he rejected.

Competitive Sale

Parcel 2 (COC–70841)

New Mexico Principal Meridian, Colorado, T. 40 N., R. 6 E., Sec. 19, lot 1.

The area described contains 38.43 acres. The appraised market value for Parcel 2 is $33,000. The parcel does not have legal public access, although County Road 15 lies approximately 440 feet from the boundary of the parcel. The only encumbrance of record is a right-of-way for a gas pipeline.

Offers to purchase Parcel 2 will be made by sealed bid only All bids must be received at the San Luis Valley Public Lands Center, 1803 West Highway 160, Monte Vista, Colorado 81144, not later than 4:30 p.m. MDT, July 1, 2008.

Sealed bids for Parcel 2 will be opened to determine the high bidder at 10 a.m. MDT, July 2, 2008, at the San Luis Valley Public Lands Center. The outside of each bid envelope must be clearly marked on the front lower left-hand corner with ''SEALED BID,'' Parcel Number, and bid opening date. Bids must be for not less than the appraised market value for the parcel. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable in U.S. currency to ''DOI–Bureau of Land Management'' for an amount not less than 30 percent of the total amount of the bid. Personal checks will not be accepted.

The bid envelope also must contain a signed statement giving the total amount bid for the Parcel and the bidder's name, mailing address, and phone number.

Certification of bidder's qualifications must accompany the bid deposit. Evidence of authorization to bid for a corporation or other entity must be included.

Additional Terms and Conditions of Sale

Successful bidders will be allowed 90 days from the date of sale to submit the remainder of the full bid price. Failure to timely submit full payment for a parcel shall result in forfeiture of the bid deposit to the BLM, and the parcel will be offered to the second highest qualifying bidder at their original bid. If there are no other acceptable bids, the parcel may continue to be offered by sealed bid on the first Friday of each month at not less than the minimum bid until the offer is canceled.

By law, public lands may be conveyed only to (1) Citizens of the United States who are 18 years old or older, (2) a corporation subject to the laws of any State or of the United States, (3) an entity including, but not limited to, associations or partnerships capable of acquiring and owning real property, or interests therein, under the laws of the State of Colorado, or (4) a State, State instrumentality, or political subdivision authorized to hold real property.

The following reservations, rights, and conditions will be included in the patent that may be issued for the above parcels of federal land:

1. A reservation to the United States for a right-of-way for ditches and canals constructed by the authority of the United States Act of August 30, 1890 (43 U.S.C. 945).

2. Parcel 2 will be subject to a right-of-way for the valid existing right listed above.

No warranty of any kind, express or implied, is given by the United States as to the title, physical condition, or potential uses of the parcels proposed for sale.

Public Comments

Detailed information concerning the proposed land sales, including reservations, sale procedures, appraisals, planning and environmental documents, and mineral reports, is available for review at the San Luis Valley Public Lands Center, 1803 West Highway 160, Monte Vista, Colorado. Normal business hours are 8 a.m. to 4:30 p.m. MDT, Monday through Friday, except holidays.

The general public and interested parties may submit written comments regarding the proposed sales to the Center Manager, San Luis Valley Public Lands Center, not later than 45 days after publication of this Notice in the **Federal Register**. Comments received during this process, including respondent's name, address, and other contact information, will be available for public review. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, address, and other contact information (phone number, e-mail address, or fax number, etc.) from public review or disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. The BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. The BLM will make available for public review, in their entirety, all comments submitted by businesses or organizations, including comments by individuals in their capacity as an official or representative of a business or organization.

Any adverse comments will be reviewed by the BLM State Director, Colorado, who may sustain, vacate, or modify this realty action in whole or in part. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Dated: April 25, 2008.

Dan S. Dallas,

Center Manager, San Luis Valley Public Lands Center.

[FR Doc. E8–9554 Filed 5–1–08; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–510–1610–DT]

Notice of Availability of Record of Decision for the Special Status Species Approved Resource Management Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, the Federal Land Policy and Management Act of 1976, and the Bureau of Land Management (BLM) management policies, the BLM announces the availability of the Record of Decision (ROD)/Special Status Species Approved Resource Management Plan Amendment (RMPA) for portions of the Carlsbad and Roswell Field Offices. The New Mexico State Director will sign the ROD, which constitutes the final decision of the BLM and makes the Approved RMP effective immediately.

ADDRESSES: Copies of the ROD/Approved RMPA are available upon request from the Pecos District Manager, Pecos District Office, BLM, 2909 W. Second St., Roswell, New Mexico 99201; or via the Internet at *http://www.blm.gov.* Copies are also available at the Carlsbad Field Office, BLM, 620 E. Greene St., Carlsbad, New Mexico 88220.

FOR FURTHER INFORMATION CONTACT: Howard Parman, Planning Team Leader, Roswell Field Office, 2909 W. Second St., Roswell, New Mexico 88201, (575) 627–0212, or via e-mail at *howard_parman@blm.gov.*

SUPPLEMENTARY INFORMATION: The Approved Special Status Species RMPA contains management prescriptions to ensure the continued habitat protection of two special status species, the lesser prairie-chicken (*Tympanuchus pallidicinctus*) and the sand dune lizard (*Sceloporus arenicolus*), while allowing other resource uses and activities to continue in the Planning Area. The Planning Area for the Special Status Species RMPA, which includes approximately 850,000 acres of BLM-administered public lands and 1.15 million acres of Federal minerals, is located in Chaves, Eddy, Lea, and Roosevelt Counties, New Mexico. A map of the Planning Area is available on the BLM New Mexico Web site at *http://www.nm.blm.gov.* The BLM provided numerous avenues and opportunities for meaningful public participation

throughout the planning process. Chaves, Eddy, and Lea Counties, the New Mexico Department of Agriculture, State Land Office, and Department of Game and Fish participated as cooperating agencies. The BLM tribal government consultation included the Ysleta Del Sur Pueblo, Mescalero Apache Tribe, Apache Tribe of Oklahoma, Kiowa Tribe, and the Comanche Tribe of Oklahoma. In 2005, public scoping meetings were conducted to help identify planning issues. Identified issues encompassed, but were not limited to, the development of energy resources, special management designations, special status species management, livestock grazing, and off-highway vehicle designations. The Draft RMPA/Environmental Impact Statement (EIS) was released to the public for a 90-day comment period in October 2006. The BLM hosted public meetings in Roswell, Carlsbad, Artesia, and Hobbs, New Mexico, and Midland, Texas, to answer questions about the document, as well as to solicit comments from the public.

The ROD/Approved RMPA selects the Preferred Alternative, Alternative B, which was identified in the Proposed RMPA/Final EIS. Alternative B adopts concepts of a Conservation Strategy that was developed by a stakeholder group during the planning process, and adds measures to provide greater protection of lesser prairie-chicken and sand dune lizard habitat. In addition to the Preferred Alternative, the BLM will also establish the Lesser Prairie-Chicken Habitat Preservation Area of Critical Environmental Concern (ACEC). This ACEC is a modification of the proposed ACEC as described in Alternative E of the Draft RMPA/EIS and Proposed RMPA/Final EIS. The purpose of the ACEC is to maintain and enhance habitat for the lesser prairie-chicken and sand dune lizard. The decision to designate this ACEC is because the lesser prairie-chicken has a high potential for listing as a threatened or endangered species by the U.S. Fish and Wildlife Service (FWS). The FWS will review the status of the lesser prairie-chicken in 2009; therefore, the establishment of this ACEC is to help mitigate the potential for listing this species through the provision of specific management prescriptions. The Lesser Prairie-Chicken ACEC comprises 37,082 public land surface acres and 46,902 acres of Federal mineral estate.

The Proposed RMPA/Final EIS was published on November 2, 2007. The Governor's 60-day consistency review resulted in no comments from the Governor's office. The BLM received one protest to the Proposed RMPA/Final EIS. No changes were made to the RMPA based on the protest, which was dismissed by the Director of the BLM. As a result, only minor editorial modifications were made in preparing the Approved RMPA, with the exception of adding the Lesser Prairie-Chicken ACEC to the final decision. These modifications provided further clarification of some of the decisions.

Linda S.C. Rundell,

New Mexico State Director.

[FR Doc. E8–9605 Filed 5–1–08; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–08–1232–EA–NV15; 8–08807; TAS: 14X5413]

Temporary Closure of Public Lands During Competitive Special Recreation Permitted Events on Public Lands Managed by the Carson City Field Office, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) will effect temporary closure of certain public lands in Lyon, Storey, Churchill, Carson, Douglas, Mineral, Washoe, and Nye counties at various dates and locations to provide for public and participant safety and to protect adjacent natural and cultural resources during the conduct of permitted special recreation events.

EFFECTIVE DATES: April through November 2008. Events may be canceled or rescheduled with short notice due to weather, sudden change in resource conditions, emergency actions, or at the discretion of the authorizing officer.

FOR FURTHER INFORMATION CONTACT: Arthur Callan, (775) 885–6000.

SUPPLEMENTARY INFORMATION: These closures (Closure Number: NV–030–08–001) are authorized under the provisions of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 *et seq.* This notice applies to public lands directly affected by and adjacent to competitive special events for which a BLM Special Recreation Permit (SRP) has been authorized. Examples of events include: motorized off-highway vehicle (OHV) races, mountain bike races; horse endurance rides and field dog trials. Race and ride events are conducted along dirt roads, trails, and washes approved for such use; field dog trials occur over specified acreages. One or more special events occur monthly from April through November. Unless otherwise posted, race closure periods are from 5 a.m. race day until race finish or until the event has cleared between affected check point locations. Closures may occupy 2 to 24 hour periods. The general public will be advised of event and closure specifics via on-the-ground signage, public letters, e-mail, or local newspaper notices. The public may call to confirm or discuss closures at anytime prior to an announced event date. Locations commonly used for permitted events include, but are not limited to:

Mount Diablo Meridian, Nevada

1. Lemmon Valley MX Area—Washoe County

T. 21 N., R.19 E., Sec. 8.

2. Hungry Valley Recreation Area—Washoe County

T. 20–24 N., R.18–21 E.

3. Pine Nut Mountains—Carson, Douglas and Lyon Counties

T. 11–16 N., R. 20–24 E.

4. Virginia City/Jumbo Areas—Storey and Washoe Counties

T.16–17 N., R. 20–21 E.

5. Yerington/Weeks Areas—Lyon County

T.12–16 N., R. 23–27 E.

6. Fallon Area (Including Sand Mountain)—Churchill County

T.14–18 N., R. 27–32 E.

7. Hawthorne Area—Mineral County

T. 5–14 N., R. 31½–36 E.

8. Vegas to Reno OHV Race Route: Nye, Mineral, Churchill, and Lyon Counties in the Vicinity of Highway 95 From South to North

Marking and effect of closure: BLM lands to be temporarily closed to public use include the length, width and certain lands adjacent to those roads, trails or areas identified as the race route or event area by colorful flagging, chalk arrows in the dirt and directional arrows attached to wooden stakes. The authorized applicants or their representatives are authorized and required to post warning signs, control access to, and clearly mark the event routes and areas, common access roads and road crossings during closure periods. Spectator and support vehicles may be driven on open roads only. Spectators may observe motorized race events from specified locations (such as designated spectator, pit and check point areas) or as directed by event and agency officials.

Other permitted and recreational uses generally affected by a temporary

closure include: road and trail uses for livestock management and mineral exploration, utility maintenance, casual public land exploration, camping, hunting, or shooting of any kind of weapon including paint ball.

Exceptions: Closure restrictions do not apply to event officials, medical/rescue, law enforcement, and agency personnel monitoring the events.

Penalties: In accordance with the applicable provisions of 43 U.S.C. 1733 any person failing to comply with the closure orders may be subject to imprisonment for not more than 12 months, or a fine in accordance with the applicable provisions of 18 U.S.C. 3571 or both.

Authority: 43 CFR 8364.1 and 43 CFR, part 2930.

Dated: April 14, 2008.

Donald T. Hicks,

Manager, Carson City Field Office.

[FR Doc. E8–9674 Filed 5–1–08; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

[Docket No. MMS–2008–OMM–0026]

MMS Information Collection Activity: 1010–0057, 30 CFR Part 250, Subpart C, Pollution Prevention and Control, Extension of a Collection; Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an information collection (1010–0057) extension.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), MMS is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the regulations under 30 CFR Part 250, Subpart C, ''Pollution Prevention and Control.''

DATES: Submit written comments by July 1, 2008.

ADDRESSES: You may submit comments by any of the following methods.

- Electronically: go to *http://www.regulations.gov.* Under the tab ''More Search Options,'' click Advanced Docket Search, then select ''Minerals Management Service'' from the agency drop-down menu, then click ''submit.'' In the Docket ID column, select MMS–2008–OMM–0026 to submit public comments and to view supporting and related materials available for this rulemaking. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link. The MMS will post all comments.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Cheryl Blundon; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ''Information Collection 1010–0057'' in your subject line and mark your message for return receipt. Include your name and return address in your message text.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch, (703) 787–1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Part 250, Subpart C, ''Pollution Prevention and Control.''

OMB Control Number: 1010–0057.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*) authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

Section 1332(6) states that ''operations in the [O]uter Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.'' Section 1334(a)(8) requires that regulations prescribed by the Secretary include provisions ''for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*), to the extent that activities authorized under this Act significantly affect the air quality of any State.'' Section 1843(b) calls for ''regulations requiring all materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly color coded, stamped, or labeled, wherever practicable, with the owner's identification prior to actual use.''

This information collection (IC) request covers the regulations at 30 CFR Part 250, Subpart C, Pollution Prevention and Control. It also covers the related Notices to Lessees and Operators (NTLs) that the Minerals Management Service (MMS) issues to clarify and provide additional guidance on some aspects of the regulations.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited release.'' No items of a sensitive nature are collected. Responses are mandatory.

Frequency: On occasion, monthly, or annually, daily for inspection recordkeeping; varies by section.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas or sulphur lessees and 17 states.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The currently approved annual reporting burden for this collection is 226,451 hours. The following chart details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 subpart C and NTL(s)	Reporting and recordkeeping requirement	Hour burden
Reporting Requirements		
300(b)(1), (2)	Obtain approval to add petroleum-based substance to drilling mud system or approval for method of disposal of drill cuttings, sand, & other well solids, including those containing NORM.	3.
300(c)	Mark items that could snag or damage fishing devices	0.5.
300(d)	Report items lost overboard	1.
303(a) thru (d), (i), (j); 304(a), (f)	Submit, modify, or revise Exploration Plans and Development and Production Plans; submit information required under 30 CFR part 250, subpart B.	Burden covered under 1010–0151.
303(k); 304(a), (g)	Collect and report air quality emissions related data (such as facility, equipment, fuel usage, and other activity information) for input into State and regional planning organizations modeling.	3 hrs per month × 12 months = 36.
303(k); 304(a), (g)	Monitor air quality emissions and submit data to MMS or to a State (new 1-year study of sites in the western/central GOM area on ozone and regional haze air quality; data collection in 2005; report submitted in 2006).	2 hours per month × 12 months = 24.
303(l); 304(h)	Collect and submit meteorological data (not routinely collected)	None planned in the next 3 years.
304(a), (f)	Affected State may submit request to MMS for basic emission data from existing facilities to update State's emission inventory.	4.
304(e)(2)	Submit compliance schedule for application of best available control technology (BACT).	40.
304(e)(2)	Apply for suspension of operations	Burden covered under 1010–0114.
304(f)	Submit information to demonstrate that exempt facility is not significantly affecting air quality of onshore area of a State.	15.
300–304	General departure and/or alternative compliance requests not specifically covered elsewhere in subpart C regulations.	2.
Recordkeeping Requirements		
300(d)	Record items lost overboard on daily operations report	1.
301(a)	Inspect drilling/production facilities daily for pollution; maintain inspection/repair records 2 years.	¼ hour/day × 365 days = 91.25.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have identified no non-hour cost burdens for this collection.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *''. Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the ''non-hour cost'' burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

MMS Information Collection Clearance Officer: Arlene Bajusz, (202) 208–7744.

Dated: April 24, 2008.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. E8–9688 Filed 5–1–08; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1010 (Review)]

Lawn and Garden Steel Fence Posts From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on lawn and garden steel fence posts from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on lawn and garden steel fence posts from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is June 20, 2008. Comments on the adequacy of responses may be filed with the Commission by July 15, 2008. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: May 1, 2008.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On June 12, 2003, the Department of Commerce issued an antidumping duty order on imports of lawn and garden steel fence posts from China (68 FR 35197). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, the Commission found a single *Domestic Like Product* of lawn and garden fence posts consistent with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found that the domestic industry consists of all domestic producers of lawn and garden steel fence posts.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is June 12, 2003.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official recently has advised that a five-year review is no longer considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are no longer required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 08–5–181, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is June 20, 2008. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is July 15, 2008. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided In Response To this Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date*.

(7) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2007 (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2007 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2007 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand

conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: April 12, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–9664 Filed 5–1–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1145 (Preliminary)]

Certain Steel Threaded Rod From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured 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 (LTFV).

Commencement of Final Phase Investigation

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in the investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. 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 and countervailing 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 the investigation.

Background

On March 5, 2008, a petition was filed with the Commission and Commerce by Vulcan Threaded Products, Inc., Pelham, AL, alleging that an industry in the United States is materially injured and threatened with further material injury by reason of LTFV imports of certain steel threaded rod from China. Accordingly, effective March 5, 2008, the Commission instituted antidumping duty investigation No. 731–TA–1145 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 12, 2008 (73 FR 13251). The conference was held in Washington, DC, on March 26, 2008, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 21, 2008. The views of the Commission are contained in USITC Publication 3996 (April 2008), entitled *Certain Steel Threaded Rod from China: Investigation No. 731–TA–1145 (Preliminary).*

By order of the Commission.

Issued: April 29, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–9704 Filed 5–1–08; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–449 and 731–TA–1118–1121 (Final)]

Light-Walled Rectangular Pipe and Tube From China, Korea, Mexico, and Turkey

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: April 25, 2008.

FOR FURTHER INFORMATION CONTACT: Russell Duncan (202–708–4727), 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: On January 28, 2008, the Commission established a schedule for the conduct of the final phase of investigation Nos. 701–TA–449 and 731–TA–1118–1120 (Final) *Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey* (73 FR 6740, February 5, 2008). At that time, the Commission noted with respect to the two countries (China and Korea) for which the Department of Commerce had postponed its final determinations that comments on those determinations ''will be permitted based on a schedule

to be issued by the Commission no later than the publication in the **Federal Register** of such determinations by the Department of Commerce.'' Subsequently, the Department of Commerce extended the date for its final determination in the investigation on Mexico to June 13, 2008 (73 FR 10743, February 28, 2008). The Commission is, hereby, issuing its additional scheduling date with respect to the investigations concerning China, Korea, and Mexico as follows: a supplemental brief addressing only Commerce's final countervailing and antidumping duty determinations is due on June 20, 2008. The brief may not exceed five (5) pages in length.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: April 28, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–9665 Filed 5–1–08; 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 April 24, 2008, a proposed Consent Decree (''Decree'') in *United States* v. *McCulloch Corporation, et al.*, Civil Action No. 1:08–cv–00699, was lodged with the United States District Court for the District of Columbia.

In this action the United States, on behalf of the U.S. Environmental Protection Agency (''U.S. EPA''), sought penalties and injunctive relief under sections 204, 205, and 213 of the Clean Air Act (''the Act'' or ''CAA''), 42 U.S.C. 7523, 7524, and 7547, and regulations promulgated thereunder at 40 CFR part 90 (''Nonroad SI Regulations''), which arose from the importation and introduction into commerce of approximately 200,000 chainsaws (''subject chainsaws'') that failed to comply with the Nonroad SI Regulations. The proposed Decree resolves alleged violations of the CAA arising from the importation of the subject chainsaws. Under the Decree, Defendants will pay a $2 million civil penalty, export unsold chainsaws, perform emissions testing on a representative sampling of engines, and implement robust compliance assurance plans designed to prevent future violations. Defendants will also perform the following three mitigation projects at an estimated cost of $5 million: (1) Spend at least $2.75 million to provide light-emitting diode (''LED'') streetlights, sport lights or parking lot lights to selected cities in the United States, (2) spend at least $1.25 million to purchase and then surrender to U.S. EPA Ozone Season NO_X Allowances, and (3) install low-permeable fuel lines that will prevent or reduce volatile organic compound permeation emissions in at least 1 million small, spark-ignited engines used for handheld lawn and garden applications.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611, 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. *McCulloch Corporation et al.*, D.J. Ref. 90–5–2–1–09103. The Decree may be examined at U.S. EPA, Office of Enforcement and Compliance Assurance, Western Field Office (8MSU), 1595 Wynkoop Street, Denver, CO 80202. During the public comment period, the 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 Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $16.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Karen Dworkin,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–9677 Filed 5–1–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 3, 2008, Abbott Laboratories, DBA Knoll Pharmaceutical Company, 30 North Jefferson Road, Whippany, New Jersey 07981, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Dihydromorphine (9145)	I
Hydromorphone (9150)	II

The company plans to manufacture bulk product and dosage units for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR § 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 1, 2008.

Dated: April 28, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–9696 Filed 5–1–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 2, 2008, Lin Zhi International Inc., 687 North Pastoria Avenue, Sunnyvale, California 94085, made application by renewal to

the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
3,4–Methylenedioxymetham phetamine (MDMA) (7405).	I
Cocaine (9041)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II

The company plans to manufacture the listed controlled substances as bulk reagents for use in drug abuse testing.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 1, 2008.

Dated: April 28, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–9694 Filed 5–1–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated February 13, 2008 and published in the **Federal Register** on February 21, 2008, (73 FR 9589), Sigma Aldrich Manufacturing LLC., 3500 Dekalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Gamma Hydroxybutyric Acid (2010)	I
Methaqualone (2565)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
4-Methyl-2,5-dimethoxyamphetamine (7395)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (MDMA) (7405)	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
N-Benzylpiperazine (BZP) (7493)	I
Trifluoromethylphenyl Piperazine (7494)	I
Heroin (9200)	I
Normorphine (9313)	I
Etonitazene (9624)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Nabilone (7379)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II

Drug	Schedule
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium powdered (9639)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances for sale to research facilities for drug testing and analysis.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Sigma Aldrich Manufacturing LLC. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Sigma Aldrich Manufacturing LLC., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: April 28, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–9697 Filed 5–1–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

April 24, 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 Employment and Training Administration (ETA), 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: Employment and Training Administration.

Type of Review: Extension without change of a currently approved collection.

Title: Report on Alien Claims Activity.

OMB Control Number: 1205–0268.

Form Number: ETA–9016.

Affected Public: State Governments.

Estimated Number of Respondents: 53.

Estimated Total Annual Burden Hours: 212.

Estimated Total Annual Costs Burden: $0.

Description: The ETA–9016 Report is used by the Department of Labor to assess whether (and the extent to which) the requirements of the Immigration and Naturalization Service (INS), Systematic Alien Verification for Entitlement (SAVE) system are cost-effective and otherwise appropriate for the Unemployment Insurance (UI) program. In addition, data from the Alien Claims Activity Report is being used to assist the Secretary of Labor in determining whether a State Workforce Agency's (SWA) administrative costs associated with the verification program are reasonable and reimbursable. For additional information, see related notice published at 73 FR 5875 on January 31, 2008.

Agency: Employment and Training Administration.

Type of Review: Revision of a currently approved collection.

Title: Work Opportunity Tax Credit (WOTC) and Welfare-to-Work (WtW) Tax Credit.

OMB Control Number: 1205–0371.

Form Numbers: ETA–9057; ETA–9058; ETA–9059; ETA–9061 (English); ETA–9061 (Spanish); ETA–9062; ETA–9063; and ETA–9065.

Affected Public: State Governments and Individuals.

Estimated Number of Respondents: 52 state entities and 990,000 individuals.

Estimated Total Annual Burden Hours: 848,325.

Estimated Total Annual Costs Burden: $0.

Description: Data and information provided by the states on these forms are used for program planning, evaluation of program performance and for oversight/verification activities as mandated by the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) section 11405(c). For additional information, see related notice published at 73 FR 1648 on January 9, 2008.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8–9673 Filed 5–1–08; 8:45 am]

BILLING CODE 4510–FM–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,835; TA–W–62,835A]

Panasonic Shikoku Electronics Corporation of America (PSECA), Including On-Site Leased Workers of Express Personnel Services Corporation, Vancouver, WA; Panasonic Shikoku Electronics Sales of America, LLC, Portland, OR; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on April 3, 2008, applicable to workers of Panasonic Sikoku Electronics Corporation of America (PSECA), including on-site leased workers of Express Personnel Services, Vancouver, Washington. The notice was published in the **Federal Register** on April 17, 2008 (73 FR 20954).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of MMD/rear projection televisions.

New findings show that worker separations occurred at the Portland, Oregon facility of Panasonic Shikoku Electronics Sales of America, LLC. Workers at the Portland, Oregon facility provide purchasing and sales activities supporting the production of MMD/rear projection televisions that are produced at the Vancouver, Washington location of the subject firm.

Accordingly, the Department is amending the certification to cover workers at Panasonic Shikoku Electronics Sales of America, LLC, Portland, Oregon.

The intent of the Department's certification is to include all workers of Panasonic Shikoku Electronics Corporation of America (PSECA) who were adversely affected by increased imports.

The amended notice applicable to TA–W–62,835 is hereby issued as follows:

''All workers of Panasonic Shikoku Electronics Corporation of America (PSECA), including on-site leased workers of Express Personnel Services, Vancouver, Washington (TA–W–62,835), and Panasonic Shikoku Electronics Sales of America, LLC, Portland, Oregon (TA–W–62,835A), who became totally or partially separated from employment on or after March 22, 2008, through April 3, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC this 22nd day of April 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–9662 Filed 5–1–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,705]

Faurecia Exhaust Systems, a Subsidiary of Faurecia Exhaust Division Including On-Site Leased Workers From Manpower, Inc., Patrick Staffing, ICI, Argus and Associates and Industrial Distribution Group Troy, OH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 11, 2008, applicable to workers of Faurecia Exhaust Systems, a subsidiary of Faurecia, Exhaust Division, including on-site leased workers from Manpower, Inc., Patrick Staffing, ICI, Argus and Associates, Troy, Ohio. The notice was published in the **Federal Register** on February 29, 2008 (73 FR 11152).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of automotive exhaust systems.

New information shows that workers leased from Industrial Distribution Group were employed on-site at the Troy, Ohio, location of Faurecia Exhaust Systems, a subsidiary of Faurecia, Exhaust Division. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include leased workers of Industrial Distribution Group working on-site at the Troy, Ohio location of the subject firm.

The intent of the Department's certification is to include all workers employed at Faurecia Exhaust Systems, a subsidiary of Faurecia, Exhaust Division, Troy, Ohio who were adversely affected by a shift in production of automotive exhaust systems to Mexico.

The amended notice applicable to TA–W–62,705 is hereby issued as follows:

''All workers of Faurecia Exhaust Systems, a subsidiary of Faurecia, Exhaust Division, including on-site leased workers from Manpower, Inc., Patrick Staffing, ICI, Argus and Associates and Industrial Distribution Group, Troy, Ohio, who became totally or partially separated from employment on or after January 11, 2007, through February 11, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC this 24th day of April 2008.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–9661 Filed 5–1–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for

workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of April 14 through April 18, 2008.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

TA–W–62,991; The Coe Manufacturing Co., Tigard, OR: March 11, 2007.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–63,022; Super Talent Technology Corporation, Also Known as CCPS., Inc. and Malabs, Inc., San Jose, CA: March 1, 2007.

TA–W–63,023; Amilon LLC, South Wallace, NC: March 17, 2007.

TA–W–63,031; G.M. Root, Inc., Lackawanna, NY: March 17, 2007.

TA–W–63,063; Hickory Hill Furniture Corporation, On-Site Leased workers from Accuforce Staffing Services, Valdese, NC: March 17, 2007.

TA–W–63,102; Robinson Manufacturing Company, Clarkrange, TN: March 31, 2007.

TA–W–62,970; Maine Moccasin, Lewiston, ME: March 5, 2007.

TA–W–62,983; Citation Corporation, Grand Rapids Division, Lowell, MI: February 28, 2007.

TA–W–62,993; Burlington Homes of Maine, Inc., Oxford, ME: March 11, 2007.

TA–W–63,003; Tietex International, LTD, Tietex Interiors Division, Gibsonville, NC: May 27, 2007.

TA–W–63,106; Cressona Knit Products, Inc., Cressona, PA: March 31, 2007.

TA–W–63,106A; Brady Athletic, Inc., East Brady, PA: March 31, 2007.

TA–W–63,050; Ruma Production, Inc., New York, NY: March 18, 2007.

TA–W–63,052; Chrysler, LLC, St. Louis North Assembly Plant, Fenton, MO: March 18, 2007.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–63,014; KLA-Tencor, Assembly and Testing Department, Milpitas, CA: March 13, 2007.

TA–W–63,067; Heatcraft Refrigeration, A Subsidiary of Lennox International, On-Site Leased workers From Spherion, Danville, IL: March 25, 2007.

TA–W–63,107; Littelfuse, Inc., Automotive Business Unit, Des Plaines, IL: March 28, 2007.

TA–W–63,146; Perry Manufacturing Company, Frisco Office, Frisco, TX: April 4, 2007.

TA–W–63,156; Temic Automotive of North American, Inc., Subsidiary of Continental Automotive Group, Elma, NY: April 7, 2007.

TA–W–63,173; Parker Seals, A Subsidiary of Parker Hannifin Corp., Seals Division, Lebanon, TN: January 20, 2008.

TA–W–63,097; Medtronic, Inc., Medtronic Microelectronics Center, Tempe, AZ: March 27, 2008.

TA–W–62,780; Xantrex Technology, Inc., Arlington, WA: January 30, 2007.

TA–W–63,142; Kimball Electronics, Tampa, Inc., Tampa, FL: April 7, 2007.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–62,676; Hexion Specialty Chemicals, Formerly Known as Lawter International, Ink and Adhesives Resins Division, Pleasant Prairie, WI: January 10, 2007.

TA–W–62,699; River Bend, Inc., Formerly Known as Victor Plastics, Victor Division, Victor, IA: January 15, 2007.

TA–W–62,699A; River Bend, Inc., Formerly Known as Victor Plastics, Victor Division, Flora, MS: January 15, 2007.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. The firm does not have a significant number of workers 50 years of age or older.

None.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–62,991; The Coe Manufacturing Co., Tigard, OR.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–62,864; Ametek, Inc., Measurement and Calibration Technology Division, Sellersville, PA.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–62,799; Cooper Power Systems, Greenwood, SC.

TA–W–63,019; Honeywell Aerospace, Teterboro, NJ.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–62,938; Alcatel-Lucent, Alcatel-Lucent Direct Fulfillment Team, St Louis, MO.

TA–W–62,938A; Alcatel-Lucent, Alcatel-Lucent Direct Fulfillment Team, Westford, MA.

TA–W–62,938B; Alcatel-Lucent, Alcatel-Lucent Direct Fulfillment Team, Oklahoma City, OK.

TA–W–62,938C; Alcatel-Lucent, Alcatel-Lucent Direct Fulfillment Team, Hunt Valley, MD.

TA–W–62,938D; Alcatel-Lucent, Alcatel-Lucent Direct Fulfillment Team, Sun City West, AZ.

TA–W–63,144; Teletech Holding, Inc., Teletech@Home Division, Englewood, CO.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of April 14 through April 18, 2008. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: April 23, 2008.

Erin Fitzgerald,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E8–9659 Filed 5–1–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,633]

Faurecia Exhaust Systems Including On-Site Leased Workers From Industrial Distribution Group, Granger, IN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on January 15, 2008, applicable to workers of Faurecia Exhaust Systems, Granger, Indiana. The notice was published in the **Federal Register** on February 1, 2008 (73 FR 6212).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of automotive exhaust systems.

New information shows that leased workers of Industrial Distribution Group were employed on-site at the Granger, Indiana location of Faurecia Exhaust Systems. The Department has determined that these workers were

sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include leased workers of Industrial Distribution Group working on-site at the Granger, Indiana location of the subject firm.

The intent of the Department's certification is to include all workers employed at Faurecia Exhaust Systems, Granger, Indiana who were adversely affected by a shift in production of automotive exhaust systems to Mexico.

The amended notice applicable to TA–W–62,633 is hereby issued as follows:

All workers of Faurecia Exhaust Systems, including on-site leased workers from Industrial Distribution Group, Granger, Indiana, who became totally or partially separated from employment on or after January 2, 2007, through January 15, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 21st day of April 2008.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–9660 Filed 5–1–08 8:45am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 12, 2008.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 12, 2008.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 24th day of April 2008.

Erin FitzGerald,

Director, Division of Trade Adjustment Assistance.

APPENDIX—TAA

[Petitions instituted between 4/14/08 and 4/18/08]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
63179	Chippenhook Corporation (State)	North Stonington, CT	04/14/08	04/11/08
63180	Spartech Packaging Technologies (State)	Mankato, MN	04/14/08	04/11/08
63181	The Hall China Company (Comp)	East Liverpool, OH	04/14/08	04/10/08
63182	New England Confectionery Company (Comp)	Pewaukee, WI	04/14/08	04/11/08
63183	Tenneco (Union)	Milan, OH	04/14/08	04/10/08
63184	Parat Automotive USA (Comp)	Duncan, SC	04/14/08	04/11/08
63185	Spectrum Yarns, Inc. (Comp)	Kings Mountain, NC	04/15/08	04/14/08
63186	Chattanooga Group (Comp)	Hixson, TN	04/15/08	04/10/08
63187	Baldwin Hardware/Black and Decker (Comp)	Reading, PA	04/15/08	04/13/08
63188	Emerson Motor Company dba Hurst Manufacturing (Comp)	Princeton, IN	04/15/08	04/14/08
63189	Imation Corporation (Comp)	Wahpeton, ND	04/15/08	04/14/08
63190	Bay Valley Foods (Union)	Portland, OR	04/15/08	04/14/08
63191	Chrysler Newark Assembly (UAW)	Newark, DE	04/15/08	04/14/08
63192	Shiloh Industries (UAW)	Valley City, OH	04/16/08	04/14/08
63193	JP Morgan Chase Bank, NA (Wkrs)	Troy, MI	04/16/08	04/15/08
63194	The Home Depot (State)	Atlanta, GA	04/16/08	04/09/08
63195	Roadway (Rep)	Rockingham, NC	04/16/08	03/21/08
63196	L.A. Go (State)	Los Angeles, CA	04/16/08	04/14/08
63197	Dan River, Inc. (Wkrs)	Danville, VA	04/16/08	04/14/08
63198	Emdeon Business Services (Comp)	Nashville, TN	04/16/08	04/15/08
63199	Air Products and Chemicals, Inc. (Comp)	Morrisville, PA	04/16/08	04/10/08
63200	Ranco North America, LP/Invensys Controls (Wkrs)	Brownsville, TX	04/16/08	04/14/08
63201	MPC Computers, LLC (Comp)	La Vergne, TN	04/16/08	04/15/08
63202	Tara Materials, Inc. (Comp)	Lawrenceville, GA	04/17/08	04/07/08
63203	Cone Denim White Oak Plant (Comp)	Greensboro, NC	04/17/08	04/16/08
63204	Klaussner Furniture Industries, Inc. (Rep)	Asheboro, NC	04/17/08	04/16/08
63205	Johnson Controls, Inc. (UAW)	Taylor, MI	04/17/08	04/14/08
63206	Springmaid-Wamsutta-Spring Direct Division (Wkrs)	Asheville, NC	04/17/08	04/14/08
63207	Automated Equipment, Inc. (Comp)	Paris, TN	04/17/08	04/11/08
63208	Tyco Electronics/Circuit Protection (Comp)	Milwaukee, WI	04/17/08	04/14/08
63209	Novartis Pharmaceuticals Corporation (State)	East Hanover, NJ	04/17/08	04/16/08
63210	Parkview Metal Products, LLC (Wkrs)	Las Cruces, NM	04/17/08	04/08/08

APPENDIX—TAA—Continued

[Petitions instituted between 4/14/08 and 4/18/08]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
63211	Glen Gery Corporation (Comp)	Somerville, NJ	04/17/08	04/11/08
63212	Tweddle Group (Wkrs)	Clinton Township, MI ..	04/18/08	04/08/08
63213	Mitsubishi Kagaku Imaging Corporation (Comp)	Chesapeake, VA	04/18/08	04/17/08
63214	Action Mold and Machining, Inc. (Comp)	Grand Rapids, MI	04/18/08	04/17/08
63215	United Stars Industries, Inc. (Comp)	Beloit, WI	04/18/08	04/10/08
63216	Sartorius Stedim Botech (Wkrs)	Bethelem, PA	04/18/08	04/16/08
63217	Escalade Sports, Inc. (IUECWA)	Evansville, IN	04/18/08	04/16/08

[FR Doc. E8–9658 Filed 5–1–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,183]

Tenneco, Formerly Tenneco, Inc., Milan, Ohio; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 14, 2008 in response to a petition filed by the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), Local 2352, and a company official on behalf of workers at Tenneco, Milan, Ohio.

The workers were under an existing trade adjustment assistance (TAA) and alternative trade adjustment assistance (ATAA) certification that expired on April 19, 2008.

The petitioners have requested that the petition be withdrawn. The company intends to submit a new petition for TAA at a period of time closer to the date of separations or threat of separations.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 25th day of April 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–9657 Filed 5–1–08; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings; Notice

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of National Science Board business and other matters specified, as follows:

AGENCY HOLDING MEETING: National Science Board.

DATE AND TIME: Tuesday, May 6, 2008, at 7:30 a.m.; and Wednesday, May 7, 2008, at 9 a.m.

PLACE: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230. All visitors must report to the NSF visitor desk at the 9th and N. Stuart Streets entrance to receive a visitor's badge.

STATUS: Some portions open, some portions closed.

Open Sessions

May 6, 2008

7:30 a.m.–8:30 a.m.
8:30 a.m.–9:10 a.m.
9:10 a.m.–9:30 a.m.
9:30 a.m.–10 a.m.
10 a.m.–12 noon.
2 p.m.–3:30 p.m.

May 7, 2008

9:30 a.m.–10:30 a.m.
10:30 a.m.–12:00 noon
1:45 p.m.–1:50 p.m.
1:50 p.m.–3:45 p.m.

Closed Sessions

May 6, 2008

1 p.m.–2 p.m.

May 7, 2008

9 a.m.–9:30 a.m.
1 p.m.–1:30 p.m.
1:30 p.m.–1:45 p.m.

AGENCY CONTACT: Dr. Robert E. Webber, *rwebber@nsf.gov,* (703) 292–7000, *http://www.nsf.gov/nsb/.*

MATTERS TO BE DISCUSSED:

Tuesday, May 6, 2008

CPP Subcommittee on Polar Issues

Open Session: 7:30 a.m.–8:30 a.m.

- Approval of March Minutes.
- SOPI Chairman's Remarks.
- OPP Director's Report.
- The Changing Antarctic Sea Ice.
- Emerging Multinational Collaborations.

CSB Task Force on Cost Sharing

Open Session: 8:30 a.m.–9:10 a.m.

- Approval of Minutes.
- Task Force Chairman's Remarks.
- Update on NSF Implementation of NSB Cost Sharing Recommendations.
- Discussion of July 9 and July 10, 2008 Roundtable Discussions on Cost Sharing.
- Discussion of NSF Advisory Committee Input on Cost Sharing.

CPP Task Force on Sustainable Energy

Open Session: 9:10 a.m.–9:30 a.m.

- Approval of Minutes for March 2008 Meeting.
- Task Force Co-Chairmen's Remarks.
- Discussion of June 19, 2008 Roundtable Discussion.
- Discussion of Topics for the Third Sustainable Energy Roundtable Discussion.

EHR Subcommittee on Science & Engineering Indicators

Open Session: 9:30 a.m.–10 a.m.

- Approval of March Minutes.
- Chairman's Remarks.
- Report on PCAST Meeting.
- *Science and Engineering Indicators 2010.*

Committee on Programs and Plans (CPP)

Open Session: 10 a.m.–12 noon

- Approval of Minutes for March 2008.
- Committee Chairman's Remarks.
- Status Reports:
  - Subcommittee on Polar Issues.
  - Task Force on Sustainable Energy.
- NSB Information Item: National Optical Astronomy Observatory (NOAO) and National Solar Observatory (NSO)—Future Action Item on a 5-year Cooperative Agreement Proposal from the Association of Universities for Research in Astronomy (AURA).

- NSB Information Item: Protein Data Bank.
- Discussion Item: Update on Review of MREFC Process.
- Discussion Item: Report to Congress on Interdisciplinary Research.
- Science Presentation: *The Intertwinement of Fundamental Work in the SBE and Natural Sciences.*

Closed Session: 1 p.m.–2 p.m.

- Committee Chairman's Remarks.
- NSB Action Item: Track-2 High-Performance Computing.
- NSB Action Item: Competition for the Management and Operation of the National Center for Atmospheric Research.

Committee on Strategy and Budget (CSB)

Open Session: 2 p.m.–3:30 p.m.

- Approval of CSB Minutes, March 26, 2008.
- Committee Chairman's Remarks.
- Panel Presentation on Open Access to Scholarly Literature.
- Status Report from CSB Task Force on Cost Sharing.
- Discussion of Draft Board Report on NSF Practices regarding Limitations on the Number of Proposal Submissions by a Single Institution.
- NSF Long-Range Plan.
- OMB Guidance and NSF Budget Development.

Wednesday, May 7, 2008

Audit and Oversight Committee (A&O)

Closed Session: 9 a.m.–9:30 a.m.

- Pending Investigations.

Open Session: 9:30 a.m.–10:30 a.m.

- Approval of Minutes of the March 27, 2008 Meeting.
- Committee Chairman's Opening Remarks.
- OIG Semiannual Report.
- Management Response to OIG Semiannual Report.
- Report to the Board on the NSF Merit Review Process, FY 2007.
- Chief Financial Officer's Update.
- FY2008 Audit Status Report.

Committee on Education and Human Resources (EHR)

Open Session: 10:30 a.m.–12 noon

- Approval of March 2008 Minutes.
- Committee Chairman's Remarks.
- Status of Subcommittee on Science and Engineering Indicators.
- Strengthening U.S. STEM Education through New Models of Collaboration: Business Higher Education Forum.
- K20 Partnerships at the University of Oklahoma.
- Discussion: National Math Panel.
- Discussion: Preparing the Next Generation of STEM Innovators.
- Board Executive Officer's Report.

Plenary Executive Closed

Closed Session: 1 p.m.–1:30 p.m.

- Approval of March 2008 Minutes.
- Elections for Chairman and Vice Chairman.
- Board Member Proposal.

Plenary Closed

Closed Session: 1:30 p.m.–1:45 p.m.

- Approval of March 2008 Minutes.
- Awards and Agreements.
- Closed Committee Reports.

Executive Committee

Open Session: 1:45 p.m.–1:50 p.m.

- Approval of Minutes for February 2008 Meeting.
- Annual Report of the Executive Committee.
- Updates or New Business from Committee Members.

Plenary Open

Open Session: 1:50 p.m.–3:45 p.m.

- Recognition of Class of 2008 and Executive Secretaries.
- Approval of March 2008 Minutes.
- Resolution to Close August 2008 Meeting.
- Chairman's Report.
- Director's Report.
- Open Committee Reports.
- Presentations by Honorary Awards Recipients.

Russell Moy,

Attorney-Advisor.

[FR Doc. E8–9653 Filed 5–1–08; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Constellation Generation Group, LLC, and Unistar Nuclear Operating Services, LLC.; Notice of Receipt and Availability of Application for a Combined License

On March 17, 2008 Constellation Generation Group, LLC, and UniStar Nuclear Operating Services, LLC. (CGG and UniStar) filed with the Nuclear Regulatory Commission (NRC, the Commission) pursuant to Section 103 of the Atomic Energy Act and Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52, ''Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Plants,'' an application for a combined license (COL) for one Evolutionary Power Reactor nuclear power plant at the Calvert Cliffs site located in Calvert County, Maryland. The reactors are to be identified as Calvert Cliffs Nuclear Power Plant Unit 3.

An applicant may seek a COL in accordance with Subpart C of 10 CFR Part 52. The information submitted by the applicant includes certain administrative information such as financial qualifications submitted pursuant to 10 CFR 52.77, as well as technical information submitted pursuant to 10 CFR 52.79.

Subsequent **Federal Register** notices will address the acceptability of the tendered COL application for docketing and provisions for participation of the public in the COL review process.

A copy of the application is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and via the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* The accession number for the application is ML080990114. Future publicly available documents related to the application will also be posted in ADAMS. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov*. The application is also available at *http://www.nrc.gov/reactors/new-licensing/col.html*.

Dated at Rockville, Maryland, this 25th day of April 2008.

For the Nuclear Regulatory Commission.

John Rycyna,

Project Manager, EPR Projects Branch, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. E8–9745 Filed 5–1–08; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Comment Request for OMB Review of an Extension of the Nonforeign Area Cost-of-Living Allowance Price and Background Surveys

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Office of Personnel Management (OPM) seeks comments on its intention to request an extension of two currently approved information collections. OPM uses the two collections, a Price Survey and a Background Survey, to gather data it uses to determine cost-of-living allowances the Government provides to certain Federal employees in Alaska, Hawaii, Guam and the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. OPM conducts Price Surveys in the Washington, DC, area on an annual basis and once every 3 years in each allowance area on a rotating basis. Prior to these surveys, OPM conducts Background Surveys that are similar to the Price Survey, but much more limited in scope. OPM uses the results of the Background Surveys to prepare for the Price Surveys.

DATES: Submit comments on or before July 1, 2008.

ADDRESSES: Send or deliver comments to Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems, Strategic Human Resources Policy Division, U.S. Office of Personnel Management, Room 7300B, 1900 E Street, NW., Washington, DC 20415–8200; fax: (202) 606–4264; or e-mail: *COLA@opm.gov.*

SUPPLEMENTARY INFORMATION: Section 5941 of title 5, United States Code, authorizes Federal agencies to pay cost-of-living allowances (COLAs) to white-collar Federal and U.S. Postal Service employees stationed in Alaska, Hawaii, Guam and the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. Executive Order 10000, as amended, delegates to the Office of Personnel Management (OPM) the authority to administer nonforeign area COLAs and prescribes certain operational features of the program. OPM conducts Nonforeign Area Cost-of-Living Allowance Price Surveys and Background Surveys in each allowance area and in the Washington, DC, area to determine whether, and to what degree, COLA area living costs are higher than those in the DC area.

Office of Management and Budget (OMB) approval of the Nonforeign Area Cost-of-Living Allowance Price Survey and Background Survey will expire on August 31, 2008. The Office of Personnel Management (OPM) plans to request OMB approval for a 3-year extension of these currently approved information collections and is seeking comments prior to submitting the collections to OMB for review.

Comments are particularly invited on whether: (1) These collections of information are necessary for the proper performance of OPM functions, (2) they will have practical utility, (3) our estimate of the public burden of these collections of information is accurate and based on valid assumptions and methodology, and (4) there are ways in which we can minimize respondent burden of the collections of information through the use of appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, fax (202) 418–3251, or e-mail *mbtoomey@opm.gov.* Please include a mailing address with your request.

Overview of Information Collections

Title: Nonforeign Area Cost-of-Living Allowance Price Survey and Background Survey.

OMB Control Number: 3206–0199.

Summary: OPM uses the COLA Price Survey to collect price data in survey areas located in the nonforeign allowance areas and in the Washington, DC, area. The allowance areas are located in Alaska, Hawaii, Guam and the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. OPM conducts Price Surveys annually in the DC area and once every 3 years in the allowance areas on a rotating basis. OPM uses the COLA Background Survey to collect information to identify the services, items, quantities, outlets, and locations OPM will survey in the Price Surveys. OPM also uses Background Surveys to collect information on local trade practices, consumer buying patterns, taxes and fees, and other economic characteristics related to living costs. OPM conducts Background Surveys annually on a limited basis.

Need/Use for Surveys: The COLA Price Survey is necessary for collecting living-cost data OPM uses to determine COLAs received by General Schedule, U.S. Postal Service, and certain other Federal employees in the allowance areas. OPM uses the survey results to compare prices in the allowance areas with prices in the Washington, DC, area and to derive COLA rates where local living costs significantly exceed those in the DC area. The COLA Background Survey is necessary to determine the continued appropriateness of items, services, and businesses selected for the annual price surveys. OPM uses the information collected under the Background Survey to identify items to be priced and the outlets at which OPM will price the items in the Price Surveys.

Respondents: OPM will survey selected retail, service, realty, and other businesses and local governments in the allowance areas and in the Washington, DC, area. OPM will contact approximately 2,000 establishments in each annual Price Survey and approximately 100 establishments in each annual Background Survey. Participation in the surveys is voluntary.

Reporting and Recordkeeping Burden: Based on experience, OPM estimates that the average Price Survey interview takes approximately 6 minutes, for a total burden of 200 hours. Also based on experience, OPM estimates that the average Background Survey interview will take approximately 6.5 minutes, for a total burden of 11 hours.

Office of Personnel Management.

Howard Weizmann,

Deputy Director.

[FR Doc. E8–9733 Filed 5–1–08; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

Comment Request for Review of an Expiring Information Collection: Establishment Information Form, Wage Data Collection Form, Wage Data Collection Continuation Form; DD 1918, DD 1919, and DD 1919C

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice.

SUMMARY: Under the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), the U.S. Office of Personnel Management (OPM) seeks comments on its intention to request Office of Management and Budget clearance of three currently approved information collection forms. The Establishment Information Form, the Wage Data Collection Form, and the Wage Data Collection Continuation Form are wage survey forms developed by OPM for use by the Department of Defense to establish prevailing wage rates for Federal Wage System employees.

DATES: Submit comments on or before July 1, 2008.

ADDRESSES: Send or deliver comments to Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems, Strategic Human Resources Policy Division, U.S. Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415–8200; e-mail *pay-performance-policy@opm.gov*; or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, (202) 606–2838; e-mail *pay-performance-policy@opm.gov*; or FAX: (202) 606–4264.

SUPPLEMENTARY INFORMATION: The Department of Defense contacts approximately 21,200 businesses annually to determine the level of wages paid by private enterprise establishments for representative jobs common to both private industry and the Federal Government. Each survey collection requires 1–4 hours of respondent burden, resulting in a total yearly burden of approximately 75,800 hours.

Comments are particularly invited on (1) Whether this information is necessary for the proper performance of OPM functions, (2) whether it will have practical utility, (3) whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology, and (4) ways in which we can minimize the burden of the collection of information on those who are to respond through the use of appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358; e-mail *MaryBeth.Smith-Toomey@opm.gov*; or fax (202) 418–3251. Please include a mailing address with your request.

Office of Personnel Management.

Howard Weizmann,

Deputy Director.

[FR Doc. E8–9741 Filed 5–1–08; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549.

Extension: Investor Form, SEC File No. 270–485, OMB Control No. 3235–0547.

Notice is hereby given pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) that the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

In both 2006 and 2007, the Commission received over a million contacts from investors who have complaints or questions on a wide range of investment-related issues. These contacts generally fall into the following three categories:

(a) Complaints against Commission-regulated individuals or entities;

(b) questions concerning the federal securities laws, companies or firms that the Commission regulates, or other investment-related questions; and

(c) tips concerning potential violations of the federal securities laws.

Investors who submit complaints, ask questions, or provide tips do so voluntarily. To make it easier for the public to contact the agency electronically, the Commission created a series of investor complaint and question Web forms. Investors can access these forms through the SEC Center for Complaints and Enforcement Tips at *http://www.sec.gov/complaint.shtml.* The Commission is now going to consolidate those forms into one form (the Investor Form) which will ask for the same information, but also provide several drop down options to choose from in order to categorize the investor's complaint, and possibly provide the investor with information about that issue. The investor will have the same opportunity to describe their complaint, and they will be free to submit it without their name or contact information.

Although the Investor Form provides a structured format for incoming investor correspondence, the Commission does not require that investors use any particular form or format when contacting the agency. To the contrary, investors may submit complaints, questions, and tips through a variety of other means, including telephone, letter, facsimile, or e-mail. Approximately 20,000 investors each year voluntarily choose to use the complaint and question forms.

Investors who choose not to use the Investor Form receive the same level of service as those who do. The dual purpose of the form is to make it easier for the public to contact the agency with complaints, questions, tips, or other feedback and to streamline the workflow of the Commission staff who handle those contacts.

The Commission has used—and will continue to use—the information that investors supply on the complaint and question forms, and the Investor Form to review and process the contact (which may, in turn, involve responding to questions, processing complaints, or, as appropriate, initiating enforcement investigations), to maintain a record of contacts, to track the volume of investor complaints, and to analyze trends.

As with the previous forms, the Investor Form will ask investors to provide information concerning, among other things, their names, how they can be reached, the names of the individuals or entities involved, the nature of their complaint or tip, what documents they can provide, and what, if any, actions they have taken.

Use of the Investor Form is strictly voluntary. Moreover, the Commission does not require investors to submit complaints, questions, tips, or other feedback. Absent the forms, the public still has several ways to contact the agency, including telephone, facsimile, letters, and e-mail. Nevertheless, the Commission created these forms to make it easier for the public to contact the agency with complaints, questions, or tips. The forms further streamline the workflow of Commission staff who record, process, and respond to investor contacts.

The staff of the Commission estimates that the total reporting burden for using the complaint and question forms is 5,000 hours. The calculation of this estimate depends on the number of investors who use the forms each year and the estimated time it takes to complete the forms: 20,000 respondents $\times$ 15 minutes = 5,000 burden hours.

Written 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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to 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*.

Dated: April 28, 2008.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–9692 Filed 5–1–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28256; File No. 812–13466]

ING USA Annuity and Life Insurance Company, et al., Notice of Application

April 28, 2008.

AGENCY: The Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the ''1940 Act'') approving a substitution of securities.

APPLICANTS: ING USA Annuity and Life Insurance Company and ReliaStar Life Insurance Company of New York (each a ''Company'' and together, the ''Companies''), Separate Account B of ING USA Annuity and Life Insurance Company, ReliaStar Life Insurance Company of New York Separate Account NY–B (each, an ''Account'' and together, the ''Accounts''), and ING Variable Portfolios, Inc. are collectively referred to herein as the ''Applicants.''

SUMMARY OF APPLICATION: The Applicants request an order, pursuant to Section 26(c) of the 1940 Act, permitting the substitution (''Substitution'') of shares of the ING Russell Small Cap Index Portfolio—Class S (the ''Substitute Fund'') for shares of ProFund VP Small-Cap (the ''Replaced Fund'').

FILING DATE: The Application was filed on December 27, 2007 and amended and restated on April 18, 2008.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 22, 2008, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, J. Neil McMurdie, Counsel, ING Americas U.S. Legal Services, One Orange Way, C1S, Windsor, CT 06095.

FOR FURTHER INFORMATION CONTACT: Alison White, Senior Counsel, or Joyce M. Pickholz, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 551–6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application is available for a fee from the Public Reference Branch of the Commission, 100 F Street, NE., Room 1580, Washington, DC 20549.

Applicants' Representations

1. Each of the Companies is an indirect wholly owned subsidiary of ING Groep, N.V. (''ING''). ING is a global financial services holding company based in The Netherlands which is active in the field of insurance, banking and asset management. As a result, each Company likely would be deemed to be an affiliate of the others.

2. ING USA Annuity and Life Insurance Company (''ING USA'') is an Iowa stock life insurance company which was originally organized in 1973 under the insurance laws of Minnesota. Through January 1, 2004 mergers, ING USA's operations include the business of Equitable Life Insurance Company of Iowa, United Life and Annuity Insurance Company, and USG Annuity and Life Company. Prior to January 1, 2004, ING USA was known as Golden American Life Insurance Company. ING USA is principally engaged in the business of issuing life insurance and annuities.

3. ReliaStar Life Insurance Company of New York (''ReliaStar NY'') is a stock life insurance company which was incorporated under the laws of the State of New York in 1917. Through an April 1, 2002 merger, ReliaStar NY's operations include the business of First Golden American Life Insurance Company of New York. ReliaStar NY is principally engaged in the business of issuing life insurance and annuities.

4. Each of the Accounts is a segregated asset account of the Company that is the depositor of such Account, and is registered under the 1940 Act as a unit investment trust. Each of the respective Accounts is used by the Company of which it is a part to support the Contracts that it issues.

5. Separate Account B of ING USA Annuity and Life Insurance Company (File No. 811–5626) was established by Golden in 1988 under the laws of the State of Minnesota.

6. ReliaStar Life Insurance Company of New York Separate Account NY–B, formerly Separate Account NY–B of First Golden American Life Insurance Company of New York (File No. 811–7935), was established by First Golden in 1996 under the laws of the State of New York.

7. The ING Russell Small Cap Index Portfolio, a series of ING Variable Portfolios, Inc., will be used as the Substitute Fund.

8. ING Variable Portfolios, formerly known as Aetna Variable Portfolios, Inc., was organized as a Maryland Corporation in 1996. ING Variable Portfolios is registered under the 1940 Act as an open-end management investment company (File No. 811–07651).

9. ING Investments, LLC (''ING Investments''), an Arizona limited liability company and an SEC registered investment adviser, serves as the investment adviser to each portfolio of ING Variable Portfolios. ING Investments maintains its offices at 7337 East Doubletree Ranch Road, Scottsdale, Arizona 85258.

10. ING Investments, subject to the direction of ING Variable Portfolios Board of Directors (the ''Board''), will have overall responsibility for the management of the Substitute Fund. ING Investments will provide all investment advisory and portfolio management services for the Substitute Fund and assist in managing and supervising all aspects of the general day-to-day business activities and operations of the Substitute Fund, including custodial, transfer agency, dividend disbursing, accounting, auditing, compliance and related services.

11. The ProFund VP Small-Cap, a series of the ProFunds Trust, will be replaced pursuant to any order issued pursuant to this Application.

12. The terms and conditions, including charges and expenses, applicable to each Contract are described in the registration statements filed with the SEC for each. The Contracts are issued as individual variable annuity contracts. As each Contract is structured, owners of the Contract (each a ''Contract Owner'') may select one or more of the investment options available under the Contract by allocating premiums and transferring account value to that subaccount of the relevant Account that corresponds to the investment option desired. Thereafter, the account value of the Contract Owner will vary based on the investment experience of the selected subaccount(s). Generally, a Contract Owner may, during the life of each Contract, make unlimited transfers of account values among the subaccounts available under the Contract, subject to any administrative and/or transfer fees applicable under the Contracts and any

limits related to frequent or disruptive transfers.

13. The comparative fees and expenses for each fund in this proposed substitution are as follows:

	In percent					
	Management fees	Distribution (12b–1) fees	Other expenses	Total annual expenses	Expense waivers	Net annual expenses
Substitute Fund:						
• ING Russell Small Cap Index Portfolio—Class S	0.33	0.25	0.23	0.81	[1] 0.11	0.70
Replaced Fund:						
• ProFund VP Small-Cap [1]	0.75	0.25	0.56	1.56	.....	1.56

[1] The expense limits will continue through at least May 1, 2009.

14. With respect to the Replaced Fund, the Applicants represent that the investment objective and the investment policies of the Substitute Fund are the same as those of the Replaced Fund and therefore the essential objectives and risk expectations of those Contract Owners with interests in subaccounts of the Replaced Fund (individually, an ''Affected Contract Owner'' and, collectively, ''Affected Contract Owners'') will continue to be met after the Substitution.

15. The expense ratios and total return figures for each fund as of September 30, 2007, are as follows:

	In percent				
	Expense ratio	1 Year	3 Years	5 Years	10 Years
Substitute Fund:					
• ING Russell Small Cap Index Portfolio—Class S [2]	0.70	.....	.....	.....	.....
Replaced Fund:					
• ProFund VP Small-Cap [1]	1.56	−2.21	4.88	13.97	.....

[1] The expense limits will continue through at least May 1, 2009.
[2] This portfolio commenced operations on March 4, 2008. Therefore, annual performance information is not yet available.

16. Applicants will effect the Substitution as soon as practicable following the issuance of the requested order. As of the Effective Date of the Substitution, shares of the Replaced Fund will be redeemed for cash. The Companies, on behalf of the Replaced Fund subaccount of each relevant Account, will simultaneously place a redemption request with the Replaced Fund and a purchase order with the Substitute Fund so that the purchase of Substitute Fund shares will be for the exact amount of the redemption proceeds. Thus, Contract values will remain fully invested at all times. The proceeds of such redemptions will then be used to purchase the appropriate number of shares of the Substitute Fund.

17. The Substitution will take place at relative net asset value (in accordance with Rule 22c–1 under the 1940 Act) with no change in the amount of any affected Contract owner's contract value, cash value, accumulation value, account value or death benefit, or in the dollar value of his or her investment in the applicable Account. No brokerage commissions, fees or other remuneration will be paid by either the Replaced Fund or the Substitute Fund or by affected Contract owners in connection with the Substitution. The transactions comprising the Substitution will be consistent with the policies of each investment company involved and with the general purposes of the 1940 Act.

18. Affected Contract owners will not incur any fees or charges as a result of the Substitution nor will their rights or the Companies' obligations under the Contracts be altered in any way. The Companies or their affiliates will pay all expenses and transaction costs of the Substitution, including legal and accounting expenses, any applicable brokerage expenses, and other fees and expenses. In addition, the Substitution will not impose any tax liability on affected Contract owners. The Substitution will not cause the Contract fees and charges currently being paid by affected Contract owners to be greater after the Substitution than before the Substitution. Also, as described more fully below, after notification of the Substitution and for 30 days after the Substitution, affected Contract owners may reallocate to any other investment options available under their Contract the subaccount value of the Replaced Fund without incurring any administrative costs or allocation (transfer) charges.

19. All affected Contract owners were notified of the Substitution by means of supplements to the Contract prospectuses shortly after the date the Application was first filed with the Commission. Among other information regarding the Substitution, the supplements informed affected Contract owners that beginning on the date of the first supplement the Companies would not exercise any rights reserved by them under the Contracts to impose restrictions or fees on transfers from the Replaced Fund (other than restrictions related to frequent or disruptive transfers) until at least 30 days after the Effective Date of the Substitution. Following the date the order requested by the Application is issued, but before the Effective Date, affected Contract owners will receive a second supplement to the Contract prospectus setting forth the Effective Date and advising affected Contract owners of their right, if they so choose, at any time prior to the Effective Date, to reallocate or withdraw accumulated value in the Replaced Fund subaccounts under their Contracts or otherwise terminate their interest therein in accordance with the terms and conditions of their Contracts. If affected Contract Owners reallocate account value prior to the Effective Date or within 30 days after the Effective Date, there will be no charge for the

reallocation of accumulated value from the Replaced Fund subaccount and the reallocation will not count as a transfer when imposing any applicable restriction or limit under the Contract on transfers. The Companies will not exercise any right they may have under the Contracts to impose additional restrictions or fees on transfers from the Replaced Fund under the Contracts (other than restrictions related to frequent or disruptive transfers) for a period of at least 30 days following the Effective Date of the Substitution. Additionally, all current Contract Owners will be sent prospectuses of the Substitute Fund before the Effective Date.

20. Within five (5) business days after the Effective Date, affected Contract Owners will be sent a written confirmation (''Post-Substitution Confirmation'') indicating that shares of the Replaced Fund have been redeemed and that the shares of Substitute Fund have been substituted. The Post-Substitution Confirmation will show how the allocation of the Contract Owner's account value before and immediately following the Substitution has changed as a result of the Substitution and detail the transactions effected on behalf of the respective affected Contract Owner because of the Substitution.

Applicant's Legal Analysis

1. Applicants represent that each of the prospectuses for the Contracts expressly discloses the reservation of the Companies' right, subject to Commission approval and compliance with applicable law, to substitute shares of another open-end management investment company for shares of an open-end management investment company held by a subaccount of an Account.

2. Applicants state that the Companies reserved this right of substitution both to protect themselves and their Contract owners in situations where either might be harmed or disadvantaged by circumstances surrounding the issuer of the shares held by one or more of its separate accounts, and to afford the opportunity to replace such shares where to do so could benefit the Contract owners and Companies.

3. Applicants maintain that Contract Owners will be better served by the proposed Substitution. Applicants anticipate that the replacement of the Replaced Fund will result in a Contract that is administered and managed more efficiently, and one that is more competitive with other variable products in both wholesale and retail markets. The Substitute Fund will be managed according to the same investment objective and policies as the Replaced Fund. Moreover, the overall expenses of the Substitute Fund are less than those of the Replaced Fund.

4. Applicants anticipate that Contract owners will be at least as well off with the proposed array of subaccounts to be offered after the proposed substitutions as they have been with the array of subaccounts offered before the substitutions. The proposed Substitution retains for Contract owners the investment flexibility which is a central feature of the Contracts. If the proposed Substitution is carried out, all Contract owners will be permitted to allocate purchase payments and transfer accumulated values and contract values between and among the remaining subaccounts as they could before the proposed Substitution.

Applicant's Conditions

1. The Substitute Fund has an investment objective and investment policies that are the same as the investment objective and policies of the Replaced Fund, so that the objective of the Affected Contract Owners can continue to be met.

2. For two years following the implementation of the Substitution described herein, the net annual expenses of the Substitute Fund will not exceed the net annual expenses of the Replaced Fund immediately preceding the Substitution. To achieve this limitation, ING Investments will waive fees or reimburse the Substitute Fund in certain amounts to maintain expenses at or below the limit. Any adjustments will be made at least on a quarterly basis. In addition, the Companies will not increase the Contract fees and charges, including asset based charges such as mortality and expense risk charges deducted from the Subaccounts, that would otherwise be assessed under the terms of the Contracts for a period of at least two years following the Substitution.

3. Affected Contract Owners may reallocate amounts from the Replaced Fund without incurring a reallocation charge or limiting their number of future reallocations, or withdraw amounts under any Affected Contract or otherwise terminate their interest therein at any time prior to the Effective Date and for a period of at least 30 days following the Effective Date in accordance with the terms and conditions of such Contract. Any such reallocation will not count as a transfer when imposing any applicable restriction or limit under the Contract on transfers.

4. The Substitution will be effected at the net asset value of the respective shares in conformity with Section 22(c) of the 1940 Act and Rule 22c–1 thereunder, without the imposition of any transfer or similar charge by Applicants.

5. The Substitution will take place at relative net asset value without change in the amount or value of any Contract held by Affected Contract Owners. Affected Contract Owners will not incur any fees or charges as a result of the Substitution, nor will their rights or the obligations of the Companies under such Contracts be altered in any way.

6. No brokerage commissions, fees or other remuneration will be paid by the Replaced Fund or the Substitute Fund or Affected Contract Owners in connection with the Substitution.

7. The Substitution will not alter in any way the annuity, life or tax benefits afforded under the Contracts held by any Affected Contract Owner.

8. The Companies will send to their Affected Contract Owners within five (5) business days of the Substitution a written Post-Substitution Confirmation which will include the before and after account values (which will not have changed as a result of the Substitution) and detail the transactions effected on behalf of the respective Affected Contract Owner with regard to the Substitution. With the Post-Substitution Confirmations the Companies will remind Affected Contract Owners that they may reallocate amounts from the Substitute Fund without incurring a reallocation charge or limiting their number of future reallocations for a least 30 days following the Effective Date in accordance with the terms and conditions of their Contract.

9. The Companies or their affiliates will pay all expenses and transaction costs of the Substitution, including legal and accounting expenses, any applicable brokerage expenses, and other fees and expenses. In addition, the Substitution will not impose any tax liability on Affected Contract Owners.

10. Under the manager-of-managers relief covering ING Variable Portfolios, a vote of the shareholders is not necessary to change a sub-adviser, except for changes involving an affiliated sub-adviser. Notwithstanding, the Applicants agree not to change the Substitute Fund's sub-adviser without first obtaining shareholder approval after the Effective Date of the Substitution of either (a) the sub-adviser change or (b) the Applicants' continued ability to rely on their manager-of-manager relief.

11. The Commission shall have issued an order approving the Substitution under Section 26(c) of the 1940 Act.

12. A registration statement for the Substitute Fund is effective and the investment objectives and policies and fees and expenses for the Substitute Fund as described herein have been implemented.

13. Each Affected Contract Owner will have been sent a copy of (a) a Contract prospectus supplement informing shareholders of this Application; (b) a prospectus for the Substitute Fund, and (c) a second supplement to the Contract prospectus setting forth the Effective Date and advising Affected Contract Owners of their right to reconsider the Substitution and, if they so choose, any time prior to the Effective Date and for 30 days thereafter, to reallocate or withdraw amounts under their affected Contract or otherwise terminate their interest therein in accordance with the terms and conditions of their Contract.

14. The Companies shall have satisfied themselves, that (a) the Contracts allow the substitution of investment company shares in the manner contemplated by the Substitution and related transactions described herein; (b) the transaction can be consummated as described in this Application under applicable insurance laws; and (c) that any regulatory requirements in each jurisdiction where the Contracts are qualified for sale, have been complied with to the extent necessary to complete the transaction.

Conclusion

For the reasons and upon the facts set forth above, Applicants submit that the requested order meets the standards set forth in Section 26(c) of the 1940 Act. Applicants request an order of the Commission, pursuant to Section 26(c) of the 1940 Act, approving the Substitutions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–9632 Filed 5–1–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold an Open Meeting on Monday, May 5, 2008 at 10 a.m., in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

1. The Commission will hear oral argument on an appeal by Impax Laboratories, Inc. from an initial decision of an administrative law judge. Impax, a Delaware corporation, develops, manufactures, and distributes pharmaceutical products. Impax's common stock is registered with the Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934.

The law judge found that Impax had violated Exchange Act Section 13(a) and Exchange Act Rules 13a–1 and 13a–13 thereunder by failing to file its required quarterly and annual reports for any period after September 30, 2004. The law judge revoked the registration of Impax's common stock.

Impax does not appeal the law judge's findings of violation. However, Impax does appeal the sanction imposed by the law judge.

Issues likely to be considered include whether the protection of investors requires revoking the Section 12(g) registration of Impax's common stock.

2. The Commission will also hear oral argument on an appeal by Robert Radano from an initial decision of an administrative law judge barring him from associating with any investment adviser. The law judge based his decision to impose a bar on Radano's having been enjoined from future violations of (A) Sections 206(1) and (2)—the antifraud provisions—of the Investment Advisers Act, and (B) Investment Advisers Act Section 203(f), which prohibits investment advisers from associating with a barred individual. Issues likely to be considered include whether it is in the public interest to bar Radano from association with any investment adviser.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: April 28, 2008.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–9644 Filed 5–1–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57713; File No. SR–BSE–2008–28]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Transfer of BOX Units From the Montréal Exchange Inc. to MX US 2, Inc.

April 25, 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 April 22, 2008, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below which Items have been substantially prepared by the BSE. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) 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 is submitting the proposed rule change to the Commission to amend the Fifth Amended and Restated Operating Agreement, dated January 26, 2005, (''BOX LLC Agreement''), of the Boston Options Exchange Group LLC (''BOX LLC''), in connection with the transfer by the Montréal Exchange Inc.,[5] a company incorporated in Québec, Canada (''MX''), of its 31.37% ownership interest in BOX LLC to MX U.S. 2, Inc. (''MX US''), a wholly-owned U.S. subsidiary of MX.[6] The text of the proposed rule change is available at the BSE, the Commission's Public Reference Room, and *http://www.bostonstock.com.*

[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)(6).

[5] The Montréal Exchange Inc. is also known in French as the Bourse de Montréal Inc.

[6] Capitalized terms not otherwise defined herein shall have the meanings set forth in the BOX LLC Agreement.

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 proposal. The text of these statements may be examined at the places specified in Item IV below. The BSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 13, 2004, the Commission approved four BSE proposals that together established, through an operating agreement among its owners, a Delaware limited liability company, BOX LLC, to operate the BOX market as an options trading facility of the Exchange.[7] MX has transferred its 31.37% ownership interest in BOX LLC to MX US. The Exchange is submitting the proposed rule change to the Commission to amend the BOX LLC Agreement pursuant to the proposed Instrument of Accession in connection with the transfer of MX's 31.37% ownership interest in BOX LLC to MX US.[8] As a result, MX will agree to abide by all the provisions of the BOX LLC Agreement, including those provisions requiring submission to the jurisdiction of the Commission.[9]

For the reasons stated above, the BSE is submitting to the Commission the proposed Instrument of Accession to the BOX LLC Agreement as a rule change.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(1),[11] in particular, in that it enables the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Act[12] in that it is designed to facilitate transactions in securities, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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 neither solicited nor received comments on the proposed rule change.

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[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30-days after the date of filing.[15] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[16] The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the Instrument of Accession was executed on April 22, 2008, and there is no reason to delay implementation of the changes to the BOX LLC Agreement pursuant to the Instrument of Accession. For these reasons, the Commission designates the proposal to be operative upon filing with the Commission.[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.[18]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

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[7] *See* Securities Exchange Act Release Nos. 49066 (January 13, 2004), 69 FR 2773 (January 20, 2004) (SR–BSE–2003–17) (establishing a fee schedule for the proposed BOX facility); 49065 (January 13, 2004), 69 FR 2768 (January 20, 2004) (SR–BSE–2003–04) (creating Boston Options Exchange Regulation LLC to which the BSE would delegate its self-regulatory functions with respect to the BOX facility); 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (SR–BSE–2002–15) (approving trading rules for the BOX facility); and 49067 (January 13, 2004), 69 FR 2761 (January 20, 2004) (SR–BSE–2003–19) (approving certain regulatory provisions of the BOX LLC Agreement).

[8] The Exchange represented that the Instrument of Accession was executed on April 22, 2008. *See* electronic mail from Lisa J. Fall, General Counsel, BOX LLC, to Molly Kim, Special Counsel, Division of Trading and Markets (''Division''), Commission, and Johnna Dumler, Special Counsel, Division, Commission, dated April 22, 2008.

[9] The BOX LLC states, in part, that ''the Members, officers, directors, agents, and employees of Members irrevocably submit to the exclusive jurisdiction of the U.S. federal courts, U.S. Securities and Exchange Commission, and the Boston Stock Exchange, for the purposes of any suit, action or proceeding pursuant to U.S. federal securities laws, the rules or regulations thereunder, arising out of, or relating to, BOX activities or Article 19.6(a), (except that such jurisdictions shall also include Delaware for any such matter relating to the organization or internal affairs of BOX, provided that such matter is not related to trading on, or the regulation, of the BOX Market), and hereby waive, and agree not to assert by way of motion, as a defense or otherwise in any such suit, action or proceeding, any claims that they are not personally subject to the jurisdiction of the U.S. Securities and Exchange Commission, that the suit, action or proceeding is an inconvenient forum or that the venue of the suit, action or proceeding is improper, or that the subject matter hereof may not be enforced in or by such courts or agency.'' *See* BOX LLC Agreement, Section 19.6.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(1).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. BSE has satisfied the five-day pre-filing requirement.

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[18] *See* 15 U.S.C. 78s(b)(3)(C).

including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BSE–2008–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BSE–2008–28. 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 the filing also will be available for inspection and copying at the principal office of the BSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BSE–2008–28 and should be submitted on or before May 23, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–9695 Filed 5–1–08; 8:45 am]

BILLING CODE 8010–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57716; File No. SR–CBOE–2007–39]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2 Thereto, Regarding Penny Price Improvement

April 25, 2008.

I. Introduction

On April 24, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules regarding price improvement for options not currently quoted in one-cent increments. The proposed rule change was published for comment in the **Federal Register** on May 14, 2007.[3] The Commission received two comment letters in response to the proposed rule change.[4] On March 25, 2008, the Exchange filed Amendment No. 1 to make certain modifications to the original rule filing. On March 28, 2008, the Exchange withdrew Amendment No. 1 to the proposed rule change and simultaneously filed Amendment No. 2 to the proposal. This order provides notice of the proposed rule change, as modified by Amendment No. 2, and approves the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

II. Description of the Proposal

Proposed CBOE Rule 6.13B will expand the ability of Exchange users to effect transactions in penny increments in classes and/or series trading on CBOE's Hybrid System that are not currently quoting in penny increments.[5] The Exchange will designate the classes/series eligible for this penny pricing, and the penny pricing will be available electronically and in open outcry.

As proposed, all limit orders or quotes electronically sent to CBOE (regardless of sender origin type) can be priced in a one-cent increment. Specifically, an Exchange Market-Maker can provide the Exchange with indications to trade in one-cent increments that improve on the Market-Maker's disseminated quotation. Such indications of interest will be firm for all interest received by the Exchange. Further, all other users can electronically submit orders priced in one-cent increments. The Exchange will round the limit price to the nearest permissible quoted increment for display purposes, but will maintain the one-cent increment limit price for trade execution and allocation purposes.[6] To the extent there is trading interest from multiple sources at the same one-cent increment price, priority will be established in the same manner as priority at a standard quoting increment (*i.e.*, normal allocation procedures will be used). The Exchange has represented that the system will not execute an order at a price that would cause a trade-through of another options exchange.

With respect to open outcry, crowd members will be able to provide price improvement in one-cent increments over the Exchange's Best Bid or Offer (''BBO''). The Exchange has represented that any resulting trade will not cause a trade-through of another options exchange. Further, prior to executing any order in open outcry in a one-cent increment, Exchange members will be required to electronically ''sweep'' any penny pricing interest on the book that may exist.[7] The ''sweep'' is designed to ensure that better-priced orders resting in one-cent increments are executed prior to the open outcry transaction and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55724 (May 8, 2007), 72 FR 27156.

[4] *See* letter to Nancy Morris, Secretary, Commission, from John C. Nagel, Director & Associate General Counsel, Citadel, dated June 4, 2007 (''Citadel Letter'') and letter to Nancy M. Morris, Secretary, Commission, from Michael J. Simon, Secretary, International Securities Exchange, LLC, dated June 1, 2007 (''ISE Letter'').

[5] Amendment No. 2 clarified that the program will not apply to Hybrid 3.0 classes.

[6] For example, if the CBOE market is 1–1.20 and an order is received to buy 10 contracts at 1.08, CBOE would disseminate a 1.05 bid for 10 contracts, and any subsequent sell market order received by the Exchange would trade at 1.08 for up to 10 contracts (after that, the quote would revert back to 1–1.20).

Amendment No. 2 deletes a provision in the original filing that would have allowed the Exchange to append an indicator to the OPRA quote representing the existence of penny pricing. Additionally, in Amendment No. 2, the Exchange represents that the size and price of any penny pricing will not be displayed or made available to anyone (other than the size that is added to the Exchange's BBO to reflect the size of rounded, penny-priced orders).

[7] Open outcry penny pricing generally will be available in instances where a Floor Broker is attempting to cross an order pursuant to CBOE Rule 6.74, except it will not be available in those instances where: (i) A Floor Broker is attempting to cross orders during the opening rotation in open outcry (*see* CBOE Rule 6.74(c)); or (ii) a Floor Broker is utilizing the Exchange's SizeQuote Mechanism (*see* CBOE Rule 6.74(f)).

that same priced orders receive executions consistent with existing rules governing priority of orders in the Hybrid book when trading with an order represented in open outcry.[8]

The Exchange represents that, in activated classes/series, all users would receive the benefit of penny pricing either through the electronic submission of contra-side orders or through a Floor Broker ''sweeping'' the electronic interest prior to executing an order in open outcry, and that all market participants will have the ability to rest orders in penny increments under the program.[9]

The Exchange clarified in Amendment No. 2 that, to the extent penny-priced orders are received that ''cross'' one another, the second order received by the system will receive the benefit of price improvement.[10] The Exchange may determine the applicability of split-price priority under CBOE Rule 6.47 to transactions effected under proposed CBOE Rule 6.13B.[11] The mechanics of split-price priority in those instances will be the same as the mechanics of split-price priority in five- and ten-cent increments.

The restrictions on principal transactions and solicited orders contained in Interpretations and Policies .01 and .02 under CBOE Rules 6.45A and 6.45B will continue to apply to trading in penny increments, including the three second exposure requirements.

III. Discussion and Commission Findings

After careful review of the proposal, as modified by Amendment No. 2, and the comment letters thereto, the Commission finds that the proposal, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[12] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[13] which requires, among other things, 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.

A. Quote Rule

The Commission received two comment letters in response to the proposed rule change.[14] One commenter argues that the proposal would violate Rule 602 of Regulation NMS (the ''Quote Rule'') because CBOE will not disseminate its best bid or offer.[15] The Quote Rule requires a national securities exchange to collect, process, and make available to vendors the best bid, the best offer, and aggregate quotation sizes for each subject security that is communicated on any national securities exchange by a responsible broker or dealer. A ''bid'' or ''offer'' is defined as ''the bid price or the offer price communicated by a member of a national securities exchange or member of a national securities association to any broker or dealer, or to any customer. * * *.'' [16] Because the non-displayed price of a penny-priced order under Rule 6.13B is sent to the Exchange, but not communicated to anyone, it is not a bid, offer, or quotation. Thus, the Quote Rule does not require this information to be disseminated.

The Quote Rule also requires responsible brokers and dealers to be firm for their quotes.[17] Proposed CBOE Rule 6.13B(1), which allows Market Makers to provide the Exchange with indications of interest that are superior to their own quotations in increments no smaller than one-cent, explicitly requires such indications to be firm for all interest received by the Exchange. Further, as with any other electronic order entered into CBOE's Hybrid System, an order priced in a penny increment and rounded for display must be firm under CBOE's rules and Rule 602 of Regulation NMS.[18]

B. Transparency, Quote Competition, and Internalization

Both commenters expressed concern about the impact of penny pricing on market quality. In particular, one commenter believes such orders would undermine transparency in the options markets and that, because the prices and sizes of such orders would not be disseminated, it would be impossible for market participants to know the true best trading interest on CBOE.[19] This commenter argues that penny pricing would discourage market participants from matching or establishing a new BBO because it would be too easy for non-displayed penny orders to jump ahead of displayed orders by a penny at opportune moments.[20] Another commenter expresses a concern that no one will know the actual prices communicated to the exchange, which are prices at which transactions can take place.[21] This commenter expressed concern that if other options markets adopted similar order types, there would be a trading environment in which there would be no way for customers to make intelligent pricing decisions or for broker-dealers to fulfill their best execution obligations.[22]

Additionally, one commenter expressed the concern that hidden penny pricing will enable CBOE members to internalize their order flow without the possibility of real order interaction. This commenter argues that the purpose of the requirement that a member display a customer order and wait three seconds before trading against the order is to provide other market participants with a chance to trade with the order before the member internalizes it. The commenter argues that, because only the member that enters the penny priced order will know the true price of the order, only that member can accurately run its pricing model to determine whether it is economically viable to trade against the

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[8] *See* CBOE Rules 6.45A(b) and 6.45B(b).

[9] *See* Amendment No. 2.

[10] For example, if an order is received to buy at 1.08 and then an order is received to sell at 1.06, those orders will trade at 1.08—the price of the resting order.

[11] Amendment No. 2 provided that the ''Exchange'' will determine if the split price provisions of Rule 6.47 apply to open outcry Penny Pricing under proposed Rule 6.13B(b), rather than the ''appropriate Procedure Committee,'' as originally proposed. The Commission notes that this change is consistent with SR–CBOE–2008–02, where the Exchange is replacing references to the ''appropriate Procedure Committee'' with references to the ''Exchange'' throughout the Exchange's rules.

[12] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(5).

[14] *See* ISE Letter and Citadel Letter, *supra* note 4. Both commenters expressed concern about CBOE's proposal to append an indicator showing when there is trading interest at a price that is better than the CBOE BBO. As noted above, Amendment No. 2 deleted this aspect of the proposal. Because CBOE has proposed to eliminate the indicator, this order does not make any findings with respect to the use of an indicator.

[15] *See* ISE Letter, *supra* note 4, at 2–3.

[16] 17 CFR 242.600(a)(8).

[17] 17 CFR 242.602(b)(2) and (c)(3).

[18] *See* electronic mail between Angelo Evangelou, Assistant General Counsel, CBOE, and Johnna B. Dumler, Special Counsel, Division of Trading and Markets, Commission, on April 22, 2008.

[19] *See* Citadel Letter, *supra* note 4, at 2. This commenter further believes that the concerns raised by hidden penny pricing exceed those raised by the auction facilities on other options exchanges (including the Boston Options Exchange's PIP and the International Securities Exchange's PIM) because penny pricing would be a fundamental component of options trading on CBOE rather than a separate auction facility operating parallel to the regular options market. *Id.*

[20] *Id.*

[21] *See* ISE Letter, *supra* note 4, at 3.

[22] *Id.*

order. The commenter does not believe this presents a level playing field.[23]

Penny priced orders will allow market participants to submit an order priced between the minimum price variation (''MPV'') that will be rounded to the nearest MPV for display. Without the ability to price orders in pennies, market participants would not be able to submit orders priced between the MPV. Instead, orders, if submitted, would be priced (and displayed) at the MPV. Thus, CBOE's proposal will not ''take away'' transparency that would already exist. The Commission recognizes that under CBOE's proposal, orders will not be displayed at their actual penny price. CBOE's proposal, however, will provide investors with the opportunity to trade at a better price than would otherwise be available. The Commission believes that this opportunity for investors to receive executions inside the disseminated best bid or offer could result in better executions for investors.

In response to a commenter's concern about broker-dealers' ability to fulfill their best execution obligations,[24] as just discussed, the Commission believes that penny-priced orders likely will provide another opportunity for investors to receive executions inside the disseminated best bid or offer for a security, which could result in better executions for investors. The availability of this price improvement feature will be a factor to be considered in a broker-dealer's best execution routing determination, similar to other factors a broker-dealer must consider in connection with its best execution obligation.[25]

The Commission also believes that penny-priced orders will provide market participants with an additional tool to submit trading interest to the Exchange. The ability to price orders in penny increments may serve to increase liquidity to the extent that market participants find it to be useful and result in better executions. Further, market participants may be incented to compete by putting forth their best price—priced in a penny increment—to potentially match or better any other penny-priced orders resident in the System. This may result in more aggressive, rather than less aggressive, trading interest.

Moreover, the Commission believes that the ability to ''fish'' inside the displayed quote, coupled with the restriction on the market participant that initially submitted the penny-priced order from trading with that order until after three seconds has elapsed, will provide a meaningful opportunity for interaction prior to the time at which the submitting market participant can interact with the order. The Commission also notes that a market participant that would like to trade against its customer order runs the risk that the customer order, if entered in a hidden penny increment, will execute against another penny-priced order resident in the system. The Commission does not believe that the availability and use of penny-priced orders will reduce the quality or competitiveness of the options markets by increasing the level of internalization in the options markets.

C. Linkage Plan

One commenter expresses concern as to how hidden penny-priced orders will interact with the requirements of the Plan for the Purpose of Creating and Operating an Intermarket Options Linkage (''Linkage Plan'').[26] Specifically, the commenter expresses concern that, because the existence of hidden penny orders would not be disseminated to the market, they would not trigger the obligations of other market centers to ship linkage orders to the CBOE.[27] Therefore, the commenter believes that away-markets will not be able to benefit from the better prices available on the CBOE, and undisplayed orders resting on the CBOE book would not be protected from trade-throughs by away markets.[28]

The Linkage Plan, and SRO rules adopted pursuant to the Plan, provide trade through protection to the national best bid and offer (''NBBO'').[29] The NBBO will not include the non-displayed price of a CBOE penny-priced order under Rule 6.13B. Therefore, the non-displayed price of a penny-priced order is not subject to trade through protection under the Linkage Plan.

D. Penny Pilot Program

One commenter believes that the proposal will circumvent the industry efforts with respect to the Penny Pilot Program (''Pilot'') by moving to hidden penny quoting without the benefit of careful study of the data yielded in the Pilot.[30] Another commenter believes that the appropriate way to address penny pricing in options is through the current Penny Pilot. This commenter recommends that the Commission consider any expansion of penny quoting only through review of the experience under the Pilot.[31] As discussed above, the Commission finds that CBOE's proposal, as amended, is consistent with the Act. The Commission has previously approved proposals by options exchanges, including CBOE, to trade in penny increments.[32] The Commission does not believe itis appropriate to prohibit CBOE from implementing an initiative designed to allow further limited trading, not quoting, in penny increments.

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the thirtieth day after the date of publication of the notice of filing of the amended proposal in the **Federal Register**. The substance of the proposed rule change was published in the **Federal Register** on May 14, 2007 for full notice and comment.[33] The Commission believes that the changes proposed in Amendment No. 2 respond to concerns raised in the commenter letters and strengthen and clarify aspects of the proposal. Further, the Commission recently approved a similar proposal by another exchange that allows orders to be entered in one-cent increments, but displayed at the standard MPV.[34] For these reasons, the Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether Amendment No. 2 is consistent with the Act. Comments may be submitted by any of the following methods:

[23] *Id.*

[24] *See* ISE Letter, *supra* note 4, at 2.

[25] *See* Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (order approving SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080), at notes 130 to 134 and accompanying text.

[26] *See* Citadel Letter, *supra* note 4, at 2.

[27] *See* Citadel Letter, *supra* note 4, at 2.

[28] *Id.*

[29] The national best bid or offer is defined in the Linkage Plan as the national best bid and offer in an options series calculated by a Participant. *See* Section 2(19) of the Linkage Plan.

[30] *See* Citadel Letter, *supra* note 4, at 1 and 3.

[31] *See* ISE Letter, *supra* note 4, at 3.

[32] *See, e.g.*, Securities Exchange Act Release Nos. 54229 (July 27, 2006), 71 FR 44508 August 3, 2006) (File No. SR–CBOE–2005–90) (order approving CBOE's Simple Auction Liaison system); 50819 (December 8, 2004), 69 FR 75093 (December 15, 2004) File No. SR–ISE–2003–06) (order approving ISE's Price Improvement Mechanism); and 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (order approving BOX's Price Improvement Period).

[33] *See supra* note 3.

[34] *See* Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (order approving SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080).

Electronic Comments

• Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml;* or

• Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–CBOE–2007–39 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–CBOE–2007–39. 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 at *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 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 No. SR–CBOE–2007–39 and should be submitted on or before May 23, 2008.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[35] that the proposed rule change (SR–CBOE–2007–39), as modified by Amendment No. 2, be, and hereby is, approved on an accelerated basis.

[35] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–9645 Filed 5–1–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57720; File No. SR–FINRA–2008–013]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating To Amending NASD Rule 2220 (Options Communications With the Public)

April 25, 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 April 7, 2008, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend NASD Rule 2220 (Options Communications with the Public), to better address current needs for regulating options communications practices and promote consistency across the options communications rules of other self-regulatory organizations (''SROs''). Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

2200. COMMUNICATIONS WITH CUSTOMERS AND THE PUBLIC

* * * * *

2220. Options Communications [with the Public]

(a) Definitions

For purposes of this Rule and any interpretation thereof:

(1) ''Options communications'' consist of:

(A) ''Advertisement.'' *Any ''Advertisement'' as defined in Rule 2210(a)(1) concerning options.* [shall include any material that reaches a mass audience through public media such as newspapers, periodicals, magazines, radio, television, telephone recording, motion picture, audio or video device, telecommunications device, billboards, signs or through written sales communications to customers or the public that are not required to be accompanied or preceded by one or more current options disclosure documents.]

[(2) ''Educational material'' shall include any explanatory material distributed or made generally available to customers or the public that is limited to information describing the general nature of the standardized options markets or one or more strategies.]

[(3)] *(B)* ''Sales literature.'' *Any ''Sales Literature'' as defined in Rule 2210(a)(2) concerning options including worksheet templates.* [shall include any written communication (not defined as an ''advertisement'' or as ''educational material'') distributed or made generally available to customers or the public that contains any analysis, performance report, projection or recommendation with respect to options, underlying securities or market conditions, any standard forms of worksheets, or any seminar text which pertains to options and which is communicated to customers or the public at seminars, lectures or similar such events.]

(C) ''Correspondence.'' Any ''Correspondence'' as defined in Rule 2211(a)(1) concerning options.

(D) ''Institutional sales material.'' Any ''Institutional Sales Material'' as defined in Rule 2211(a)(2) concerning options.

(E) ''Public appearance.'' Any participation in a seminar, forum (including an interactive electronic forum), radio, television or print media interview, or other public speaking activity, or the writing of a print media article, concerning options.

(F) ''Independently prepared reprint.'' Any ''Independently Prepared Reprint'' as defined in Rule 2210(a)(6)(A) concerning options.

(2) ''Existing retail customer'' as is defined in Rule 2211(a)(4).

(3) ''Standardized option'' means any option contract issued, or subject to issuance, by The Options Clearing Corporation, that has standardized terms for the strike price, expiration date, and amount of the underlying security, and is traded on a national

[36] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

securities exchange registered pursuant to section 6(a) of the Act.

(4) ''Options'' as is defined in Rule 2860(a).

(5) ''Options disclosure document'' has the same meaning as the term ''disclosure document'' as defined in Rule 2860(b)(2)(T).

(b) Approval by [Compliance] Registered Options *and Security Futures* Principal and Recordkeeping

(1) Advertisements, Sales Literature, and Independently Prepared Reprints. All advertisements, sales literature (except completed worksheets), [and educational material] *and independently prepared reprints* issued by a member [or member organization pertaining to] *concerning* options shall be approved in advance by *a* [the Compliance] Registered Options *and Security Futures* Principal *designated by the member's written supervisory procedures.*[or designee.]

(2) Correspondence. Correspondence need not be approved by a Registered Options and Security Futures Principal prior to use, unless such correspondence is distributed to 25 or more existing retail customers within any 30 calendar-day period and makes any financial or investment recommendation or otherwise promotes a product or service of the member. All correspondence is subject to the supervision and review requirements of Rule 3010(d).

(3) Institutional Sales Material. Each member shall establish written procedures that are appropriate to its business, size, structure, and customers for the review by a Registered Options and Security Futures Principal of institutional sales material used by the member and its registered representatives as described in Rule 2211(b)(1)(B).

(4) Copies [thereof] *of the options communications shall be retained by the member in accordance with SEC Rule 17a–4 of the Act.*[, together with t] *T*he names of the persons who prepared the *options communications* [material], the names of the persons who approved the *options communications* [material] and,[in the case of sales literature,] the source of any recommendations contained therein, shall be retained by the member [or member organization] and be kept [at an easily accessible place for examination by the Association period of three years] *in the form and for the time period required for options communications by SEC Rule 17a–4 of the Act.*

(c) Association Approval Requirements and Review Procedures

(1) In addition to the approval required by paragraph (b) of this Rule, [every] *all* advertisements*,* [and all educational material] *sales literature, and independently prepared reprints* [of] *issued by* a member [or member organization pertaining to] *concerning standardized* options *used prior to delivery of the applicable current options disclosure document or prospectus* shall be submitted to the Advertising [/Investment Companies] Regulation Department of the Association [*] (the ''Department'') at least ten *calendar* days prior to use (or such shorter period as the [Association] *Department* may allow in particular instances) for approval and, if changed or expressly disapproved by the [Association] *Department,* shall be withheld from circulation until any changes specified by the [Association] *Department* have been made or, in the event of disapproval, until *such options communication* [the advertisement or educational material] has been resubmitted for, and has received, [Association] *Department* approval.

(2)(A) Notwithstanding the foregoing provision, the Department, upon review of a member's options [advertisements, educational material and/or sales literature] *communications,* and after determining that the member [will again] *has* depart*ed* from the standards of this Rule, may require that such member file *some or* all options [advertisements, educational material and/or sales literature,] *communications* or the portions of such member's [material] *communications* that [is] *are* related to *options* [any specific types or classes of securities or services,] with the Department, at least ten *calendar* days prior to use.

(B) The Department shall notify the member in writing of the types of *options communications* [material] to be filed and the length of time such requirement is to be in effect. The requirement shall not exceed one year, however, and shall not take effect until 21 calendar days after service of the written notice, during which time the member may request a hearing under Rules 9551 and 9559.

(3) In addition to the foregoing requirements, every member's options [advertising and sales literature] *communications* shall be subject to a routine spot-check procedure. Upon written request from the [Association] *Department,* each member shall promptly submit the *communications* [material] requested. Members will not be required to submit *communications* [material] under this procedure that ha*ve*[s] been previously submitted pursuant to one of the foregoing requirements.

(4) The requirements of this paragraph (c) shall not be applicable to:

(A) *options communications* [advertisements or educational material] submitted to another self-regulatory organization having comparable standards pertaining to such *communications* [advertisements or educational material, and];

(B) [advertisements] *communications* in which the only reference to options is contained in a listing of the services of [a] the member[organization.];

(C) the options disclosure document; and

(D) the prospectus.

[(5) Except as otherwise provided in subparagraphs (d)(2)(B) and (C), no written material respecting options may be disseminated to any person who has not previously or contemporaneously received one or more current options disclosure documents.]

(d) Standards Applicable to Communications [with the Public]

(1) [General Standards] *Communications Regarding Standardized Options used Prior to Delivery of Options Disclosure Document*

(A) Options communications regarding standardized options exempted under SEC Rule 238 under the Securities Act of 1933 used prior to options disclosure document delivery:

(i) must be limited to general descriptions of the options being discussed. The text may also contain a brief description of options, including a statement that identifies registered clearing agencies for options and a brief description of the general attributes and method of operation of the exchanges on which such options are traded, including a discussion of how an option is priced;

(ii) must contain contact information for obtaining a copy of the options disclosure document;

(iii) must not contain recommendations or past or projected performance figures, including annualized rates of return, or names of specific securities;

(iv) may include any statement required by any state law or administrative authority;

(v) may include advertising designs and devices, including borders, scrolls, arrows, pointers, multiple and combined logos and unusual type faces and lettering as well as attention-getting headlines and photographs and other graphics, provided such material is not misleading; and

(B) Options communications regarding options not exempted under

[* This Department located at 1735 K Street, NW., Washington, D.C. 20006.]

SEC Rule 238 under the Securities Act of 1933 used prior to delivery of a prospectus that meets the requirements of Section 10(a) of said Act must conform to SEC Rule 134 or 134a under said Act, as applicable.

(2) General Standards

(A) No member [or member organization] or *associated* person *of the member* [associated with a member] shall us*e*[tilize any advertisement, educational material, sales literature,] *any* [or other] *options* communications [to any customer or member of the public concerning options] which:

[(A)]*(i)* contains any untrue statement or omission of a material fact or is otherwise false or misleading;

[(B)]*(ii)* contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events which are unwarranted or which are not clearly labeled as forecasts;

[(C)]*(iii)* contains [hedge clauses or disclaimers which are not legible, which attempt to disclaim responsibility for the content of such literature or for opinions expressed therein, or which are otherwise inconsistent with such communication] *cautionary statements or caveats that are not legible, are misleading, or are inconsistent with the content of the material;* [or]

[(D)]*(iv)* would constitute a prospectus as that term is defined in the Securities Act of 1933, unless it meets the requirements of Section 10 of said Act[.]*;*

(v) contains statements suggesting the certain availability of a secondary market for options;

[(2) Specific Standards (A)]*(vi) fails to reflect* [T]*t*he [special] risks attendant to options transactions and the complexities of certain options investment strategies [shall be reflected in any advertisement, educational material or sales literature which discusses the uses or advantages of options.]*;*

(vii) [Such communications shall] *fails to* include a warning to the effect that options are not suitable for all investors *or contains suggestions to the contrary*[. In the preparation of written communications respecting options, the following guidelines shall be observed:]*; or*

(viii) fails to include a statement that supporting documentation for any claims (including any claims made on behalf of options programs or the options expertise of sales persons), comparison, recommendations, statistics, or other technical data will be supplied upon request.

(B) Subparagraphs (vii) and (viii) above shall not apply to institutional sales material as defined in paragraph (a) of this Rule.

(C)[(i)] Any statement *in any options communications* referring to the potential opportunities or advantages presented by options shall be balanced by a statement of the corresponding risks. The risk statement shall reflect the same degree of specificity as the statement of opportunities, and broad generalities [should] *must* be avoided[. Thus, a statement such as ''with options, an investor has an opportunity to earn profits while limiting his risk of loss,'' should be balanced by a statement such as ''of course, an options investor may lose the entire amount committed to options in a relatively short period of time.'']*.*

[(ii) It shall not be suggested that options are suitable for all investors.]

[(iii) Statements suggesting the certain availability of a secondary market for options shall not be made.]

[(B) Advertisements pertaining to options shall conform to the following standards:]

[(i) Advertisements may only be used (and copies of the advertisements may be sent to persons who have not received one or more options disclosure documents) if the material meets the requirements of SEC Rule 134 under the Securities Act of 1933, as that Rule has been interpreted as applying to options. Under Rule 134, advertisements must be limited to general descriptions of the security being offered and of its issuer. Advertisements under this Rule shall state the name and address of the person from whom a current options disclosure document(s) may be obtained. Such advertisements may have the following characteristics:]

[a. The text of the advertisement may contain a brief description of such options, including a statement that the issuer of every such option is the Options Clearing Corporation. The text may also contain a brief description of the general attributes and method of operation of the exchange or exchanges on which such options are traded and of the Options Clearing Corporation, including a discussion of how the price of an option is determined on the trading floor(s) of such exchange(s);]

[b. The advertisement may include any statement required by any state law or administrative authority;]

[c. Advertising designs and devices, including borders, scrolls, arrows, pointers, multiple and combined logos and unusual type faces and lettering as well as attention-getting headlines and photographs and other graphics may be used, provided such material is not misleading.]

[(ii) The use of recommendations or of past or projected performance figures, including annualized rates of return, is not permitted in any advertisement pertaining to options.]

[(C) Educational material, including advertisements, pertaining to options may be used if the material meets the requirements of SEC Rule 134A under the Securities Act of 1933. Those requirements are as follows:]

[(i) The potential risks related to options trading generally and to each strategy addressed are explained;]

[(ii) No past or projected performance figures, including annualized rates of return are used;]

[(iii) No recommendation to purchase or sell any option contract is made;]

[(iv) No specific security is identified other than:]

[a. a security which is exempt from registration under the Act, or an option on such exempt security;]

[b. an index option, including the component securities of the index; or]

[c. a foreign currency option; and]

[(v) The material contains the name and address of a person or persons from whom the appropriate current Options Disclosure Document(s), as defined in SEC Rule 9b–1 of the Act, may be obtained.]

[(D) Sales literature pertaining to options shall conform to the following standards:]

[(i) Sales literature shall state that supporting documentation for any claims (including any claims made on behalf of options programs or the options expertise of sales persons), comparisons, recommendations, statistics or other technical data will be supplied upon request.]

[(ii) Such communications may contain projected performance figures (including projected annualized rates of return), provided that:]

(3) Projections

Options communications may contain projected performance figures (including projected annualized rates of return) provided that:

(A) all such communications regarding standardized options are accompanied or preceded by the options disclosure document;

(B)[a.] no suggestion of certainty of future performance is made;

(C)[b.] parameters relating to such performance figures are clearly established (e.g., to indicate exercise price of option, purchase price of the underlying stock and its market price, option premium, anticipated dividends, etc.);

(D)[c.] all relevant costs, including commissions, *fees*, and interest charges ([if] *as* applicable [with regard to margin

transactions]) are disclosed *and reflected in the projections*;

(E)[d.] such projections are plausible and are intended as a source of reference or a comparative device to be used in the development of a recommendation;

(F)[e.] all material assumptions made in such calculations are clearly identified (*e.g.*, ''assume option expires,'' ''assume option unexercised,'' ''assume option exercised,'' etc.);

(G)[f.] the risks involved in the proposed transactions are also disclosed; and

(H)[g.] in communications relating to annualized rates of return, that such returns are not based upon any less than a sixty-day experience; any formulas used in making calculations are clearly displayed; and a statement is included to the effect that the annualized returns cited might be achieved only if the parameters described can be duplicated and that there is no certainty of doing so.

(4) Historical Performance

[(iii) Such] *Options* communications may feature records and statistics that portray the performance of past recommendations or of actual transactions, provided that:

(A) all such communications regarding standardized options are accompanied or preceded by the options disclosure document;

(B)[a.] any such portrayal is done in a balanced manner, and consists of records or statistics that are confined to a specific ''universe'' that can be fully isolated and circumscribed and that covers at least the most recent 12-month period;

(C)[b.] such communications include the date of each initial recommendation or transaction, the price of each such recommendation or transaction as of such date, and the date and price of each recommendation or transaction at the end of the period or when liquidation was suggested or effected, whichever was earlier; provided that if the communications are limited to summarized or averaged records or statistics, in lieu of the complete record there may be included the number of items recommended or transacted, the number that advanced and the number that declined, together with an offer to provide the complete record upon request;

(D)[c.] [such communications disclose]all relevant costs, including commissions, [and interest charges (if applicable with regard to margin transactions) and,] *fees, and daily margin obligations (as applicable) are disclosed and reflected in the performance;*

(E) whenever *such communications contain* annualized rates of return [are used], all material assumptions used in the process of annualization *are disclosed*;

(F)[d.] an indication is provided of the general market conditions during the period(s) covered, and any comparison made between such records and statistics and the overall market (*e.g.*, comparison to an index) is valid;

(G)[e.] such communications state that the results presented should not and cannot be viewed as an indicator of future performance; and

(H)[f.] a Registered Options *and Security Futures* Principal determines that the records or statistics fairly present the status of the recommendations or transactions reported upon and so initials the report.

(5) Options Programs

[(iv) In the case of]*In communications regarding* an options program (*i.e.*, an investment plan employing the systematic use of one or more options strategies), the cumulative history or unproven nature of the program and its underlying assumptions shall be disclosed.

[(v) Standard forms of options worksheets utilized by member organizations, in addition to complying with the requirements applicable to sales literature, must be uniform within a member organization.]

[(vi) If a member organization has adopted a standard form of worksheet for a particular options strategy, nonstandard worksheets for that strategy may not be used.]

[(vii) Communications that portray performance of past recommendations or actual transactions and completed worksheets shall be kept at a place easily accessible to the sales office for the accounts or customers involved.]

(6) Violation of Other Rules

Any violation by a member or associated person of any rule or requirement of the SEC or any rule of the Securities Investor Protection Corporation applicable to member communications concerning options will be deemed a violation of this Rule 2220.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

FINRA and other SROs have sought to modernize their rules concerning options communications with the public. One of the goals of this rule modernization is to make the rules on options communications consistent with the general rules on communications with the public. To this end, FINRA proposes to: (1) Use, to the extent appropriate, the same terminology and definitions as in its general communications rules; (2) make the requirements for principal review of correspondence concerning options the same as for correspondence generally; and (3) update the standards on the content of communications that precede the delivery of the options disclosure document (''ODD''). A discussion of the specific changes is provided below.

NASD Rule 2220(a) Definitions

The proposed rule change would amend the definitions in NASD Rule 2220(a) to adopt (and classify collectively as ''options communications'') definitions of ''advertisement,'' ''sales literature,'' ''independently prepared reprint,'' ''correspondence,'' ''institutional sales material,'' and ''public appearance'' [3] that are consistent with those terms as they are defined in FINRA's general advertising rules—NASD Rule 2210 (Communications with the Public) and NASD Rule 2211 (Institutional Sales Material and Correspondence).[4] With respect to the definition of ''sales literature,'' the proposed rule change also would make clear that worksheet templates, which are commonly used in the marketing of options, are included within the definition of sales literature.[5]

[3] Options communications that qualify as public appearances (*e.g.*, seminars, radio, forums) may also qualify as other forms of options communications (*e.g.*, advertisements, sales literature). For example, the writing of a print media article would generally qualify as both an advertisement and a public appearance. Seminar scripts, handouts, slides, or other visual presentations would also generally be deemed to be sales literature.

[4] *See* NASD Rule 2210(a)(1), (2), (5) & (6)(A); NASD Rule 2211(a)(1), and (2).

[5] The definition of ''sales literature'' in NASD Rule 2210(a)(2) includes many examples but does not include worksheets. In view of that fact that other SROs' definitions of ''sales literature'' include

Continued

The proposed rule change also would adopt the definition of ''existing retail customer'' set forth in NASD Rule 2211.[6]

In addition, the proposed rule change would eliminate NASD Rule 2220's current definition of ''educational material,'' which is a term unique to options communications. Communications that would previously have been considered ''educational material'' would now be classified as either ''advertisements'' or ''sales literature.'' This approach also would allow FINRA members to continue to create educational material concerning options, while at the same time providing members with greater flexibility in designing such materials.

The proposed rule change would also adopt the definition of ''options'' as defined in NASD Rule 2860(a) (Options), FINRA's general rule governing members' conduct when engaging in options activity. NASD Rule 2220 currently does not have a definition for the term ''options.'' Adopting NASD Rule 2860's definition of that term would not only clarify the meaning of ''options'' as it is used in NASD Rule 2220, it would also promote consistency between the two rules.

Additionally, the proposed rule change would define the term ''standardized option'' for purposes of NASD Rule 2220 to mean any option contract issued, or subject to issuance, by The Options Clearing Corporation (''OCC''), that has standardized terms for the strike price, expiration date, and amount of the underlying security, and is traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (''the Act''). FINRA is proposing this definition to help members understand the meaning of this term as it is used in proposed NASD Rule 2220(d)(1), which details the standards applicable to communications regarding standardized options exempted under SEC Rule 238 under the Securities Act of 1933 (''Securities Act'') that are used prior to delivery of the ODD, and to communications regarding options not exempted under SEC Rule 238 that are used prior to delivery of a prospectus that meets the requirements of Section 10(a) of the Securities Act.

Finally, the proposed rule change would define ''options disclosure document'' as having the same meaning as the definition of the term ''disclosure document'' defined in NASD Rule 2860.[7] FINRA believes that having a specific definition of ''options disclosure document'' would assist members in correctly understanding and applying the proposed rule changes.

NASD Rule 2220(b) Approval by Registered Options and Security Futures Principal and Recordkeeping

The proposed rule change would remove the outdated term ''educational material'' in the requirement in NASD Rule 2220(b) to have an options principal approve prior to use certain options communications and would add ''independently prepared reprints'' to the types of options communications that require pre-use approval by an options principal. The proposed rule change would also exclude ''completed worksheets'' from those materials requiring approval of an options principal. Because the definition of ''sales literature'' includes ''worksheet templates'' this exclusion would clarify that only the templates, and not each subsequent worksheet with data, is required to be approved by an options principal.

In addition, the proposed rule change would include new requirements for principal review of correspondence in NASD Rule 2220(b) that are consistent with recently amended correspondence principal approval requirements in NASD Rule 2211.[8] As noted previously, because Rule NASD 2220 currently does not have a definition of correspondence, the proposed rule change would incorporate NASD Rule 2211's definition of ''correspondence,'' which classifies correspondence as any written letter or electronic mail message distributed by a member to one or more of its existing retail customers and to fewer than 25 prospective retail customers within any 30 calendar-day period.[9] Pursuant to the proposed rule change, correspondence would not need to be approved by a Registered Options and Security Futures Principal prior to use, unless such correspondence is distributed to 25 or more existing retail customers within any 30 calendar-day period and makes any financial or investment recommendation or otherwise promotes a product or service of the member. Also consistent with NASD Rule 2210, any written letters, emails, or instant messages to 25 or more prospective retail customers within any 30 calendar-day period would be deemed sales literature, which would have to be approved prior to use by a Registered Options and Security Futures Principal.[10] Finally, as with NASD Rule 2210, the proposed rule change would make clear that all correspondence concerning options is subject to NASD Rule 3010(d)'s supervision and review requirements.

The proposed rule change would also include new requirements for principal review of institutional sales material in NASD Rule 2220(b)(3) that are consistent with the principal review requirements for general institutional sales material in NASD Rule 2211. As noted previously, because NASD Rule 2220 does not have a definition of institutional sales material, the proposed rule change would incorporate NASD Rule 2211's definition of ''institutional sales material,'' which classifies institutional sales material as any communication that is distributed or made available only to institutional customers.[11] Pursuant to the proposed rule change, each member would be required to establish written procedures that are appropriate for its business size, structure, and customers for the review by a Registered Options and Security Futures Principal of institutional sales material used by the member and its registered representatives as described in NASD Rule 2211(b)(1)(B).[12]

The proposed rule change also would require that a member retain copies of the options communications in accordance with SEC Rule 17a–4. Additionally, a member would be required to retain the names of the persons who prepared the communications and the source of any recommendations contained in the communications and keep them in the form and for the time period required for options communications required in SEC Rule 17a–4.

''worksheets,'' FINRA has expressly included ''worksheet templates'' in the definition of sales literature in proposed Rule 2220(a)(1)(B) to ensure consistency and avoid any ambiguity.

[6] *See* Rule NASD 2211(a)(4).

[7] *See* NASD Rule 2860(b)(2)(T).

[8] *See* Exchange Act Rel. No. 54217 (July 26, 2006), 71 F.R. 43831 (August 2, 2006) (SR–NASD–2006–011).

[9] Previously, such material would have been examined to determine whether it should be considered an advertisement, sales literature, or educational material.

[10] *See NASD Notice to Members 06–45* (August 2006). FINRA anticipates that other SROs will adopt similar standards to FINRA.

[11] Previously, such material would have been examined to determine whether it should be considered an advertisement, sales literature or educational material.

[12] NASD Rule 2211(b)(1)(B) requires such procedures to be in writing and be designed to reasonably supervise each registered representative. Where such procedures do not require review of all institutional sales material prior to use or distribution, they must include provision for the education and training of associated persons as to the firm's procedures governing institutional sales material, documentation of such education and training, and surveillance and follow-up to ensure that such procedures are implemented and adhered to. Evidence that these supervisory procedures have been implemented and carried out must be maintained and made available to FINRA upon request.

NASD Rule 2220(c) FINRA Approval Requirements and Review Procedures

Currently, NASD Rule 2220(c)(1) requires members to submit all options advertisements and educational material to FINRA's Advertising Regulation Department (the ''Department'') for approval at least ten days prior to use (or such shorter period as FINRA may allow) but does not require members to submit sales literature. The effect has been that widely disseminated communications (*i.e.*, advertisements and educational material) used prior to delivery of the ODD are filed for approval while more targeted communications (*i.e.*, sales literature, as previously defined) that must be preceded or accompanied by the ODD are exempted from filing. FINRA intends to follow a similar approach in the proposed rule change. Communications concerning standardized options that are likely to be widely disseminated such as advertisements, sales literature (as newly defined), and independently prepared reprints would be subject to filing under the proposed rule change. In contrast, more targeted communications—generally correspondence—that will be used once the applicable ODD or prospectus has been delivered would continue to be exempt from the filing requirements. In addition, as discussed below, communications used prior to the delivery of the ODD or prospectus would be subject to the more stringent content standards in subparagraph (d)(1). The proposed rule change would also modify existing rule text to clarify that the filing must occur at least ten calendar days prior to use (or such shorter period as the Department may allow in particular instances).

The proposed rule change would delete NASD Rule 2220(c)(5), which prohibits the distribution of any written material, except as described in subparagraphs (d)(2)(B) and (C), respecting options to any person who had not previously or contemporaneously received one or more current options disclosure documents. This requirement would be subsumed into proposed NASD Rule 2220(d)(1) which would establish the standards for communications that may be used prior to delivery of the options disclosure document or prospectus.

NASD Rule 2220(d) Standards Applicable to Communications

The proposed rule change would make several amendments to the standards applicable to options communications contained in NASD Rule 2220(d). First, new NASD Rule 2220(d)(1) would clarify and update the standards limiting the content of communications regarding standardized options, as that term is defined and discussed earlier in the proposed rule change. Specifically, proposed new NASD Rule 2220(d)(1)(A) would provide that communications regarding standardized options exempted under SEC Rule 238 under the Securities Act that are used prior to delivery of the ODD must be limited to general descriptions of the options being discussed. This could include a brief description of options, including a statement that identifies registered clearing agencies for options and a brief description of the general attributes and method of operation of the exchanges on which such options are traded, including a discussion of how an option is priced. Additionally, such options communications would be required to include contact information for obtaining a copy of the ODD, but could not contain recommendations or past or projected performance figures, including annualized rates of return, or names of specific securities. These options communications could also include any statement required by any state law and administrative authority as well as any advertising designs and devices, provided such material is not misleading.

Second, proposed new NASD Rule 2220(d)(1)(B) would provide that options communications regarding options not exempted under SEC Rule 238 that are used prior to delivery of a prospectus that meets the requirements of the Securities Act Section 10(a) must conform to SEC Rule 134 or 134a under the Securities Act, as applicable.

Third, the proposed rule change would broaden NASD Rule 2220(d)(2), which prohibits hedge clauses or disclaimers that are not legible, attempt to disclaim responsibility, or are otherwise inconsistent, by deleting references to disclaimers and the outdated term ''hedge clauses'' and instead generally prohibiting the use of illegible, misleading, or inconsistent cautionary statements or caveats.

Fourth, the proposed rule change would require all options communications, with the exception of institutional sales material, to include a statement that supporting documentation for any claims (including any claims made on behalf of options programs or the options expertise of sales persons), comparison, recommendations, statistics, or other technical data, will be supplied upon request. Currently, NASD Rule 2220(d)(2)(D) only requires sales literature to include this statement.

Fifth, the proposed rule change would except institutional sales materials from being required to include the existing required disclosure that options are not suitable for all investors. This disclaimer appears unnecessary in institutional sales material because, for purposes of this provision, institutions are viewed to be sufficiently sophisticated to be aware that options are not suitable for all investors.

Sixth, proposed changes to NASD Rules 2220(d)(3) and (d)(4) would permit projected and historical performance figures in any options communications. Currently, only communications defined as sales literature may contain this information.[13] The proposed rule change also would require all such communications regarding standardized options to be preceded or accompanied by the ODD. In addition, all relevant costs would be required to be disclosed and reflected in the projections.

Seventh, the proposed rule change would amend Rule NASD 2220(d)(6) to provide that any violation by a member or associated person of any rule or requirement of the SEC or any rule of the Securities Investor Protection Corporation applicable to member communications regarding options will be deemed a violation of NASD Rule 2220. This approach is consistent with NASD Rule 2210.[14]

General Technical Amendments to NASD Rule 2220

The proposed rule change also would delete and update outdated rule language identified by the Options Self Regulatory Council and the subcommittee assigned to update the SROs' options communications rules. In particular, the proposed rule change would replace references throughout NASD Rule 2220 to ''material'' with the term ''communications.'' The proposed rule change would also replace references to ''Registered Options Principal'' with ''Registered Options and Security Futures Principal.''

FINRA believes that the proposed rule change will better address the needs for regulating current options communications practices and promote consistency across SROs. After these proposed changes are filed with the SEC, FINRA and other SROs will begin work on updating the Guidelines for Options Communications.[15]

[13] *See* Rule NASD 2220(d)(2)(D)(ii).

[14] *See* Rule 2210(e).

[15] The Guidelines for Options Communications is an industry-wide publication prepared by FINRA

Continued

As noted in Item 2 of this filing, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be 90 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[16] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change promotes just and equitable principles of trade and protects investors and the public interest by providing the investing public with options communications rules that are designed to provide appropriate safeguards and greater clarity by promoting harmonization between FINRA's and other SROs' options communications rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2008–013 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–FINRA–2008–013. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2008–013 and should be submitted on or before May 23, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–9631 Filed 5–1–08; 8:45 am]

BILLING CODE 8010–01–P

and the options exchanges. The Guidelines explain the SROs' options communications rules and interpretations, address frequently asked questions and common problems, and provide a framework for informative and effective communications with the public.

[16] 15 U.S.C. 78o–3(b)(6).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57730; File No. SR–NYSE–2008–31]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Reduce Its Routing Fee for Floor Brokers

April 28, 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 April 22, 2008, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''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 it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reduce the routing fee charged to floor brokers from $0.0030 per share to $0.0029 per share. While the change to the Exchange's 2008 Price List pursuant to this proposal will be effective upon filing, the fee change will be implemented on May 1, 2008. The text of the proposed rule change is available at *http://www.nyse.com*, the Exchange, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE included statements concerning

[1] 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).

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. NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to reduce the fee charged to floor brokers in connection with the routing of their orders to other markets from $0.0030 per share to $0.0029 per share. The routing fee charged to all other market participants will remain at $0.0030 per share.[5] While the change to the Exchange's 2008 Price List pursuant to this proposal will be effective upon filing, the change will become operative on May 1, 2008.

The Exchange believes that it is justified in charging a slightly lower routing fee to floor brokers because of their importance to the continuation of the floor as an integral part of the Exchange's market model, which integrates the auction market with automated trading. Essential to this model is the interaction between the specialists, floor brokers and orders in the Display Book system, which creates opportunities for price improvement, provides information about changing market conditions and serves as a catalyst to trading. The Exchange believes that this decrease in the routing fee will assist floor brokers in remaining competitive.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act[6] in general, and furthers the objectives of Section 6(b)(4) of the Act[7] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes that the proposed reduction in the routing fee for floor brokers represents an equitable allocation of reasonable dues, fees, and other charges because floor brokers are integral to the Exchange's market model and the proposed fee reduction will assist floor brokers in remaining competitive.

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 purpose of the Exchange 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

The foregoing proposed rule change is filed pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and subparagraph (f)(2) of Rule 19b–4 thereunder[9] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by a self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. 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–NYSE–2008–31 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–2008–31. 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 NYSE. 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–2008–31 and should be submitted on or before May 23, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–9693 Filed 5–1–08; 8:45 am]

BILLING CODE 8010–01–P

[5] The Exchange represents that: (i) these routing fees are charged only to Exchange member organizations; and (ii) customers have the ability to submit an order that can only be executed at the Exchange itself and may not be routed to other markets, and therefore the possibility that an order would be routed is within the customer's control. *See* e-mail from John Carey, Assistant General Counsel, Exchange, to Nathan Saunders, Special Counsel, Division of Trading and Markets, Commission, dated April 28, 2008.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11206 and #11207]

Arkansas Disaster Number AR–00018

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–1751–DR), dated 03/28/2008.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 03/18/2008 and continuing.

Effective Date: 04/21/2008.

Physical Loan Application Deadline Date: 05/27/2008.

EIDL Loan Application Deadline Date: 12/29/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Arkansas, dated 03/28/2008 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: Conway, Garland, Hot Spring, Newton, Washington.

Contiguous Counties:

Arkansas: Clark, Dallas.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–9629 Filed 5–1–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11206 and #11207]

Arkansas Disaster Number AR–00018

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 4.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–1751–DR), dated 03/28/2008.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 03/18/2008 and continuing.

Effective Date: 04/23/2008.

Physical Loan Application Deadline Date: 05/27/2008.

EIDL Loan Application Deadline Date: 12/29/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: M. Mitravich, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Arkansas, dated 03/28/2008 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties:

Cleburne, Crawford, Jefferson, Lee, Miller, Phillips, Saint Francis, Searcy, Sebastian, White, Yell.

Contiguous Counties:

Arkansas: Cleveland, Desha, Hempstead, Lafayette, Lincoln, Little River.

Louisiana: Bossier, Caddo.

Mississippi: Bolivar, Coahoma, Tunica.

Oklahoma: Sequoyah.

Texas: Bowie, Cass.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–9633 Filed 5–1–08; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes new information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the Agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and how to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail, or fax your comments and recommendations on the information collection(s) to the SSA Reports Clearance Officer to the addresses or fax numbers listed below.

(SSA), Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400, E-mail address: *OPLM.RCO@ssa.gov.*

The information collections listed below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. Therefore, submit your comments to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

1. Ticket to Work and Self-Sufficiency Program—20 CFR 411—0960–0644

The Ticket to Work and Self-Sufficiency Program allows individuals with disabilities who are receiving Social Security Disability Insurance benefits and Supplemental Security Income (SSI) payments to work toward decreased dependence on government cash benefits programs without jeopardizing their benefits during the transition period to employment. Disability payment recipients choose a service provider who will guide them in obtaining, regaining, and maintaining self-supporting employment. *20 CFR 411.140–.730* of the *Code of Federal Regulations* discusses the regulations governing this program. We show the multiple categories of information collection requirements in these regulations in the chart below. The respondents are individuals entitled to Social Security benefits based on disability or individuals receiving SSI; program managers (PMs); employee network (EN) contractors; and State vocational rehabilitation agencies (SVRA).

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 121,981.

Total Estimated Annual Burden: 46,553 hours.

Sections	Section titles	Annual number of responses	Frequency of response	Average burden of response (minutes)	Estimated annual burden (hours)
411.140(d)(3), 411.150(b)(3), 411.325(a)	EN submission of Individual Work Plans for Non-State EN Tickets to PM.	3,983	1	240	15,932
SSA–1365: 411.140(d)(3), 411.385(a) 411.390.	State VR Agency Ticket Assignments/ Reassignments.	25,174	1	3	1,259
411.170(b), 411.385(a), 411.390	Electronic Data Sharing for State VR Agency's Tickets Under Cost Reimbursement.	35,584	1	5	2,965
411.145, 411.325	Ticket Holder or Service Provider Request for Ticket Unassignments.	2,532	1	15	633
411.535(a)(1) (iii)	Notifying Program Manager of State VR Case Closures.	8,505	1	5	709
411.192(b)&(c)	Tracking Progress—Ticket Holder's Request to Place Ticket in Inactive Status.	1,000	1	30	500
411.200(b): SSA–1375; Paper Version (Beneficiaries).	Tracking Progress—Request for Ticket Holder Certification of Work and Educational Progress (Individuals).	13,500	1	15	3,375
411.200(b): SSA–1375; Internet Version (State ENs).	Tracking Progress—Request for Certification of Work and Educational Progress (State ENs).	13,500	1	8	1,800
411.210(b)	Ticket Holder Request to Reenter Ticket-Use Status after Not Making Timely Progress.	3,145	1	30	1,573
411.365, 411.505, 411.515	Selecting a Payment Plan—ENs & State VRs functioning as ENs.	118	1	30	59
411.325(d), 411.415	EN Reporting Referral Agreement Activity	48	1	480	384
411.575	Requesting EN Payments on Milestones and Outcomes.	12,420	1	60	12,420
411.325(f)	EN Periodic Outcomes Reporting	2,470	1	120	4,940
411.435, 411.615, 411.625	EN and State VR Request for Dispute Resolutions.	2	1	120	4
Totals		121,981			46,553

2. Youth Transition Process Demonstration Evaluation Data Collection—0960–0687

Background

The purpose of the Youth Transition Demonstration (YTD) project is to help young people with disabilities make the transition from school to work. While participating in the project, youth can continue to work and/or continue their education because SSA waives certain disability program rules and offers services to youth who are receiving disability benefits or have a high probability of receiving them. We will fully implement YTD projects in 10 sites across the country. The evaluation will produce empirical evidence on the effects of the waivers and project services including educational attainment, employment, earnings, and receipt of benefits by youth with disabilities but also on the Social Security Trust Fund and federal income tax revenues. This type of project is authorized by Sections 1110 and 234 of the Social Security Act.

Project Description

Given the importance of estimating YTD effects as accurately as possible, we will evaluate the project using rigorous analytic methods based on randomly assigning youth to a treatment or control group. We will conduct several data collections.

These include (1) baseline interviews with youth and their parents or guardians prior to random assignment; (2) followup interviews at 12 and 36 months after random assignment; (3) interviews and/or roundtable discussions with local program administrators, program supervisors, and service delivery staff; and (4) focus groups of youths, their parents, and service providers. The respondents are youths with disabilities enrolled in the project; their parents or guardians; program staff; and service providers.

Type of Request: Revision of an existing OMB Clearance.

Data collection year	Collection	Number of respondents	Responses per respondent	Average burden per response (hours)	Total response burden (hours)
2008	Baseline	2,531	1	0.55	1,392
	Informed Consent	2,531	1	.083	210
	12 month follow-up	1,502	1	0.83	1,247
	In-depth interviews	120	1	.42	50
	Focus groups	60	1	1.5	90
	Program staff/service provider	32	1	1	32
Total 2008					3,021

Dated: April 28, 2008.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E8–9700 Filed 5–1–08; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 6209]

Overseas Citizens Services Records

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State proposes to amend the Overseas Citizens Services Records pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 522a(r)), and Office of Management and Budget Circular No. A–130, Appendix I. The Department's report was filed with the Office of Management and Budget on 17 April 2007.

SUPPLEMENTARY INFORMATION:

It is proposed that the existing system will retain the name ''Overseas Citizens Services Records.'' It is also proposed that the altered system description will include revisions and/or additions to the Bureau of Consular Affairs responsibility to provide assistance to U.S. citizens overseas and reflect the Department's new role as designated Central Authority under the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption Convention and its implementing legislation, the Intercountry Adoption Act of 2000.

Any persons interested in commenting on this amendment of the Overseas Citizens Services Records may do so by submitting comments in writing to Margaret P. Grafeld, Director, Office of Information Programs and Services, A/ISS/IPS, U.S. Department of State, SA–2, Washington, DC 20522–8001. This amendment to the Overseas Citizens Services Records will be effective 40 days from the date of publication, unless comments are received that result in a contrary determination. The amendment will read as follows.

Dated: April 15, 2008.

Rajkumar Chellaraj,

Assistant Secretary for the Bureau of Administration, Department of State.

STATE–05

SYSTEM NAME:

Overseas Citizens Services Records.

SECURITY CLASSIFICATION:

Unclassified and Classified.

SYSTEM LOCATION:

Department of State, Overseas Citizens Services, 2100 Pennsylvania Avenue, NW., Washington, DC 20037 and overseas at U.S. embassies, U.S. consulates general and consulates. (A list of overseas posts is available from the Bureau of Consular Affairs, Room 4800, Department of State, Washington, DC 20520–4818.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals assisted by the Office of Overseas Citizens Services or by consular officers overseas, including persons, generally U.S. citizens, who:

(a) Seek to establish claims to U.S. citizenship or inquire concerning possible loss of U.S. citizenship;

(b) Apply for U.S. passports here and abroad or Consular Reports of Birth or Death Abroad;

(c) Register as U.S. citizens living or traveling abroad;

(d) Seek to be and/or are evacuated to the United States or a third country as a result of a civil disorder, natural disaster or similar emergency in an overseas locale;

(e) Initiate requests relating to another U.S. citizen's welfare and whereabouts or are themselves the subjects of such requests;

(f) Seek to receive and/or receive financial assistance or are repatriated;

(g) Seek to receive and/or receive emergency medical assistance;

(h) Are detained or arrested overseas;

(i) Seek to receive and/or receive notarial or authentication services or judicial assistance;

(j) Die overseas or are involved in the disposition of a decedent's personal estate;

(k) Have or assert an interest in property (real or personal) abroad;

(l) Are living overseas and claim or receive federal benefits;

(m) Have sought or received benefits by virtue of having been held hostage overseas or by virtue of their relationship with a person held hostage overseas;

(n) Vote in U.S. federal and/or state elections while overseas;

(o) Register with the U.S. Selective Service System while living overseas;

(p) Are American Seamen inquiring about seamen consular services;

(q) Are involved in an international child custody dispute, possible child abuse case, or child support enforcement proceeding;

(r) Seek to adopt and/or adopt a child from a foreign country;

(s) Participate in the intercountry adoption process;

(t) Are children who are eligible for intercountry adoption and/or are adopted, and either immigrate to or emigrate from the United States, whether or not such adoption is covered by the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, Treaty Doc. 105–51, signed May 29, 1993 (Hague Intercountry Adoption Convention) and its implementing legislation (Intercountry Adoption Act of 2000 (IAA), (42 U.S.C. 14901 *et seq.*)) and regulations;

(u) Seek to provide, have provided, and/or do provide intercountry adoption services, in connection with an adoption case whether or not such case is covered by the Hague Intercountry Adoption Convention and the IAA;

(v) Contribute to, or are a subject of, a complaint in the Complaint Registry created pursuant to 22 CFR 96.68 *et seq.*;

(w) Seek to receive and/or receive information or assistance regarding an alleged or possible international child abduction;

(x) Are or may be a victim of a crime abroad;

(y) Seek to receive and/or receive information or assistance regarding travel abroad;

(z) Seek to take and/or take temporary refugee abroad;

(aa) Seek assistance from embassies or consulates overseas or from Overseas Citizens Services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(a) 8 U.S.C. 1104 (Powers and Duties of the Secretary of State);

(b) 22 U.S.C. 3904 (Functions of the Foreign Service, including protection of U.S. citizens in foreign countries under the Vienna Convention on Consular Relations and assistance to other agencies);

(c) 22 U.S.C. 1731 (Protection of naturalized U.S. citizens in foreign countries);

(d) 22 U.S.C. 211a, 212, 213, 217a, 218 (Passport application and issuance);

(e) 22 U.S.C. 2705 (Preparation of Consular Reports of Birth Abroad);

(f) 8 U.S.C. 1501 (Adjudication of possible loss of nationality);

(g) 22 U.S.C. 2671(b)(2)(B) (Repatriation loan for destitute U.S. citizens abroad);

(h) 22 U.S.C. 2670(j) (Provision of emergency medical, dietary and other assistance);

(i) 22 U.S.C. 2151n–1 (Assistance to arrested citizens) (Repealed, but applicable to past records);

(j) 42 U.S.C. 1973ff–1973ff–6 (Overseas absentee voting);

(k) 42 U.S.C. 402 (Social Security benefits payments);

(l) Sec. 599C of Public Law 101–513, 104 Stat. 1979, as amended (Claims to benefits by virtue of hostage status);

(m) 50 U.S.C. App. 453, 454, Presidential Proclamation No. 4771, July 2, 1980 as amended by Presidential Proclamation 7275, February 22, 2000 (Selective Service registration);

(n) 22 U.S.C. 5501–5513 (Aviation disaster and security assistance abroad; mandatory availability of airline passengers manifest);

(o) 22 U.S.C. 4196; (22 U.S.C. 4195, repealed, but applicable to past records) (Official notification of death of U.S. citizens in foreign countries; transmission of inventory of effects);

(p) 22 U.S.C. 2715b (notification of next of kin of death of U.S. citizens in foreign countries);

(q) 22 U.S.C. 4197 (Assistance with disposition of estates of U.S. citizens upon death in a foreign country);

(r) 22 U.S.C. 4193, 4194; 22 U.S.C. 4205–4207; 46 U.S.C. 10318 (Merchant seamen protection and relief);

(s) 22 U.S.C. 4193 (Receiving protests or declarations of U.S. citizen passengers, merchants in foreign ports);

(t) 46 U.S.C. 10701–10705 (Responsibility for deceased seamen and their effects);

(u) 22 U.S.C. 2715a (Responsibility to inform victims and their families regarding crimes against U.S. citizens abroad);

(v) 22 U.S.C. 4215, 4221 (Administration of oaths, affidavits, and other notarial acts);

(w) 28 U.S.C. 1740, 1741 (Authentication of documents);

(x) 28 U.S.C. 1781–1783 (Judicial Assistance to U.S. and foreign courts and litigants);

(y) 42 U.S.C. 14901–14954; Intercountry Adoption Act of 2000, (Assistance with intercountry adoptions under the Hague Intercountry Adoption Convention, maintenance of related records);

(z) 42 U.S.C. 11601–11610, International Child Abduction Remedies Act (Assistance to applicants in the location and return of children wrongfully removed or retained or for securing effective exercise of rights of access);

(aa) 22 U.S.C. 4802 (overseas evacuations).

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for passports and registration as U.S. citizens*; Consular Reports of Birth Abroad*; Certificates of Loss of Nationality of the United States*; Reports of Death* and Reports of Presumed Death; emergency medical and dietary loan applications; repatriation loan applications; applications for benefits for hostages and their families; seamen services records; welfare and whereabouts records; records related to federal benefits claims, property claims, arrest cases, matters or inquiries (''cases''), estate cases, evacuation cases, prisoner transfer cases, refuge cases, victims of crime cases, exit ban cases, judicial assistance cases, international adoption cases (including those covered under the Hague Adoption Convention and the Intercountry Adoption Act of 2000), and child custody cases (including those covered by the Hague Abduction Convention and the International Child Abduction Remedies Act).

These records may also include completed ''Local American Citizens Skills/Resources Survey'' forms; registration cards; interview worksheets; case notes; fingerprint cards; documents of identity; passenger manifests; and various related forms not otherwise stated. These records may further include communications to and from U.S. embassies, U.S. consulates, and consular agencies; federal, state, and local government agencies; members of Congress; officials of foreign governments; U.S. and foreign courts; U.S. and foreign nongovernmental organizations, including disaster or emergency relief organizations such as the International Red Cross, Red Crescent and others; and the subject(s) of the records, their relatives, and other interested parties. Records marked with an asterisk (*) are maintained, stored, and preserved as Passport Records, STATE–26.

PURPOSE:

The information in the Overseas Citizens Services Records System is used primarily in the adjudication of claims relating to acquisition or loss of U.S. citizenship; the protection and assistance of individuals abroad including death cases, loan and destitution cases, welfare and whereabouts cases, prisoner (including prisoner transfer) cases; assistance to individuals involved in international adoption cases and in child custody cases; assistance to individuals involved in child support enforcement proceedings; oversight of accredited and approved adoption service providers and the designated accrediting entities of adoption service providers; and the resolution of property, estate, and benefits claims arising under the pertinent statutes.

ROUTINE USES FOR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The principal users of this information outside of the Department of State are: The Social Security Administration, Office of Personnel Management, Veterans' Administration, Railroad Retirement Board, Department of Labor, and Department of the Treasury in connection with administration of federal benefits to U.S. citizens abroad; Federal Aviation Administration and National Transportation Safety Board in connection with U.S. citizens traveling abroad and aviation accidents; Department of Commerce, U.S. Maritime Administration and U.S. Coast Guard in connection with international commerce, shipping and seamen; Department of Health and Human Services, U.S. Public Health Service, and Centers for Disease Control in connection with international travel and health issues and repatriation of U.S. citizens abroad; Department of Justice and the Drug Enforcement Administration in connection with the arrest or detention of U.S. citizens overseas and prisoner transfer agreements; Foreign Claims Settlement Commission in connection with the adjudication of claims of U.S. citizens against foreign governments; Selective Service in connection with Armed Services registration requirements of U.S. citizens; Department of Defense, Department of Homeland Security, Department of Justice, and the Secret Service in connection with coordinating evacuations abroad and processing of immigration and naturalization matters; Department of Homeland Security in connection with intercountry adoptions; Internal Revenue Service for the current addresses of specifically identified taxpayers in connection with pending actions to collect taxes accrued, examinations, and/or other related tax activities and for the names and current location of taxpayers who are held hostage abroad in terrorist and non-terrorist related incidents; federal and state courts in connection with judicial and related matters; foreign and domestic airlines in connection with assisting U.S. citizens in emergency situations, including aviation disasters; funeral homes in connection with the death abroad of U.S. citizens; members of Congress when the information is requested on behalf of the individual to whom access is authorized under this notice; shipping companies when the information is maintained pursuant to the Department's responsibilities under Titles 22 and 46 of the U.S. Code; immediate family when the information

is for the benefit of the subject; private U.S. citizen ''wardens'' designated by U.S. embassies and U.S. consulates general and consulates to serve as channels of communication with other Americans in the local community, primarily in evacuations and other emergency situations; foreign-based organizations of private U.S. citizens to assist U.S. citizens in evacuations and other emergency situations; foreign and U.S. nongovernmental organizations, including disaster or emergency relief organizations such as the International Red Cross, Red Crescent and others, to the media and relevant Web sites that maintain lists of U.S. citizens who are known to be found safe from and/or are reported missing as a result of a natural or other disaster, including political upheaval, abroad; foreign governments, embassies and consulates when the request for information is made pursuant to customary international practice; attorneys when the individual to whom the information pertains is the client of the attorney making the request, or when the attorney is acting on behalf of some other individual to whom access is authorized under these rules; private citizens whenever the individual to whom the information pertains has authorized the Department in writing to release that information; State governments, including state law enforcement agencies, state prosecutors, judicial staff, departments of human services and licensing authorities, in connection with adoptions, law enforcement, and health, safety, welfare and related matters, including child abduction cases, custody disputes and notification of next of kin; individuals and entities identified by state governments to assist in intercountry adoption and abduction cases, including adoption service providers, Bar Associations and legal aid services; local police and social service agencies in connection with law enforcement and health, safety and welfare and related matters, including child abduction cases, custody disputes, cases of runaways and abandoned or neglected children, and notification of next of kin; INTERPOL and other law enforcement agencies in connection with law enforcement issues and health, safety and welfare and related matters, including child adoption and abduction cases, custody disputes and notification of next of kin; National Center for Missing and Exploited Children in connection with child abduction cases; central and public authorities of, and bodies duly accredited in, member and nonmember countries of the Hague International Child Abduction Convention in connection with specific child abduction cases and systemic issues; central and public authorities of, and bodies duly accredited in, member and nonmember countries of the Hague Intercountry Adoption Convention in connection with intercountry adoptions, both specific cases and systemic issues; organizations designated by the Department of State as Accrediting Entities in accordance with the IAA in connection with accreditation or approval of adoption service providers; adoption service providers in connection with the health, safety and welfare of participants in intercountry adoptions, diplomatic inquiries regarding compliance with the Hague Intercountry Adoption Convention and Complaint Registry related matters; and biological and adoptive parents, guardians, and children involved in intercountry adoption and abduction cases.

This information may also be released on a need-to-know basis to other government agencies having statutory or other lawful authority to maintain such information. Information is made available to routine users only for an established routine use.

The routine uses for Passport Records, STATE–26, apply to applications for passports and registration as U.S. citizens, Consular Reports of Birth Abroad, Certificates of Loss of Nationality of the United States, Reports of Death, and related documentation.

Also see the Department of State Prefatory Statement of Routine Uses published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media, hard copy.

RETRIEVABILITY:

By individual name, birth date, or passport number, or other personal identifier if available.

SAFEGUARDS:

All Department of State employees and contractors with authorized access, have undergone a thorough personnel security background investigation. All users are given information system security awareness training, including the procedures for handling Sensitive But Unclassified (SBU) and personally identifiable information, before being allowed to access the Department of State SBU network. Annual refresher training is mandatory. Before being granted access to the system of records, a user must first be granted access to SBU network. Access is only granted to users with Diplomatic Security-approved clearances. Users must sign a Password Receipt Controls Form.

Access to the Department of State building and the annexes is controlled by security guards, and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured filing cabinets or in restricted areas, access to which is limited to authorized personnel. Access to electronic files is password-protected and under the direct supervision of the system manager. When a user is added to a particular database role, his/her access is limited to only the data set and functions necessary.

For authentication, the system of records requires passwords that are known only to the users. The password policy used is mandated by 12 FAM. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

The system of records structures access privileges to reflect the separation of key duties that end-users perform within the functions the application supports. Access privileges are consistent with the need-to-know, separation of duties, and supervisory requirements established for manual processes.

When it is determined that a user no longer needs access, the user account will be disabled.

Data transmitted to and from post to domestic systems are protected by the bulk encryption hardware components inherent within SBU network that encrypt the data from posts to the Consular Consolidated Database.

Automated vulnerability scanning of the system of records is conducted overseas and domestically to ensure that the servers and workstations that process, store or transact records are ''locked-down.''

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be destroyed or retired in accordance with published record disposition schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director, Office of Information Programs and Services, A/IPS/IPS, SA–2, Department of State, Washington, DC 20522–8001.

SYSTEM MANAGER AND ADDRESS:

Deputy Assistant Secretary for Overseas Citizens Services; Room 4800, Department of State, 2201 C Street, NW., Washington, DC 20520–4818. At overseas locations, the onsite system manager is the Chief of the Consular Section or another State Department employee with responsibility for consular services as provided by the post in question.

RECORD ACCESS AND AMENDMENT PROCEDURES:

Individuals seeking to determine whether the Office of Overseas Citizens Services has records pertaining to them should write to the Director, Office of Information Programs and Services, A/ISS/IPS, SA–2, Department of State, Washington, DC 20522–8001. The individual must specify that he or she wishes the records of the Overseas Citizens Services to be checked and request notification of whether the system of Overseas Citizens Services records contains a record pertaining to him or her. At a minimum, the individual should include: Name; date and place of birth; current mailing address and zip code; signature; a brief description of the circumstances that caused the creation of the record (including the city and/or country and the approximate dates) which gives the individual cause to believe that Overseas Citizens Services has records pertaining to him or her. In accord with E.O. 9397, providing a Social Security number is optional, but may assist the Department in locating relevant records. [A request to search Overseas Citizens Services Records, STATE–05, will be treated also as a request to search Passport Records, STATE–26, when it pertains to passport, registration, citizenship, birth or death records transferred from STATE–05 to STATE–26.]

Individuals who wish to gain access to or to amend records pertaining to themselves should write to the Director, Office of Information Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information that is primarily obtained from the individual who is the subject of the records. Information may also be obtained from federal, state, and local government entities and nongovernmental authorities in accordance with a routine use.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accord with Department of State's rules published in the **Federal Register** (*see* 22 CFR 171.36), certain records contained within this system of records are exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f), when: Required to be kept secret in the interest of national defense and foreign policy; necessary to prevent individuals that are the subject of investigation from frustrating the investigatory process, to ensure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the confidence of foreign governments in the integrity of the procedures under which privileged or confidential information may be provided, and to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources and law enforcement personnel. Disclosure would impair the Department's effective performance in carrying out its lawful protective responsibilities under 18 U.S.C. 3056 and 22 U.S.C. 4802.

[FR Doc. E8–9737 Filed 5–1–08; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 6208]

Public Hearings on Proposed New Order of Approval and Plan 2007 for Lake Ontario and the St. Lawrence River

The International Joint Commission (the Commission) invites public comment on a proposed new Order of Approval and Plan 2007 for regulating the outflows from Lake Ontario through the international hydropower project between Cornwall, Ontario and Massena, New York. Regulation of Lake Ontario outflows affects water levels and flows on the Lake Ontario-St. Lawrence River system from Niagara Falls, New York and Ontario to Trois-Rivières, Quebec. Complete information on the Commission's proposal can be found at: *http://www.ijc.org.*

The Commission invites public comment on the proposed new Order and Plan 2007 at public hearings to be held in the following locations.

All Public Hearings will be held from 7 p.m.–9 p.m.

Port Jordan, ON,
Best Western,
2793 Beacon Blvd,
June 9, 2008.

Olcott, NY,
Olcott Fire Company,
1691 Lockport Olcott Road,
June 10, 2008.

Greece, NY,
Town of Greece Community and Senior Center,
Multi-purpose Room,
3 Vince Tofany Boulevard,
June 11, 2008.

Montreal, QC,
Botanical Garden,
4101 rue Sherbrooke Est,
June 17, 2008.

Sorel-Tracy, QC,
Auberge de la rive,
165 chemin Sainte-Anne,
June 18, 2008.

Massena, NY,
Quality Inn,
10 West Orvis Street,
June 19, 2008.

Belleville, ON,
Banquet Centre,
1 Alhambra Square,
June 23, 2008.

Kingston, ON,
City Hall,
216 Ontario St.,
June 24, 2008.

Alexandria Bay, NY,
Bonnie Castle Resort,
Home of the Stars Room,
31 Holland Street,
June 25, 2008.

Oswego, NY,
American Foundary,
246 West Seneca Street,
June 26, 2008.

The Commission also invites public comment in writing, including email and fax. Written comment must be received by July 11, 2008 at either of the following addresses:

U.S. Section Secretary, International Joint Commission, 2401 Pennsylvania Ave., NW., 4th Floor, Washington, DC 20440, Tel: (202) 736–9024, Fax: (202) 467–0746, *Commission@washington.ijc.org.*

Canadian Section Secretary, International Joint Commission, 234 Laurier Avenue West, 22nd Floor, Ottawa, ON K1P 6K6, Tel: (613) 995–0088, Fax: (613) 993–5583, *Commission@ottawa.ijc.org.*

Before making its final decision on this proposed new order and regulation plan, the Commission will carefully consider public comments and seek the concurrence of the two federal governments. The Commission's goal is to sign a new Order by December 2008 and implement a new plan shortly thereafter.

Written public comments will become part of a public record that may be posted on the Commission's Web site or otherwise made available to the public. The Commission requests that people who submit comments provide contact information so that the Commission can

inform them of the outcome of the process. To protect the privacy of any person submitting comment, the Commission will remove the following identifying information from the incoming communication before making the comment available to the public: e-mail address, street address, post office box, zip code, postal code, telephone number and fax number. The following identifying information will remain part of the record that is made available to the public: name, organizational affiliation, city, and state/province.

For more information, visit the Commission's Web site at: *http://www.ijc.org.*

Dated: April 28, 2008.

James G. Chandler,

Acting Secretary, U.S. Section, International Joint Commission, Department of State.

[FR Doc. E8–9701 Filed 5–1–08; 8:45 am]

BILLING CODE 4710–14–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Continent on Surplus Property Release at Mobile Downtown Airport, Mobile, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on land release request.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from the Mobile Airport Authority to waive the requirement that a 46.75-acre parcel of surplus property, located at the Mobile Downtown Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before June 2, 2008.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas Hughes, Airport Director at the following address: P.O. Box 88004, Mobile, Alabama 36608–0004.

FOR FURTHER INFORMATION CONTACT: William Schuller, Program Manager, Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, (601) 664–9883. The land release request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the Mobile Airport Authority to release 46.75 acres of surplus property at the Mobile Downtown Airport. The property will be exchanged within the Mobile Airport Authority for non-obligated land better suited for aeronautical purposes. The property will be held by the Mobile Airport Authority and sold in part or in whole to commercial or industrial users. The property is located along Mobile Bay and is separated from airside operations by existing, non-aeronautical development. The airport will realize equivalent fair market value in the exchange of this property.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the offices of the Mobile Airport Authority, Mobile, Alabama.

Issued in Jackson, Mississippi on April 1, 2008.

Rans D. Black,

Manager, Jackson Airports District Office, Southern Region.

[FR Doc. E8–9617 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for a Change in Use of Aeronautical Property at Portland International Jetport, Portland, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for Public Comments.

SUMMARY: The FAA is requesting public comment on the City of Portland, Maine's request to change a portion (1.16 acres) of Airport property from aeronautical use to non-aeronautical use. The property is located bordered by the Jetport Plaza Road, Western Avenue and the Jetport Plaza shopping mall. It is identified on the City of South Portland's Tax Map C–05 as Lot 44–16. Upon disposition a retail tire center will be constructed on the site. The property was acquired under FAAP Project No. 9–17–001508.

The disposition of proceeds from the disposal of airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

DATES: Comments must be received on or before June 2, 2008.

ADDRESSES: Documents are available for review by appointment by contacting Jeff Schultes, Airport Manager, Portland International Jetport, Telephone 207–772–0690 or by contacting Donna R. Witte, Federal Aviation Administration, 16 New England Executive Park, Burlington, Massachusetts, Telephone 781–238–7624.

FOR FURTHER INFORMATION CONTACT: Donna R. Witte at the Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone 781–238–7624.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21) requires the FAA to provide an opportunity for public notice and comment to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport property for aeronautical purposes.

Issued in Burlington, Massachusetts on April 14, 2008.

LaVerne F. Reid,

Manager, Airports Division, New England Region.

[FR Doc. E8–9619 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–29251]

Agency Information Collection Activities; Withdrawal of Notice for Emergency Approval of a New Information Collection: Commercial Vehicle Driver Survey: Truck Driver Hours of Service and Fatigue Management

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; withdrawal of notice for emergency information collection request.

SUMMARY: The FMCSA published a notice in the **Federal Register** on March 21, 2008 (73 FR 15253), requesting an emergency approval of a proposed new information collection that would be used to analyze the impact of the new Hours-of-Service regulations on drivers and the effects of these regulations on driver fatigue. The new information collection would also acquire general demographic information regarding the commercial motor vehicle driving population. The FMCSA has determined

that this information collection request will not be conducted at this time.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Carroll, Senior Transportation Specialist, MC–RRR, Federal Motor Carrier Safety Administration, 6th Floor, West Building, 1200 New Jersey Ave., SE., Washington, DC 20590. Telephone: (202) 385–2388. E-mail: *robert.carroll@dot.gov.*

Issued on: April 28, 2008.

Terry Shelton,

Associate Administrator for Research and Information Technology.

[FR Doc. E8–9690 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008–0040]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel RIGHT HOOK.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–0040 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before June 2, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–0040. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel RIGHT HOOK is:

Intended Use: ''Charter fishing.''

Geographic Region: ''South Florida.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 24, 2008.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E8–9678 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008 0039]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel DILL EMMA.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–0039 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before June 2, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–0039. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel DILL EMMA is:

Intended Use: ''Dive charter.''

Geographic Region: ''Great Lakes and connecting waters.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 24, 2008.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E8–9680 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008 0037]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel PRINCESS CHELSEA.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008 0037 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before June 2, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–0037. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel PRINCESS CHELSEA is:

Intended Use: ''Limited Charter—no more than 20% of any calendar year (73 days).''

Geographic Region: ''Coast of Florida USA and Bahamas—not to exceed 150 miles offshore.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 24, 2008.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E8–9686 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008 0038]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel FISHER OF MEN.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008 0038 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before June 2, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008 0038. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also

send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel FISHER OF MEN is:

Intended Use: ''Charter headboat fishing.''

Geographic Region: ''Coastal North & South Carolina up to 100 miles.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 23, 2008.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E8–9689 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–2008–0091]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections. This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before June 30, 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 AVE, 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 AVE, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jonathan Walker, Ph.D., Contracting Officer's Technical Representative, Office of Regulatory Analysis and Evaluation, National Highway Traffic Safety Administration, 1200 New Jersey AVE, SE., Room W53–463, Washington, DC 20590. Dr. Walker's phone number is 202–366–8571 and his e-mail address is *Jonathan.Walker@dot.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

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

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

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

2008 National Survey on Reported and Unreported Motor Vehicle Crashes

Type of Request—New information collection requirement.

OMB Clearance Number—None.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—August 30, 2009.

Summary of the Collection of Information—NHTSA proposes to conduct a National Survey on Reported and Unreported Motor Vehicle Crashes by telephone among a sample of 2,000 adults (age 16 and older) who were involved in a motor vehicle crash in the past twelve months. Participation by respondents would be voluntary. NHTSA's information needs require a telephone survey on a national probability sample of drivers in the United States that will allow national estimates of the annualized incidence and severity of unreported crashes in the United States to be made. The questionnaire focuses on the extent of any injuries and property damage which were a result of the crash the respondent was involved in. Standard demographics are asked at the end of the interview.

In conducting the proposed survey, the interviewers would use computer-assisted telephone interviewing to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers would be used to minimize language barriers to participation. The proposed survey would be anonymous and confidential.

Description of the Need for the information and Proposed Use of the Information—The National Highway Traffic Safety Administration (NHTSA) was established to reduce the mounting number of deaths, injuries and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs. In 1981, the National Highway Traffic Safety Administration (NHTSA) published the results of a telephone survey: NATIONAL ACCIDENT SAMPLING SYSTEM, NONREPORTED ACCIDENT

SURVEY. Because NASS (then called the National Accident Sampling System and now called the National Automotive Sampling System) samples only police-reported crashes, non-reported crashes are missed. Many of these are minor 'vehicle-damage-only' crashes that do not involve deaths or injuries. However, even these crashes add to the total cost of traffic crashes, not only in expensive vehicle repairs but also in damage to public and private roadside structures. In addition, even injury crashes may go unreported if police or emergency personnel are not aware of them. Occupants may self-medicate or go to their personal physician if the injuries are not life threatening. The costs of these treatments and accompanying absenteeism need to be added to the total cost of traffic crashes.

Any crash may go unreported if drivers are not aware of the reporting requirement or if they fear various consequences. Such consequences include increased insurance rates, prosecution for illegal acts during the crash (driving while intoxicated, driving without a license, et cetera) or for long-standing illegalities (outstanding warrants, illegal alien status). Individuals may avoid reporting crashes for other reasons, including not wanting to be bothered by the paperwork.

During the past 25 years, cars have become safer (at the expense to the vehicle) suggesting that the percentage of damage-only, unreported crashes has also increased. Also, the recent 100-Car Naturalistic Driving Study suggests that the ratio may be much higher. They found 15 reported crashes and 67 unreported crashes, a ratio of more than four to one. The ratio in the original telephone study was one to one.

NHTSA is seeking to improve the accuracy of its estimates of the total costs of motor vehicle crashes in the US. Accurate total crash cost data is necessary for NHTSA to determine the extent to which proposed regulations are cost effective. Congress also needs better data on the costs of crashes when it considers legislative remedies. The general public will also benefit from having better understanding of the full cost of crashes, as such information can be helpful when deciding whether to support initiatives such as Graduated Licensing or rules for improving crashworthiness.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—Under this proposed effort, the Contractor would conduct telephone interviews averaging approximately 15 minutes in length with 2,000 randomly selected members of the general public age 16 and older in telephone households who had been involved in a crash in the past twelve months. The respondent sample would be selected from all 50 States and the District of Columbia. Interviews would be conducted with persons at residential phone numbers selected through random digit dialing. Businesses are ineligible for the sample and would not be interviewed. No more than one respondent would be selected per household. Each member of the sample would complete one interview.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information—NHTSA estimates that 10% of the general population has been involved in a motor vehicle crash in the past year. In order to achieve a sample size of 2,000, a total of 20,000 individuals must be contacted and screened. The 18,000 individuals who are contacted, but have not been involved in a motor vehicle crash in the past twelve months, would require an average of 3 minutes to complete the screener questionnaire for a total of 900 hours. Each respondent in the final survey sample of 2,000 crash victims would require an average of 15 minutes to complete the telephone interview or a total of 500 hours. Thus, the number of estimated reporting burden hours a year on the general public would be 1,400 for the proposed survey (900 for the screener questionnaire, and 500 for the full survey administration). The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any recordkeeping burden or recordkeeping cost from the information collection.

Authority: 44 U.S.C. Section 3506(c)(2)(A).

James Simons,

Director, Office of Regulatory Analysis and Evaluation.

[FR Doc. E8–9648 Filed 5–1–08; 8:45 am]

BILLING CODE 4910–59–P

Federal Register

Friday,

May 2, 2008

Part II

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Parts 523, 531, 533, 534, 536 and 537

Average Fuel Economy Standards, Passenger Cars and Light Trucks; Model Years 2011–2015; Proposed Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 523, 531, 533, 534, 536 and 537

[Docket No. NHTSA–2008–0089]

RIN 2127–AK29

Average Fuel Economy Standards, Passenger Cars and Light Trucks; Model Years 2011–2015

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This document proposes substantial increases in the Corporate Average Fuel Economy (CAFE) standards for passenger cars and light trucks that would enhance energy security by improving fuel economy. Since the carbon dioxide (CO_2) emitted from the tailpipes of new motor vehicles is the natural by-product of the combustion of fuel, the increased standards would also address climate change by reducing tailpipe emissions of CO_2. Those emissions represent 97 percent of the total greenhouse gas emissions from motor vehicles. Implementation of the new standards would dramatically add to the billions of barrels of fuel already saved since the beginning of the CAFE program in 1975.

DATES: Comments must be received on or before July 1, 2008.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

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

Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket Management Facility at 202–366–9826.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Privacy Act: Please see the Privacy Act heading under Rulemaking Analyses and Notices.

FOR FURTHER INFORMATION CONTACT: For policy and technical issues: Ms. Julie Abraham or Mr. Peter Feather, Office of Rulemaking, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: Ms. Abraham (202) 366–1455; Mr. Feather (202) 366–0846.

For legal issues: Mr. Stephen Wood or Ms. Rebecca Schade, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366–2992.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive overview
A. Summary
B. Energy Independence and Security Act of 2007
C. Proposal
1. Standards
a. Stringency
b. Benefits
c. Costs
d. Flexibilities
2. Credits
II. Background
A. Contribution of fuel economy improvements to addressing energy independence and security and climate change
1. Relationship between fuel economy and CO_2 tailpipe emissions
2. Fuel economy improvements/CO_2 tailpipe emission reductions since 1975
B. Chronology of events since the National Academy of Sciences called for reforming and increasing CAFE standards
1. National Academy of Sciences CAFE report (February 2002)
a. Significantly increasing CAFE standards without reforming them would adversely affect safety
b. Environmental and other externalities justify increasing the CAFE standards
2. Final rule establishing reformed (attribute-based) CAFE standards for MY 2008–2011 light trucks (March 2006)
3. Twenty-in-Ten Initiative (January 2007)
4. Request for passenger car and light truck product plans (February 2007)
5. Supreme Court decision in *Massachusetts* v. *EPA* (April 2007)
6. Coordination between NHTSA and EPA on development of rulemaking proposals (Summer–Fall 2007)
7. Ninth Circuit decision re final rule for MY 2008–2011 light trucks (November 2007)
8. Enactment of Energy Independence and Security Act of 2007 (December 2007)
C. Energy Policy and Conservation Act, as amended
1. Vehicles subject to standards for automobiles
2. Mandate to set standards for automobiles
3. Structure of standards
4. Factors governing or considered in the setting of standards
5. Consultation in setting standards
6. Compliance flexibility and enforcement
III. Fuel economy enhancing technologies
A. Data sources for technology assumptions
B. Technologies and estimates of costs and effectiveness
1. Engine technologies
2. Transmission technologies
3. Vehicle technologies
4. Accessory technologies
5. Hybrid technologies
C. Technology synergies
D. Technology cost learning curve
E. Ensuring sufficient lead time
1. Linking to redesign and refresh
2. Technology phase-in caps
IV. Basis for attribute-based structure for setting fuel economy standards
A. Why attribute-based instead of a single industry-wide average?
B. Which attribute is most appropriate?
1. Footprint-based function
2. Functions based on other attributes
C. The continuous function
V. Volpe model/analysis/generic description of function
A. The Volpe model
1. What is the Volpe model?
2. How does the Volpe model apply technologies to manufacturers' future fleets?
3. What effects does the Volpe model estimate?
4. How can the Volpe model be used to calibrate and evaluate potential CAFE standards?
5. How has the Volpe model been updated since the April 2006 light truck CAFE final rule?
a. Technology synergies
b. Technology learning curves
c. Calibration of reformed CAFE standards
6. What manufacturer information does the Volpe model use?
7. What economic information does the Volpe model use?
a. Costs of fuel economy technologies
b. Potential opportunity costs of improved fuel economy
c. The on-road fuel economy 'gap'
d. Fuel prices and the value of saving fuel
e. Consumer valuation of fuel economy and payback period
f. Vehicle survival and use assumptions
g. Growth in total vehicle use
h. Accounting for the rebound effect of higher fuel economy
i. Benefits from increased vehicle use
j. Added costs from congestion, crashes and noise
k. Petroleum consumption and import externalities
l. Air pollutant emissions
(i) Impacts on criteria air pollutant emissions
(ii) Reductions in CO_2 emissions
(iii) Economic value of reductions in CO_2 emissions

m. The value of increased driving range
n. Discounting future benefits and costs
o. Accounting for uncertainty in benefits and costs
B. How has NHTSA used the Volpe model to select the proposed standards?
1. Establishing a continuous function standard
2. Calibration of initial continuous function standards
3. Adjustments to address policy considerations
a. Curve crossings
b. Steep curve for passenger cars
c. Risk of upsizing
VI. Proposed fuel economy standards
A. Standards for passenger cars and light trucks
1. Proposed passenger car standards MY 2011–2015
2. Proposed light truck standards MY 2011–2015
3. Energy and environmental backstop
4. Combined fleet performance
B. Estimated technology utilization under proposed standards
C. Costs and benefits of proposed standards
D. Flexibility mechanisms
E. Consistency of proposed standards with EPCA statutory factors
1. Technological feasibility
2. Economic practicability
3. Effect of other motor vehicle standards of the Government on fuel economy
4. Need of the U.S. to conserve energy
F. Other considerations in setting standards under EPCA
1. Safety
2. Alternative fuel vehicle incentives
3. Manufacturer credits
G. Environmental impacts of the proposed standards
H. Balancing the factors to determine maximum feasible CAFE levels
VII. Standards for commercial medium- and heavy-duty on-highway vehicles and ''work trucks''
VIII. Vehicle classification
A. Origins of the regulatory definitions
B. Rationale for the regulatory definitions in light of the current automobile market
C. NHTSA is not proposing to change regulatory definitions at this time
IX. Enforcement
A. Overview
B. CAFE credits
1. Credit trading
2. Credit transferring
3. Credit carry-forward/carry-back
C. Extension and phasing out of flexible-fuel incentive program
X. Regulatory alternatives
XI. Sensitivity and Monte Carlo analysis
XII. Public participation
XIII. Regulatory notices and analyses
A. Executive Order 12866 and DOT Regulatory Policies and Procedures
B. National Environmental Policy Act
C. Regulatory Flexibility Act
D. Executive Order 13132 (Federalism)
E. Executive Order 12988 (Civil Justice Reform)
F. Unfunded Mandates Reform Act
G. Paperwork Reduction Act
H. Regulation Identifier Number (RIN)
I. Executive Order 13045
J. National Technology Transfer and Advancement Act
K. Executive Order 13211
L. Department of Energy Review
M. Plain Language
N. Privacy Act
XIV. Regulatory Text

I. Executive overview

A. Summary

This document is being issued pursuant to the Energy Independence and Security Act of 2007 (EISA), which Congress passed in December 2007. EISA mandates the setting of separate maximum feasible standards for passenger cars and for light trucks at levels sufficient to ensure that the average fuel economy of the combined fleet of all passenger cars and light trucks sold by all manufacturers in the U.S. in model year (MY) 2020 equals or exceeds 35 miles per gallon. That is a 40 percent increase above the average of approximately 25 miles per gallon for the current combined fleet.

Congress enabled NHTSA to require these substantial increases in fuel economy by requiring that passenger car standards be reformed through basing them on one or more vehicle attributes. The attribute-based approach was originally recommended by the National Academy of Sciences in 2002 and adopted by NHTSA for light trucks in 2006. The new approach is a substantial improvement over the old approach of specifying the same numerical standard for each manufacturer. It avoids creating undue risks of adverse safety and employment impacts and distributes compliance responsibilities among the vehicle manufacturers more equitably.

This document proposes standards for MYs 2011–2015, the maximum number of model years for which NHTSA can establish standards in a single rulemaking under EISA. Since lead time is a significant consideration in determining the stringency of future standards, the agency needs to establish the standards as far in advance as possible so as to maximize the amount of lead time for manufacturers to develop and implement plans for making the vehicle design changes necessary to achieve the requirements of EISA.

In developing the proposed standards, the agency considered the four statutory factors underlying maximum feasibility (technological feasibility, economic practicability, the effect of other standards of the Government on fuel economy, and the need of the nation to conserve energy) as well as other relevant considerations such as safety. After assessing what fuel saving technologies would be available, how effective they are, and how quickly they could be introduced, and then factoring that information into the computer model its uses for applying technologies to particular vehicle models, the agency then balanced the factors relevant to standard setting. In its decision making, the agency used a marginal benefit-cost analysis that placed monetary values on relevant externalities (both energy security and environmental externalities, including the benefits of reductions in CO_2 emissions). In the above process, the agency consulted with the Department of Energy and particularly the Environmental Protection Agency regarding a wide variety of matters, including, for example, the cost and effectiveness of available technologies, improvements to the computer model, and the selection of appropriate analytical assumptions.

This document also proposes to add a new regulation designed to give manufacturers added flexibility in using credits earned by exceeding CAFE standards. The regulation would authorize the trading of credits between manufacturers. In addition, it would permit a manufacturer to transfer its credits from one of its compliance categories to another of its categories.

NHTSA is also publishing two companion documents, one requesting vehicle manufacturers to provide up-to-date product plans for the model years covered by this document, and the other inviting Federal, State, and local agencies, Indian tribes, and the public to participate in identifying the environmental issues and reasonable alternatives to be examined in an environmental impact statement.

B. Energy Independence and Security Act of 2007

The Energy Independence and Security Act of 2007 (EISA)[1] builds on the President's ''Twenty in Ten'' initiative, which was announced in January 2007. That initiative sought to reduce gasoline usage by 20 percent in the next 10 years. The enactment of EISA represents a major step forward in expanding the production of renewable fuels, reducing oil consumption, and confronting global climate change.

EISA will help reduce America's dependence on oil by reducing U.S. demand for oil by setting a national fuel economy standard of at least 35 miles per gallon by 2020—which will increase fuel economy standards by 40 percent and save billions of gallons of fuel. In January 2007, the President called for the first statutory increase in fuel economy standards for passenger

[1] Pub. L. 110–140, 121 Stat. 1492 (Dec. 18, 2007).

automobiles (referred to below as ''passenger cars'') since those standards were mandated in 1975, and EISA delivers on that request. EISA also includes an important reform the President has called for that allows the Transportation Department to issue ''attribute-based standards,'' which will ensure that increased fuel efficiency does not come at the expense of automotive safety. EISA also mandates increases in the use of renewable fuels by setting a mandatory Renewable Fuel Standard requiring fuel producers to use at least 36 billion gallons of renewable fuels in 2022.

As the President noted in signing EISA, the combined effect of the various actions required by the Act will be to produce some of the largest CO_2 emission reductions in our nation's history.

EISA made a number of important changes to the Energy Policy and Conservation Act (EPCA) (Pub. L. 94–163), the 1975 statute that governs the CAFE program. EISA:

- Replaces the old statutory default standard of 27.5 mpg for passenger cars with a mandate to establish separate passenger car and light truck standards annually, beginning with MY 2011, set at the maximum feasible level. The standards for MYs 2011–2020 must, as a minimum, be set sufficiently high to ensure that the average fuel economy of the combined industrywide fleet of all new passenger cars and light trucks sold in the United States during MY 2020 is at least 35 mpg.[2]
- Limits to five the number of years for which standards can be established in a single rulemaking. That requirement, in combination with the requirement to start rulemaking with MY 2011, necessitates limiting this rulemaking to MYs 2011–2015.
- Mandates the reforming of CAFE standards for passenger cars by requiring that all CAFE standards be based on one or more vehicle attributes, thus ensuring that the improvements in fuel economy do not come at the expense of safety. NHTSA pioneered that approach in its last rulemaking on CAFE standards for light trucks.
- Requires that for each model year, beginning with MY 2011, the domestic passenger cars of each manufacturer of those cars must achieve a measured average fuel economy that is not less than 92 percent of the average fuel economy of the combined fleet of domestic and non-domestic passenger cars sold in the United States in that model year.
- Provides greater flexibility for automobile manufacturers by (a) increasing from three to five the number of years that a manufacturer can carry forward the compliance credits it earns for exceeding CAFE standards, (b) allowing a manufacturer to transfer the credits it has earned from one of its classes of automobiles to another, and (c) authorizing the trading of credits between manufacturers.

C. Proposal

1. Standards

a. Stringency

This document proposes to set attribute-based fuel economy standards for passenger cars and light trucks consistent with the Reformed CAFE approach that NHTSA used in establishing the light truck standards for MY 2008–2011 light trucks. Separate passenger car standards would be set for MYs 2011–2015, and light truck standards would be set for MYs 2011–2015. As noted above, EISA limits the number of model years for which standards may be established in a single rulemaking to five. We are proposing to establish standards for five years to maximize the amount of lead time that we can provide the manufacturers. This is necessary to make it possible to achieve the levels of average fuel economy required by MY 2020.

Each vehicle manufacturer's required level of CAFE would be based on target levels of average fuel economy set for vehicles of different sizes and on the distribution of that manufacturer's vehicles among those sizes. Size would be defined by vehicle footprint. The level of the performance target for each footprint would reflect the technological and economic capabilities of the industry. The target for each footprint would be the same for all manufacturers, regardless of differences in their overall fleet mix. Compliance would be determined by comparing a manufacturer's harmonically averaged fleet fuel economy levels in a model year with a required fuel economy level calculated using the manufacturer's actual production levels and the targets for each footprint of the vehicles that it produces.

The proposed standards were developed using a computer model (known as the ''Volpe Model'') that, for any given model year, applies technologies to a manufacturer's fleet until the manufacturer reaches compliance with the standard under consideration. The standards were tentatively set at levels such that, considering the seven largest manufacturers, the cost of the last technology application equaled the benefits of the improvement in fuel economy resulting from that application. We reviewed these proposed standards to consider the underlying increased use of technologies and the associated impact on the industry. This process recognizes that the relevance of costs in achieving benefits, and uses benefit figures that include the value of reducing the negative externalities (economic and environmental) from producing and consuming fuel. These environmental externalities include, among other things, reducing tailpipe emissions of CO_2.[3] In view of the process used to develop the proposed standards, they are also referred to as ''optimized standards.''

Compared to the 2006 rulemaking that established the MY 2008–11 CAFE standards for light trucks, this rulemaking much more fully captures the value of the costs and benefits of setting CAFE standards. This is important because assumptions regarding gasoline price projections, along with assumptions for externalities, are based on changed economic and environmental and energy security conditions and play a big role in the agency's balancing of the statutory considerations in arriving at a determination of maximum feasible. In light of EISA and the need to balance the statutory considerations in a way that reflects the current need of the nation to conserve energy, including the current assessment of the climate change problem, the agency revisited the various assumptions used in the Volpe Model to determine the level of the standards. Specifically, in running the Volpe Model and stopping at a point where marginal costs equaled marginal benefits or where net benefits to society are maximized, the agency used higher gasoline prices and higher estimates for energy security values ($0.29 per gallon instead of $0.09 per gallon). The agency also monetized carbon dioxide (at

[2] Although NHTSA established an attribute-based standard for MY 2011 light trucks in its 2006 final rule, EISA mandates a new rulemaking, reflecting new statutory considerations and a new, up-to-date administrative record, and consistent with EPCA as amended by EISA, to establish the standard for those light trucks.

[3] The externalities included in our analysis do not, however, include those associated with the reduction of the other GHG emitted by automobiles, *i.e.*, methane (CH_4), nitrous oxide (N_2O), and hydroflurocarbons (HFCs). Actual air conditioner operation is not included in the test procedures used to obtain both (1) emission rates for purposes of determining compliance with EPA criteria pollutant emission standards and (2) fuel economy values for purposes of determining compliance with NHTSA CAFE standards, although air conditioner operation is included in ''supplemental'' federal test procedures used to determine compliance with corresponding and separate EPA criteria pollutant emission standards.

$7.00/ton), which it did not do in the previous rulemaking, and expanded its technology list. In addition, the agency used cost estimates that reflect economies of scale and estimated ''learning''-driven reductions in the cost of technologies as well as quicker penetration rates for advanced technologies. These changes to the inputs to the model had a major impact on increasing the benefits in certain model years by allowing for greater penetration of technologies.

The agency cannot set out the exact level of CAFE that each manufacturer will be required to meet for each model year under the proposed passenger car or light truck standards since the levels will depend on information that will not be available until the end of each of the model years, *i.e.*, the final actual production figures for each of those years. The agency can, however, project what the industry wide level of average fuel economy would be for passenger cars and for light trucks if each manufacturer produced its expected mix of automobiles and just met its obligations under the proposed ''optimized'' standards for each model year. Adjacent to each average fuel economy figure is the estimated associated level of tailpipe emissions of CO_2 that would be achieved.[4]

For passenger cars:

MY 2011: 31.2 mpg (285 g/mi of tailpipe emissions of CO_2)
MY 2012: 32.8 mpg (271 g/mi of tailpipe emissions of CO_2)
MY 2013: 34.0 mpg (261 g/mi of tailpipe emissions of CO_2)
MY 2014: 34.8 mpg (255 g/mi of tailpipe emissions of CO_2)
MY 2015: 35.7 mpg (249 g/mi of tailpipe emissions of CO_2)

For light trucks:

MY 2011: 25.0 mpg (355 g/mi of tailpipe emissions of CO_2)
MY 2012: 26.4 mpg (337 g/mi of tailpipe emissions of CO_2)
MY 2013: 27.8 mpg (320 g/mi of tailpipe emissions of CO_2)
MY 2014: 28.2 mpg (315 g/mi of tailpipe emissions of CO_2)
MY 2015: 28.6 mpg (310 g/mi of tailpipe emissions of CO_2)

The combined industry wide average fuel economy (in miles per gallon, or mpg) levels (in grams per mile, or g/mi) for both cars and light trucks, if each manufacturer just met its obligations under the proposed ''optimized'' standards for each model year, would be as follows:

MY 2011: 27.8 mpg (2.5 mpg increase above MY 2010; 320 g/mi CO_2)
MY 2012: 29.2 mpg (1.4 mpg increase above MY 2011; 304 g/mi CO_2)
MY 2013: 30.5 mpg (1.3 mpg increase above MY 2012; 291 g/mi CO_2)
MY 2014: 31.0 mpg (0.5 mpg increase above MY 2013; 287 g/mi CO_2)
MY 2015: 31.6 mpg (0.6 mpg increase above MY 2014; 281 g/mi CO_2)

The annual average increase during this five year period is approximately 4.5 percent. Due to the uneven distribution of new model introductions during this period and to the fact that significant technological changes can be most readily made in conjunction with those introductions, the annual percentage increases are greater in the early years in this period.

Given a starting point of 31.8 mpg in MY 2015, the average annual increase for MYs 2016–2020 would need to be only 2.1 percent in order for the projected combined industry wide average to reach at least 35 mpg by MY 2020, as mandated by EISA.

In addition, per EISA, each manufacturer's domestic passenger fleet is required in each model year to achieve 27.5 mpg or 92 percent of the CAFE of the industry wide combined fleet of domestic and non-domestic passenger cars [5] for that model year, whichever is higher. This requirement results in the following alternative minimum standard (not attribute-based) for domestic passenger cars:

MY 2011: 28.7 mpg (310 g/mi of tailpipe emissions of CO_2)
MY 2012: 30.2 mpg (294 g/mi of tailpipe emissions of CO_2)
MY 2013: 31.3 mpg (284 g/mi of tailpipe emissions of CO_2)
MY 2014: 32.0 mpg (278 g/mi of tailpipe emissions of CO_2)
MY 2015: 32.9 mpg (270 g/mi of tailpipe emissions of CO_2)

The agency is also issuing, along with this document, a notice requesting updated product plan information and other data to assist in developing a final rule. We recognize that the manufacturer product plans relied upon in developing this proposal—those plans received in late spring of 2007 in response to an early 2007 request for information—may already be outdated in some respects. We fully expect that manufacturers have revised those plans to reflect subsequent developments, especially the enactment of EISA.

We solicit comment on all aspects of this proposal, including the methodology, economic assumptions, analysis and tentative conclusions. In particular, we solicit comment on whether the proposed levels of CAFE satisfy EPCA, *e.g.*, reflect an appropriate balancing of the explicit statutory factors and other relevant factors. Other specific areas where we request comments are identified elsewhere in this preamble and in the Preliminary Regulatory Impact Analysis (PRIA). Based on public comments and other information, including new data and analysis, and updated product plans,[6] the standards adopted in the final rule could well be different from those proposed in this document.

b. Benefits

We estimate that the proposed standards for passenger cars would save approximately 18.7 billion gallons of fuel and avoid tailpipe CO_2 emissions by 178 billion metric tons over the lifetime of the passenger cars sold during those model years, compared to the fuel savings and emissions reductions that would occur if the standards remained at the adjusted baseline (*i.e.*, the higher of manufacturer's plans and the manufacturer's required level of average fuel economy for MY 2010).

We estimate that the value of the total benefits of the proposed passenger car standards would be approximately $31 billion [7] over the lifetime of the 5 model

[4] Given the contributions made by CAFE standards to addressing not only energy independence and security, but also to reducing tailpipe emissions of CO_2, fleet performance is stated in the above discussion both in terms of fuel economy and the associated reductions in tailpipe emissions of CO_2 since the CAFE standard will have the practical effect of limiting those emissions approximately to the indicated levels during the official CAFE test procedures established by EPA. The relationship between fuel consumption and carbon dioxide emissions is discussed ubiquitously, such as at *www.fueleconomy.gov*, a fuel economy-related Web site managed by DOE and EPA (*see http://www.fueleconomy.gov/feg/contentIncludes/co2_inc.htm*, which provides a rounded value of 20 pounds of CO_2 per gallon of gasoline). (Last accessed April 20, 2008.) The CO_2 emission rates shown are based on gasoline characteristics. Because diesel fuel contains more carbon (per gallon) than gasoline, the presence of diesel engines in the fleet—which NHTSA expects to increase in response to the proposed CAFE standards—will cause the actual CO_2 emission rate corresponding to any given CAFE level to be slightly higher than shown here. (The agency projects that 4 percent of the MY 2015 passenger car fleet and 10 percent of the MY 2015 light truck fleet will have diesel engines.) Conversely (and hypothetically), applying the same CO_2 emission standard to both gasoline and diesel vehicles would discourage manufacturers from improving diesel engines, which show considerable promise as a means to improve fuel economy.

[5] Those numbers set out several paragraphs above.

[6] The proposed standards are, in the first instance, based on the confidential product plans submitted by the manufacturers in the spring of 2006. The final rule will be based on the confidential plans submitted in the next several months. The agency anticipates that those new plans, which presumably will reflect in some measure the enactment of EISA and the issuance of this proposal, will project higher levels of average fuel economy than the 2006 product plans.

[7] The $22 billion estimate is based on a 7% discount rate for valuing future impacts. NHTSA

Continued

years combined. This estimate of societal benefits includes direct impacts from lower fuel consumption as well as externalities and also reflects offsetting societal costs resulting from the rebound effect.

We estimate that the proposed standards for light trucks would save approximately 36 billion gallons of fuel and prevent the tailpipe emission of 343 million metric tons of CO_2 over the lifetime of the light trucks sold during those model years, compared to the fuel savings and emissions reductions that would occur if the standards remained at the adjusted baseline. We estimate that the value of the total benefits of the proposed light truck standards would be approximately $57 billion [8] over the lifetime of the 5 model years of light trucks combined. This estimate of societal benefits includes direct impacts from lower fuel consumption as well as externalities and also reflects offsetting societal costs resulting from the rebound effect.

c. Costs

The total costs for manufacturers just complying with the standards for MY 2011–2015 passenger cars would be approximately $16 billion, compared to the costs they would incur if the standards remained at the adjusted baseline. The resulting vehicle price increases to buyers of MY 2015 passenger cars would be recovered or paid back [9] in additional fuel savings in an average of 56 months, assuming fuel prices ranging from $2.26 per gallon in 2016 to $2.51 per gallon in 2030.[10]

The total costs for manufacturers just complying with the standards for MY 2011–2015 light trucks would be approximately $31 billion, compared to the costs they would incur if the standards remained at the adjusted baseline. The resulting vehicle price increases to buyers of MY 2015 light trucks would be paid back in additional fuel savings in an average of 50 months, assuming fuel prices ranging from $2.26 to $2.51 per gallon.

d. Flexibilities

The agency's benefit and cost estimates do not reflect the availability and use of flexibility mechanisms, such as compliance credits and credit trading because EPCA prohibits NHTSA from considering the effects of those mechanisms in setting CAFE standards. EPCA has precluded consideration of the FFV adjustments ever since it was amended to provide for those adjustments. The prohibition against considering compliance credits was added by EISA.

The benefit and compliance cost estimates used by the agency in determining the maximum feasible level of the CAFE standards assume that manufacturers will rely solely on the installation of fuel economy technology to achieve compliance with the proposed standards. In reality, however, manufacturers are likely to rely to some extent on flexibility mechanisms provided by EPCA (as described in Section VI) and will thereby reduce the cost of complying with the proposed standards to a meaningful extent.

2. Credits

NHTSA is also proposing a new Part 536 on use of ''credits'' earned for exceeding applicable CAFE standards. Part 536 will implement the provisions in EISA authorizing NHTSA to establish by regulation a credit trading program and directing it to establish by regulation a credit transfer program.[11] Since its enactment, EPCA has permitted manufacturers to earn credits for exceeding the standards and to apply those credits to compliance obligations in years other than the model year in which it was earned. EISA extended the ''carry-forward'' period to five model years, and left the ''carry-back'' period at three model years. Under the proposed Part 536, credit holders (including, but not limited to, manufacturers) will have credit accounts with NHTSA, and will be able to hold credits, apply them to compliance with CAFE standards, transfer them to another ''compliance category'' for application to compliance there, or trade them. A credit may also be cancelled before its expiry date, if the credit holder so chooses. Traded credits will be subject to an ''adjustment factor'' to ensure total oil savings are preserved, as required by EISA. EISA also prohibits credits earned before MY 2011 from being transferred, so NHTSA has developed several regulatory restrictions on trading and transferring to facilitate Congress' intent in this regard. Additional information on the proposed Part 536 is available in section IX below.

II. Background

A. Contribution of Fuel Economy Improvements to Addressing Energy Independence and Security and Climate Change

1. Relationship Between Fuel Economy and CO_2 Tailpipe Emissions

Improving fuel economy reduces the amount of tailpipe emissions of CO_2. CO_2 emissions are directly linked to fuel consumption because CO_2 is the ultimate end product of burning gasoline. The more fuel a vehicle burns, the more CO_2 it emits. Since the CO_2 emissions are essentially constant per gallon of fuel combusted, the amount of fuel consumption per mile is directly related to the amount of CO_2 emissions per mile. Thus, requiring improvements in fuel economy indirectly, but necessarily requires reductions in tailpipe emissions of CO_2 emissions. This can be seen in the table below. To take the first value of fuel economy from the table below as an example, a standard of 21.0 mpg would indirectly place substantially the same limit on tailpipe CO_2 emissions as a tailpipe CO_2 emission standard of 423.2 g/mi of CO_2, and vice versa.[12]

estimated benefits using both 7% and 3% discount rates. Under a 3% rate, net consumer benefits for passenger car CAFE improvements total $28 million.

[8] The $56 billion estimate is based on a 7% discount rate for valuing future impacts. NHTSA estimated benefits using both 7% and 3% discount rates. Under a 3% rate, net consumer benefits for light truck CAFE improvements total $70 million.

[9] See Section V.A.7 below for discussion of payback period.

[10] The fuel prices (shown here in 2006 dollars) used to calculate the length of the payback period are those projected (Annual Energy Outlook 2008, revised early release) by the Energy Information Administration over the life of the MY 2011–2015 light trucks, not current fuel prices.

[11] Congress required that DOT establish a credit ''transferring'' regulation, to allow individual manufacturers to move credits from one of their fleets to another (e.g., using a credit earned for exceeding the light truck standard for compliance in the domestic passenger car standard). Congress allowed DOT to establish a credit ''trading'' regulation, so that credits may be bought and sold between manufacturers and other parties.

[12] To the extent that manufacturers comply with a CAFE standard with diesel automobiles instead of gasoline ones, the level of CO_2 tailpipe emissions would be less. As noted above, the agency projects that 4 percent of the MY 2015 passenger car fleet and 10 percent of the MY 2015 light truck fleet will have diesel engines. The CO_2 tailpipe emissions of a diesel powered passenger car are 15 percent higher than those of a comparable gasoline power passenger car.

TABLE II–1.—CAFE STANDARDS (MPG) AND THE LIMITS THEY INDIRECTLY PLACE ON TAILPIPE EMISSIONS OF CO_2 (G/MI)*

CAFE Std	CO_2	CAFE Std	CO_2	CAFE Std	CO_2	CAFE Std	CO_2	CAFE Std	CO_2	CAFE Std	CO_2
21.0	444.4	26.0	341.8	31.0	286.7	36.0	246.9	41.0	216.8	46.0	193.2
22.0	404.0	27.0	329.1	32.0	277.7	37.0	240.2	42.0	211.6	47.0	188.3
23.0	386.4	28.0	317.4	33.0	269.3	38.0	233.9	43.0	206.7	48.0	189.1
24.0	370.3	29.0	306.4	34.0	261.4	39.0	227.9	44.0	202.0	49.0	181.4
25.0	355.5	30.0	296.2	35.0	253.9	40.0	222.2	45.0	197.5	50.0	177.7

This table is based on calculations that use the figure of 8,887 grams of CO_2 per gallon of gasoline consumed, based on characteristics of gasoline vehicle certification fuel. To convert a mpg value into CO_2 g/mi, divide 8,887 by the mpg value.

2. Fuel Economy Improvements/CO_2 Tailpipe Emission Reductions Since 1975

The need to take action to reduce greenhouse gas emissions, *e.g.*, motor vehicle tailpipe emissions of CO_2, in order to forestall and even mitigate climate change is well recognized.[13] Less well recognized are two related facts. First, improving fuel economy is the only method available to motor vehicle manufacturers for making significant reductions in the CO_2 tailpipe emissions of motor vehicles and thus must be the core element of any effort to achieve those reductions. Second, the significant improvements in fuel economy since 1975, due to the CAFE standards and in some measure to market conditions as well, have directly caused reductions in the rate of CO_2 tailpipe emissions per vehicle.

In 1975, passenger cars manufactured for sale in the U.S. averaged only 15.8 mpg (562.5 grams of CO_2 per mile or 562.5 g/mi of CO_2). By 2007, the average fuel economy of passenger cars had increased to 31.3 mpg, causing g/mi of CO_2 to fall to 283.9. Similarly, in 1975, light trucks averaged 13.7 mpg (648.7 g/mi of CO_2). By 2007, the average fuel economy of light trucks had risen to 23.1 mpg, causing g/mi of CO_2 to fall to 384.7.

TABLE II–2.—IMPROVEMENTS IN MPG/REDUCTIONS IN G/MI OF CO_2 PASSENGER CARS

[1975–2007]

	MPG	G/MI of CO_2
1975	15.8	562.5
2007	31.3	283.9

TABLE II–3.—IMPROVEMENTS IN MPG/REDUCTIONS IN G/MI OF CO_2 LIGHT TRUCKS

[1975–2007]

	MPG	G/MI of CO_2
1975	13.7	648.7
2007	23.1	384.7

If fuel economy had not increased above the 1975 level, cars and light trucks would have emitted an additional 11 billion metric tons of CO_2 into the atmosphere between 1975 and 2005. That is nearly the equivalent of emissions from all U.S. fossil fuel combustion for two years (2004 and 2005). The figure below shows the amount of CO_2 emissions avoided due to increases in fuel economy.

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[13] IPCC (2007): *Climate Change 2007: Mitigation of Climate Change. Contribution of Working Group III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [B. Metz, O. Davidson, P. Bosch, R. Dave, and L. Meyer (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

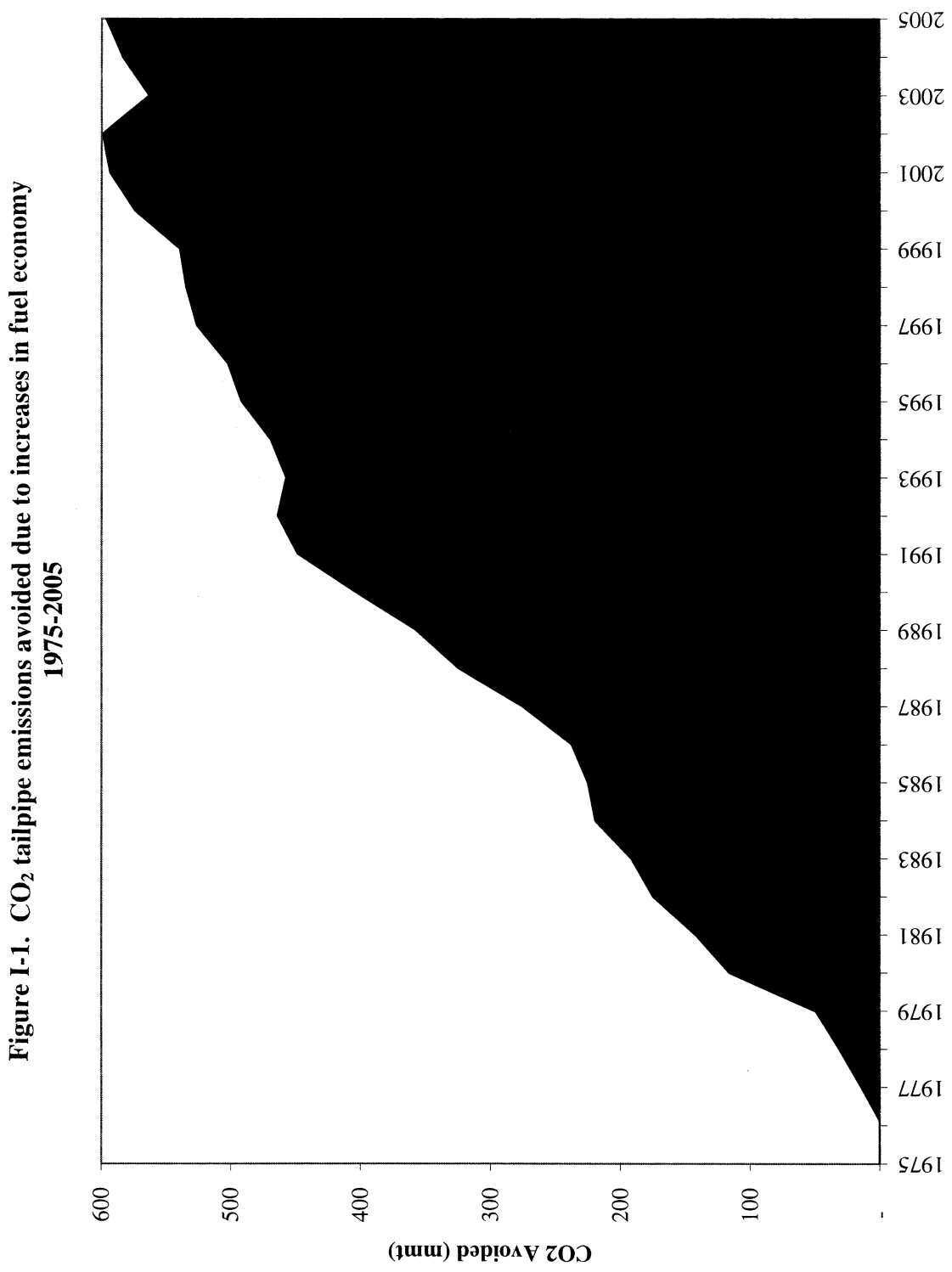


Figure I-1. CO_2 tailpipe emissions avoided due to increases in fuel economy 1975-2005

B. Chronology of Events Since the National Academy of Sciences Called for Reforming and Increasing CAFE Standards

1. National Academy of Sciences CAFE Report (February 2002)

a. Significantly Increasing CAFE Standards Without Reforming Them Would Adversely Affect Safety

In the congressionally-mandated report entitled ''Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards,'' [14] a committee of the National Academy of Sciences (NAS) (''2002 NAS Report'') concluded that the then-existing form of passenger car and light truck CAFE standards created an incentive for vehicle manufacturers to comply in part by downweighting and even downsizing their vehicles and that these actions had led to additional fatalities. The committee explained that these problems arose because the CAFE standards subjected all passenger cars to the same fuel economy target and all light trucks to the same target, regardless of their weight, size, or load-carrying capacity. The committee said that this experience suggests that consideration should be given to developing a new system of fuel economy targets that reflects differences in such vehicle attributes.

Looking to the future, the committee said that while it is technically feasible and potentially economically practicable to improve fuel economy without reducing vehicle weight or size and, therefore, without significantly affecting the safety of motor vehicle travel, the actual strategies chosen by manufacturers to improve fuel economy will depend on a variety of factors. In the committee's judgment, the extensive downweighting and downsizing that occurred after fuel economy requirements were established in the 1970s suggested that the likelihood of a similar response to further increases in fuel economy requirements must be considered seriously. Any reduction in vehicle size and weight would have safety implications.

The committee cautioned that the safety effects of downsizing and downweighting are likely to be hidden by the generally increasing safety of the light-duty vehicle fleet.[15] It said that some might argue that this improving safety picture means that there is room to improve fuel economy without adverse safety consequences; however, such an approach would not achieve the goal of avoiding the adverse safety consequences of fuel economy increases. Rather, the safety penalty imposed by increased fuel economy (if weight reduction is one of the measures) will be more difficult to identify in light of the continuing improvement in traffic safety. Although it is anticipated that these safety innovations will improve the safety of vehicles of all sizes, that does not mean that downsizing to achieve fuel economy improvements will not have any safety costs. If two vehicles of the same size are modified, one both by downsizing it and adding the safety innovations and the other just by adding the safety innovations, the latter vehicle will in all likelihood be safer.

The committee concluded that if an increase in fuel economy were implemented pursuant to standards that are structured in a way that encourages either downsizing or the increased production of smaller vehicles, some additional traffic fatalities would be expected. Without a thoughtful restructuring of the program, there would be the trade-offs that must be made if CAFE standards were increased by any significant amount.[16]

In response to these conclusions, NHTSA began issuing attribute-based CAFE standards for light trucks and sought legislative authority to issue attribute-based CAFE standards for passenger cars before undertaking to raise the car standards. Congress went a step further in enacting EISA, not only authorizing the issuance of attribute-based standards, but also mandating them.

Fully realizing all of the safety and other [17] benefits of these reforms will depend in part on whether the unreformed, non-attribute based greenhouse standards adopted by California and other states are implemented. Apart from issues of relative stringency, the effects on vehicle manufacturers of implementing those state emission standards should be substantially similar to the effects of implementing non-attribute-based CAFE standards, given the nearly identical nature of most aspects of those emission standards and CAFE standards in terms of technological means of compliance and methods of measuring performance.

b. Environmental and Other Externalities Justify Increasing the CAFE Standards

The 2002 NAS report also concluded that the CAFE standards have contributed to increased fuel economy, which in turn has reduced dependence on imported oil, improved the nation's terms of trade, and reduced emissions of carbon dioxide (a principal greenhouse gas), relative to what they otherwise would have been. If fuel economy had not improved, gasoline consumption (and crude oil imports) would be about 2.8 million barrels per day (mmbd) greater than it is.[18] Reducing fuel consumption in vehicles also reduces carbon dioxide emissions. If the nation were using 2.8 mmbd more gasoline, carbon emissions would be more than 100 million metric tons of carbon (mmtc) higher. Thus, improvements in light-duty vehicle (4 wheeled motor vehicles under 10,000 pounds gross vehicle weight rating) fuel economy have reduced overall U.S. emissions by about 7 percent.[19]

The report concluded that technologies exist that could significantly further reduce fuel consumption by passenger cars and light trucks within 15 years, while maintaining vehicle size, weight, utility and performance.[20] Light duty trucks

[14] National Research Council, ''Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards,'' National Academy Press, Washington, DC (2002). *Available at http://www.nap.edu/openbook.php?isbn=0309076013* (last accessed April 20, 2008). The conference committee report for the Department of Transportation and Related Agencies Appropriations Act for FY 2001 (Pub. L. 106–346) directed NHTSA to fund a study by NAS to evaluate the effectiveness and impacts of CAFE standards (H. Rep. No. 106–940, p. 117–118). In response to the direction from Congress, NAS published this lengthy report.

[15] Two of the 12 members of the committee dissented from the majority's safety analysis and conclusions.

[16] NAS, p. 9.

[17] Reformed CAFE has several advantages compared to Unreformed CAFE:

First, Reformed CAFE increases energy savings. The energy-saving potential of Unreformed CAFE is limited because only a few full-line manufacturers are required to make improvements. Under Reformed CAFE, which accounts for size differences in product mix, virtually all manufacturers will be required to use advanced fuel-saving technologies to achieve the requisite fuel economy for their automobiles.

Second, Reformed CAFE reduces the chances of adverse safety consequences. Downsizing of vehicles as a CAFE compliance strategy is discouraged under Reformed CAFE since as vehicles become smaller, the applicable fuel economy target becomes more stringent.

Third, Reformed CAFE provides a more equitable regulatory framework for different vehicle manufacturers. Under Unreformed CAFE, the cost burdens and compliance difficulties have been imposed nearly exclusively on the full-line manufacturers.

Fourth, Reformed CAFE is more market-oriented because it more fully respects economic conditions and consumer choice. Reformed CAFE does not force vehicle manufacturers to adjust fleet mix toward smaller vehicles although they can make adjustments if that is what consumers are demanding. Instead, it allows the manufacturers to adjust the mix of their product offerings in response to the market place.

[18] NAS, pp. 3 and 20.

[19] NAS, p. 20.

[20] NAS, p. 3 (Finding 5).

were said to offer the greatest potential for reducing fuel consumption.[21] The report also noted that vehicle development cycles—as well as future economic, regulatory, safety and consumer preferences—would influence the extent to which these technologies could lead to increased fuel economy in the U.S. market. To assess the economic trade-offs associated with the introduction of existing and emerging technologies to improve fuel economy, the NAS conducted what it called a ''cost-efficient analysis'' based on the direct benefits (value of saved fuel) to the consumer—''that is, the committee identified packages of existing and emerging technologies that could be introduced over the next 10 to 15 years that would improve fuel economy up to the point where further increases in fuel economy would not be reimbursed by fuel savings.'' [22]

The committee emphasized that it is critically important to be clear about the reasons for considering improved fuel economy. While the dollar value of the saved fuel would be largest portion of the potential benefits, the committee noted that there is theoretically insufficient reason for the government to issue higher standards just to obtain those direct benefits since consumers have a wide variety of opportunities to buy a fuel-efficient vehicle.[23]

The committee said that there are two compelling concerns that justify a government mandated increase in fuel economy, both relating to externalities. The most important concern, it argued, is the one about the accumulation in the atmosphere of greenhouse gases, principally carbon dioxide.[24]

A second concern is that petroleum imports have been steadily rising because of the nation's increasing demand for gasoline without a corresponding increase in domestic supply. The high cost of oil imports poses two risks: Downward pressure on the strength of the dollar (which drives up the cost of goods that Americans import) and an increase in U.S. vulnerability to macroeconomic shocks that cost the economy considerable real output.

To determine how much the fuel economy standards should be increased, the committee urged that all social benefits be considered. That is, it urged not only that the dollar value of the saved fuel be considered, but also that the dollar value to society of the resulting reductions in greenhouse gas emissions and in dependence on imported oil should be calculated and considered. The committee said that if it is possible to assign dollar values to these favorable effects, it becomes possible to make at least crude comparisons between the socially beneficial effects of measures to improve fuel economy on the one hand, and the costs (both out-of-pocket and more subtle) on the other. The committee chose a value of about $0.30/gal of gasoline for the externalities associated with the combined impacts of fuel consumption on greenhouse gas emissions and on world oil market conditions.[25]

The report expressed concerns about increasing the standards under the CAFE program as currently structured. While raising CAFE standards under the existing structure would reduce fuel consumption, doing so under alternative structures ''could accomplish the same end at lower cost, provide more flexibility to manufacturers, or address inequities arising from the present'' structure.[26] Further, the committee said, ''to the extent that the size and weight of the fleet have been constrained by CAFE requirements * * * those requirements have caused more injuries and fatalities on the road than would otherwise have occurred.'' [27] Specifically, it noted: ''The downweighting and downsizing that occurred in the late 1970s and early 1980s, some of which was due to CAFE standards, probably resulted in an additional 1300 to 2600 traffic fatalities in 1993.'' [28]

To address those structural problems, the report suggested various possible reforms. The report found that the ''CAFE program might be improved significantly by converting it to a system in which fuel targets depend on vehicle attributes.'' [29] The report noted further that under an attribute-based approach, the required CAFE levels could vary among the manufacturers based on the distribution of their product mix. NAS stated that targets could vary among passenger cars and among trucks, based on some attribute of these vehicles such as weight, size, or load-carrying capacity. The report explained that a particular manufacturer's average target for passenger cars or for trucks would depend upon the fractions of vehicles it sold with particular levels of these attributes.[30]

In February 2002, Secretary Mineta asked Congress ''to provide the Department of Transportation with the necessary authority to reform the CAFE program, guided by the NAS report's suggestions.''

2. Final Rule Establishing Reformed (Attribute-Based) CAFE Standards for MY 2008–2011 Light Trucks (March 2006)

The 2006 final rule reformed the structure of the CAFE program for light trucks and established higher CAFE standards for MY 2008–2011 light trucks.[31] Reforming the CAFE program enables it to achieve larger fuel savings, while enhancing safety and preventing adverse economic consequences.

During a transition period of MYs 2008–2010, manufacturers may comply with CAFE standards established under the reformed structure (Reformed CAFE) or with standards established in the traditional way (Unreformed CAFE). This permits manufacturers and the agency to gain experience with implementing the Reformed CAFE standards. Under the 2006 rule, all manufacturers were required to comply with a Reformed CAFE standard in MY 2011.

Under Reformed CAFE, fuel economy standards were restructured so that they are based on a measure of vehicle size called ''footprint,'' which is the product of multiplying a vehicle's wheelbase by average its track width. A target level of fuel economy was established for each increment in footprint (0.1 ft^2). Trucks with smaller footprints have higher fuel economy targets; conversely, larger ones have lower targets. A particular manufacturer's compliance obligation for a model year will be calculated as the harmonic average of the fuel economy targets for the manufacturer's vehicles, weighted by the distribution of manufacturer's production volumes among the footprint increments. Thus, each manufacturer will be required to comply with a single overall average fuel economy level for each model year of production.

The approach for determining the fuel economy targets was to set them just below the level where the increased cost of technologies that could be adopted by manufacturers to improve fuel economy would first outweigh the added benefits that would result from such technology. These targets translate into required levels of average fuel economy that are technologically feasible because manufacturers can achieve them using available technologies. Those levels also reflect the need of the nation to reduce

[21] NAS, p. 4 (Finding 5).
[22] NAS, pp. 4 (Finding 6) and 64.
[23] NAS, pp. 8–9.
[24] NAS, pp. 2, 13, and 83.
[25] NAS, pp. 4 and 85–86.
[26] NAS, pp. 4–5 (Finding 10).
[27] NAS, p. 29.
[28] NAS, p. 3 (Finding 2).
[29] NAS, p. 5 (Finding 12).
[30] NAS, p. 87.
[31] 71 FR 17566; April 6, 2006.

energy consumption because they reflect the economic value of the savings in resources, as well as of the reductions in economic and environmental externalities that result from producing and using less fuel.

The Unreformed CAFE standards are: 22.5 miles per gallon (mpg) for MY 2008, 23.1 mpg for MY 2009, and 23.5 mpg for MY 2010. To aid the transition to Reformed CAFE, the Reformed CAFE standards for those years were set at levels intended to ensure that the industry-wide costs of the Reformed standards are roughly equivalent to the industry-wide costs of the Unreformed CAFE standards in those model years. For MY 2011, the Reformed CAFE standard was set at the level that maximizes net benefits. Net benefits include the increase in light truck prices due to technology improvements, the decrease in fuel consumption, and a number of other factors. All of the standards were set at the maximum feasible level, while accounting for technological feasibility, economic practicability and other relevant factors.

We carefully balanced the costs of the rule with the benefits of reducing energy consumption. Compared to Unreformed CAFE, Reformed CAFE enhances overall fuel savings while providing vehicle manufacturers with the flexibility they need to respond to changing market conditions. Reformed CAFE will also provide a more equitable regulatory framework by creating a level-playing field for manufacturers, regardless of whether they are full-line or limited-line manufacturers. We were particularly encouraged that Reformed CAFE will eliminate the incentive to downsize some of their fleet as a CAFE compliance strategy, thereby reducing the adverse safety risks associated with the Unreformed CAFE program.

3. Twenty-in-Ten Initiative (January 2007)

In his January 2007 State of the Union address, the President announced his Twenty-in-Ten initiative for increasing the supply of renewable and alternative fuels and reforming and increasing the CAFE standards. Consistent with the NAS report, he urged the authority be provided to reform CAFE for passenger cars by adopting an attribute-based system (for example, a size-based system) reduces the risk that vehicle safety is compromised, helps preserve consumer choice, and helps spread the burden of compliance across all product lines and manufacturers. He also urged that authority be provided to set the CAFE standards, based on cost/benefit analysis, using sound science, and without impacting safety.

4. Request for Passenger Car and Light Truck Product Plans (February 2007)

In late February 2007, NHTSA published a notice to acquire new and updated information regarding vehicle manufacturers' future product plans to aid in implementing the President's plan for reforming and increasing CAFE standards for passenger cars and further increasing the already reformed light truck standards. More specifically, the agency said:

> * * * we are seeking information related to fuel economy improvements for MY 2007–2017 passenger cars and MY 2010–2017 light trucks. The agency is seeking information in anticipation of obtaining statutory authority to reform the passenger car CAFE program and to set standards under that structure for MY 2010–2017 passenger cars. The agency is also seeking this information in anticipation of setting standards for MY 2012–2017 light trucks.[32]

5. Supreme Court Decision in *Massachusetts* v. *EPA* (April 2007)

On April 2, 2007, the U.S. Supreme Court issued its opinion in *Massachusetts* v. *EPA*.[33] The Court ruled that the state of Massachusetts had standing because it had already lost a small amount of land and stood to lose more due to global warming induced increases in sea level; that some portion of this harm was traceable to the absence of a regulation issued by EPA requiring reductions in GHG emissions (CO_2 emissions, most notably) by motor vehicles; and that issuance of such an EPA regulation by EPA would reduce the risk of further harm to Massachusetts. On the merits, the Court ruled that greenhouse gases are ''pollutants'' under the Clean Air Act and that the Act therefore authorizes EPA to regulate greenhouse gas emissions from motor vehicles if EPA makes the necessary findings and determinations under section 202 of the Act.

The Court considered EPCA briefly, noting that it and the Clean Air Act have different overall purposes. It noted further that the two acts overlap, but did not define the nature or extent of that overlap. It concluded that EPCA did not relieve EPA of its statutory obligations and expressed confidence that the two acts could be consistently administered. The Court did not address the express preemption provision in EPCA.

6. Coordination Between NHTSA and EPA on Development of Rulemaking Proposals (Summer–Fall 2007)

In the wake of the Supreme Court's decision and in the absence of the legislation he called for in his 2007 State of the Union message, the President called on NHTSA and EPA to take the first steps toward regulations that would cut gasoline consumption and greenhouse gas emissions from motor vehicles, using his Twenty-in-Ten initiative as a starting point. He asked them ''to listen to public input, to carefully consider safety, science, and available technologies, and evaluate the benefits and costs before they put forth the new regulation.'' He also issued an executive order directing all of the departments and agencies to work together on the proposal.

Pursuant to the President's directive, NHTSA and EPA staff jointly assessed which technologies would be available and their effectiveness and cost. They also jointly assessed the key economic and other assumptions affecting the stringency of future standards. Finally, they worked together in updating and further improving the Volpe model that had been used to help determine the stringency of the MY 2008–2011 light truck CAFE standards. Much of the work between NHTSA and EPA staff was reflected in rulemaking proposals being developed by NHTSA prior to the enactment of EISA and was substantially retained when NHTSA revised its proposals to be consistent with that legislation. Ultimately, the proposals being published today are based on NHTSA's assessments of how they meet EPCA, as amended by EISA.

7. Ninth Circuit Decision Re Final Rule for MY 2008–2011 Light Trucks (November 2007)

On November 15, 2007, the United States Court of Appeals for the Ninth Circuit issued its decision in *Center for Biological Diversity* v. *NHTSA*,[34] the challenge to the MY 2008–11 light truck CAFE rule. The Court rejected the petitioners' argument that EPCA precludes the use of a marginal cost-benefit analysis that attempted to weigh all of the social benefits (*i.e.*, externalities as well as direct benefits to consumers) of improved fuel savings in determining the stringency of the CAFE standards. It cautioned, however, that it had not reviewed whether the agency's balancing of the statutory factors in setting those standards was arbitrary and capricious. In that regard, it noted that much had changed since a court of appeals had last (*i.e.*, in the late 1980's) reviewed the agency's balancing of those factors in a rulemaking. Specifically, it noted increases in scientific knowledge of climate change

[32] 72 FR 8664; February 27, 2007.

[33] 127 S.Ct. 1438 (2007).

[34] 508 F.3d 508.

and in the need to reduce importation of petroleum since that time.

Further, the Court found that NHTSA had been arbitrary and capricious in its treatment of the following issues:

- NHTSA's decision not to monetize the benefit of reducing CO_2 emissions and use that value in conducting its marginal benefit-cost analysis based on its view that the value of the benefit of CO_2 emission reductions resulting from fuel consumption reductions was too uncertain to permit the agency to determine a value for those emission reductions;[35]
- NHTSA's decision not to establish a ''backstop'' (*i.e.*, a fixed minimum CAFE standard applicable to manufacturers); [36]
- NHTSA's decision not to proceed to revise the regulatory definitions for the passenger car and light truck categories of automobiles so that some vehicles currently classified as light trucks are instead classified as passenger cars; [37]
- NHTSA's decision not to subject most medium- and heavy-duty pickups and most medium- and heavy-duty cargo vans (i.e., those between 8,500 and 10,000 pounds gross vehicle weight rating (GVWR,) to the CAFE standards; [38]
- NHTSA's limited assessment of cumulative impacts and regulatory alternatives in its Environmental Assessment (EA) under the National Environmental Policy Act (NEPA), and its decision to prepare and publish an EA, coupled with a finding of no significant impact, instead of an Environmental Impact Statement (EIS).[39]

The Court did not vacate the standards, but instead said it would remand the rule to NHTSA to promulgate new standards consistent with its opinion ''as expeditiously as possible and for the earliest model year practicable.[40] Under the decision, the standards established by the April 2006 final rule would remain in effect unless and until amended by NHTSA.

On February 6, 2008, the Government petitioned for en banc rehearing by the Ninth Circuit on the limited issue of whether it was appropriate for the panel, having held that the agency insufficiently explored the environmental implications of the MY 2008–11 rulemaking in its EA, to order the agency to prepare an EIS rather than simply remanding the matter to the agency for further analysis.

As of the date of the issuance of this proposal, the Court has not yet issued its mandate in this case.

8. Enactment of Energy Security and Independence Act of 2007 (December 2007)

As noted above in section I.B., EISA significantly changed the provisions of EPCA governing the establishment of future CAFE standards. These changes made it necessary for NHTSA to pause in its efforts so that it could assess the implications of the amendments made by EISA and then, as required, revise some aspects of the proposals it had been developing (*e.g.*, the model years covered and credit issues).

C. Energy Policy and Conservation Act, as Amended

EPCA, which was enacted in 1975, mandates a motor vehicle fuel economy regulatory program to improve the nation's energy security and energy efficiency. It gives the authority under EPCA to regulate fuel economy to DOT, which has delegated that authority to NHTSA at 49 CFR 1.50. EPCA allocates the responsibility for implementing the program as follows: NHTSA sets CAFE standards for passenger cars and light trucks; EPA calculates the average fuel economy of each manufacturer's passenger cars and light trucks; and NHTSA enforces the standards based on EPA's calculations.

We have summarized below EPCA, as amended by EISA. We request comment on how EPCA should be implemented to achieve the goals and meet the requirements of EISA. For example, what assumptions, methodologies and computations should be used in establishing and implementing the new standards?

1. Vehicles Subject to Standards for Automobiles

With two exceptions, all four-wheeled motor vehicles with a gross vehicle weight rating of 10,000 pounds or less will be subject to the CAFE standards, beginning with MY 2011. The exceptions will be work trucks [41] and multi-stage vehicles. Work trucks are defined as vehicles that are:

—rated at between 8,500 and 10,000 pounds gross vehicle weight; and
—are not a medium-duty passenger vehicle (as defined in section 86.1803–01 of title 40, Code of Federal Regulations, as in effect on the date of the enactment of the Ten-in-Ten Fuel Economy Act).[42]

Medium-duty passenger vehicles (MDPV) include 8,500 to 10,000 lb. GVWR sport utility vehicles (SUVs), short bed pick-up trucks, and passenger vans, but exclude pickup trucks with longer beds and cargo vans rated at between 8,500 and 10,000 lbs GVWR. It is those excluded pickup trucks and cargo vans that are work trucks. ''Multi-stage vehicle'' includes any vehicle manufactured in different stages by 2 or more manufacturers, if no intermediate or final-stage manufacturer of that vehicle manufactures more than 10,000 multi-stage vehicles per year.[43]

Under EPCA, as it existed before EISA, the agency had discretion whether to regulate vehicles with a GVWR between 6,000 and 10,000 lbs., GVWR. It could regulate the fuel

[35] The agency has developed a value for those reductions and used it in the analyses underlying the standards proposed in this NPRM. For further discussion, see section V of this preamble.

[36] EISA's requirement that standards be based on one or more vehicle attributes and its specification for domestic passenger cars, but not for nondomestic passenger cars or light trucks of an absolute CAFE level appear to preclude the specification of such a backstop standard for the latter two categories of automobiles. For further discussion, see Section VI of this preamble.

[37] In this NPRM, NHTSA examines the legislative history of the statutory definitions of ''automobile'' and ''passenger automobile'' and the term ''nonpassenger automobile'' and analyses the impact of that moving any vehicles out of the nonpassenger automobile (light truck) category into the passenger automobile (passenger car) category would have the level of standards for both groups of automobiles. For further discussion, see Section VIII of this preamble.

[38] EISA removed these vehicles from the statutory definition of ''automobile'' and mandated the establishment of CAFE standards for them following the completion of reports by the National Academy of Sciences and NHTSA.

[39] On February 9, NHTSA filed a petition with the Ninth Circuit for rehearing en banc on the issue of whether the panel in *CBD* acted within its authority in ordering the agency to prepare an EIS instead of remanding the issue to the agency and directing it to conduct a new, fuller environmental analysis and decide whether an EIS is required. In addition, NHTSA has published a notice of intent to prepare an environmental impact statement, thus beginning the EIS process for this rulemaking, as discussed in Section XIII.B. of this NPRM.

[40] The deadline in EPCA for issuing a final rule establishing, for the first time, a CAFE standard for a model year is 18 months before the beginning of that model year. 49 U.S.C. 32902(g)(2). The same deadline applies to issuing a final rule amending an existing CAFE standard so as to increase its stringency. Given that the agency has long regarded October 1 as the beginning of a model year, the statutory deadline for increasing the MY 2009 standard was March 30, 2007, and the deadline for increasing the MY 2010 standard is March 30, 2008. Thus, the only model year for which there is sufficient time to gather all of the necessary information, conduct the necessary analyses and complete a rulemaking is MY 2011. As noted earlier in this document, however, EISA requires that a new standard be established for that model year. This rulemaking is being conducted pursuant to that requirement.

[41] While EISA excluded work trucks from ''automobiles,'' it did not exclude them from regulation under EPCA. EISA requires that work trucks be subjected to CAFE standards, but only first after the National Academy of Sciences completes a study and then after NHTSA completes a follow-on study. Congress thus recognized and made allowances for the practical difficulties that led NHTSA to decline to include work trucks in its final rule for MY 2008–11 light trucks.

[42] 49 U.S.C. 32902(a)(19).

[43] 49 U.S.C. 32902(a)(3).

economy of vehicles with a GVWR within that range under CAFE if it determined that (1) standards were feasible for these vehicles, and (2) either (a) that these vehicles were used for the same purpose as vehicles rated at not more than 6,000 lbs. GVWR, or (b) that their regulation would result in significant energy conservation.

EISA eliminated the need for administrative determinations in order to subject vehicles between 6,000 and 10,000 lbs. GVWR to the CAFE standards for automobiles. Congress did so by making the determination itself that all vehicles within that GVWR range should be included, with the exceptions noted above.

2. Mandate To Set Standards for Automobiles

As amended by EISA, EPCA requires that the agency establish standards for all new automobiles for each model year at the maximum feasible levels for that model year. A manufacturer's individual passenger cars and light trucks are not required to meet a particular fuel economy level. Instead, the harmonically averaged fuel economy of a manufacturer's production of passenger cars (or light trucks) in a particular model year must meet the standard for those automobiles for that model year.

For model years 2011–2020, several special requirements, in addition to the maximum feasible requirement, are specified.[44] Each of the requirements must be interpreted in light of the other requirements. For those model years, separate standards for passenger cars and for light trucks must be set at high enough levels to ensure that the CAFE of the industry wide combined fleet of new passenger cars and light trucks for MY 2020 is not less than 35 mpg. The 35 mpg figure is not a standard applicable to any individual manufacturer. It is a requirement, applicable to the agency, regarding the combined effect of the separate standards for passenger cars and light trucks that NHTSA is to establish for MY 2020. EISA does not specify precisely how compliance with this requirement is to be ensured or how or when the CAFE of the industry wide combined fleet for MY 2020 is to be calculated for purposes of determining compliance. As a practical matter, to ensure that this level is achieved, the standard for MY 2020 passenger cars would have to be above 35 mpg and the one for MY 2020 light trucks might or might not be below 35 mpg. Similarly, the CAFE of some manufacturers' combined fleet of passenger cars and light trucks would be above 35 mpg, while the combined fleet of others might or might not be below 35 mpg. The standards for passenger cars and those for light trucks must increase ratably each year. The CAFE of each manufacturer's fleet of domestic passenger cars must meet a sliding, absolute minimum level in each model year: 27.5 mpg or 92 percent of the projected CAFE of the industry wide fleet of new domestic passenger cars for that model year.

EPCA, as it existed before EISA, EPCA required that light truck standards be set at the maximum feasible level for each model year, but simply specified a default standard of 27.5 mpg for passenger cars for MY 1985 and thereafter. It permitted, but did not require that NHTSA establish a higher or lower standard for passenger cars if the agency found that the maximum feasible level of fuel economy is higher or lower than 27.5 mpg.

3. Structure of Standards

The standards for passenger cars and light trucks must be based on one or more vehicle attributes and expressed in terms of a mathematical function. This makes it possible to increase the CAFE standards for both passenger cars and light trucks significantly without creating incentives to improve fuel economy in ways that reduce safety. Formerly, EPCA provided authority for this approach for light trucks, but not passenger cars.

4. Factors Governing or Considered in the Setting of Standards

In determining the maximum feasible level of average fuel economy for a model year, EPCA requires that the agency consider four factors: technological feasibility, economic practicability, the effect of other standards of the Government on fuel economy, and the need of the nation to conserve energy. EPCA does not define these terms or specify what weight to give each concern in balancing them; thus, NHTSA defines them and determines the appropriate weighting based on the circumstances in each CAFE standard rulemaking.

''Technological feasibility'' means whether a particular method of improving fuel economy can be available for commercial application in the model year for which a standard is being established.

''Economic practicability'' means whether a standard is one ''within the financial capability of the industry, but not so stringent as to'' lead to ''adverse economic consequences, such as a significant loss of jobs or the unreasonable elimination of consumer choice.'' [45] In an attempt to ensure the economic practicability of attribute based standards, the agency considers a variety of factors, including the annual rate at which manufacturers can increase the percentage of its fleet that has a particular type of fuel saving technology, and cost to consumers. Since consumer acceptability is an element of economic practicability, the agency has limited its consideration of fuel saving technologies to be added to vehicles to those that provide benefits that match their costs. Disproportionately expensive technologies are not likely to be accepted by consumers.

At the same time, the law does not preclude a CAFE standard that poses considerable challenges to any individual manufacturer. The Conference Report for EPCA, as enacted in 1975, makes clear, and the case law affirms, ''(A) determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy.''[46] Instead, the agency is compelled ''to weigh the benefits to the nation of a higher fuel economy standard against the difficulties of individual automobile manufacturers.'' *Id.* The law permits CAFE standards exceeding the projected capability of any particular manufacturer as long as the standard is economically practicable for the industry as a whole. Thus, while a particular CAFE standard may pose difficulties for one manufacturer, it may also present opportunities for another. The CAFE program is not necessarily intended to maintain the competitive positioning of each particular company. Rather, it is intended to enhance fuel economy of the vehicle fleet on American roads, while protecting motor vehicle safety and the totality of American jobs and the overall United States economy.

''The effect of other motor vehicle standards of the Government on fuel economy'' means ''the unavoidable adverse effects on fuel economy of compliance with emission, safety, noise, or damageability standards.'' In the case of emission standards, this includes standards adopted by the Federal government and can include standards adopted by the States as well, since in certain circumstances the Clean Air Act

[44] Under EPCA, prior to its amendment by EISA, the standard for passenger cars was 27.5 mpg unless amended to a higher or lower level by DOT. Per EISA, the standard will remain at 27.5 mpg through MY 2010.

[45] 67 FR 77015, 77021; December 16, 2002.

[46] CEI–I, 793 F.2d 1322, 1352 (DC Cir. 1986).

permits States to adopt and enforce State standards in lieu of the Federal ones. It does not, however, include State standards expressly preempted by EPCA.[47]

''The need of the United States to conserve energy'' means ''the consumer cost, national balance of payments, environmental, and foreign policy implications of our need for large quantities of petroleum, especially imported petroleum.'' Environmental implications principally include reductions in emissions of criteria pollutants and carbon dioxide. A prime example of foreign policy implications are energy independence and security concerns.

The agency has considered environmental issues in making decisions about the setting of standards from the earliest days of the CAFE program. As the three courts of appeal have noted in decisions stretching over the last 20 years,[48] the agency defined the ''need of the Nation to conserve energy'' in the late 1970's as including ''the consumer cost, national balance of payments, environmental, and foreign policy implications of our need for large quantities of petroleum, especially imported petroleum.'' [49] Pursuant to that view, the agency declined to include diesel engines in determining the maximum feasible level of average fuel economy for passenger cars and for light trucks because particulate emissions from diesels were then both a source of concern and unregulated.[50] In the late 1980's, NHTSA cited concerns about climate change as one of its reasons for limiting the extent of its reduction of the CAFE standard for MY 1989 passenger cars [51] and for declining to reduce the standard for MY 1990 passenger cars.[52] Since then, DOT has considered the indirect benefits of reducing tailpipe carbon dioxide emissions in its fuel economy rulemakings pursuant to the statutory requirement to consider the nation's need to conserve energy by reducing consumption. In this rulemaking, consistent with the Ninth Circuit's decision and its observations about the potential effect of changing information about climate change on the balancing of the EPCA factors and aided by the 2007 reports of the United Nations Intergovernmental Panel on Climate Change [53] and other information, NHTSA is monetizing the reductions in tailpipe emissions of CO_2 that will result from the CAFE standards and is proposing to set the MY 2011–15 CAFE standards at levels that reflect the value of those reductions in CO_2, as well as the value of other benefits of those standards. In setting CAFE standards, NHTSA also considers environmental impacts under NEPA, 42 U.S.C. 4321–4347.

In addition, the agency is permitted to consider additional relevant societal considerations. For example, historically, it has considered the potential for adverse safety consequences when deciding upon a maximum feasible level. This practice is sanctioned in case law.[54]

EPCA requires that the MY 2011–2019 CAFE standards for passenger cars and for light trucks must both increase ratably to at least the levels necessary to meet 35 mpg requirement for MY 2020. NHTSA interprets this to mean that the standards must make steady progress toward the levels necessary for the average fuel economy of the combined industry wide fleet of all new passenger cars and light trucks sold in the United States during MY 2020 to reach at least 35 mpg.

Finally, EPCA provides that in determining the level at which it should set CAFE standards for a particular model year, NHTSA may not consider the ability of manufacturers to take advantage of several EPCA provisions that facilitate compliance with the CAFE standards and thereby reduce the costs of compliance. As noted below in Section II, manufacturers can earn compliance credits by exceeding the CAFE standards and then use those credits to achieve compliance in years in which their measured average fuel economy falls below the standards. Manufacturers can also increase their CAFE levels through MY 2019 by producing alternative fuel vehicles. EPCA provides an incentive for producing these vehicles by specifying that their fuel economy is to be determined using a special calculation procedure that results in those vehicles being assigned a high fuel economy level.

5. Consultation in Setting Standards

EPCA provides that NHTSA is to consult with the Department of Energy (DOE) and Environmental Protection Agency in prescribing CAFE standards. It provides further that NHTSA is to provide DOE with an opportunity to provide written comments on draft proposed and final CAFE standards.[55]

6. Compliance Flexibility and Enforcement

EPCA specifies a precise formula for determining the amount of civil penalties for failure to comply with a standard. The penalty, as adjusted for inflation by law, is $5.50 for each tenth of a mpg that a manufacturer's average fuel economy falls short of the standard for a given model year multiplied by the total volume of those vehicles in the affected fleet (*i.e.*, import or domestic passenger car, or light truck), manufactured for that model year. The amount of the penalty may not be reduced except under the unusual or extreme circumstances specified in the statute.

Likewise, EPCA provides that manufacturers earn credits for exceeding a standard. The amount of credit earned is determined by multiplying the number of tenths of a mpg by which a manufacturer exceeds a standard for a particular category of automobiles by the total volume of automobiles of that category manufactured by the manufacturer for a given model year.

EPA is responsible for measuring automobile manufacturers' CAFE so that NHTSA can determine compliance with the CAFE standards. In making these measurements for passenger cars, EPA is required by EPCA [56] to use the EPA test

[47] 49 U.S.C. 32919 and 71 FR 17566, 17654–70; April 6, 2006.

[48] *Center for Auto Safety* v. *NHTSA,* 793 F.2d 1322, 1325 n. 12 (DC Cir. 1986); *Public Citizen* v. *NHTSA,* 848 F.2d 256, 262–3 n. 27 (DC Cir. 1988) (noting that ''NHTSA itself has interpreted the factors it must consider in setting CAFE standards as including environmental effects''); and *Center for Biological Diversity* v. *NHTSA,* 508 F.3d 508, 529 (9th Cir. 2007).

[49] 42 FR 63,184, 63,188 (Dec. 15, 1977) (emphasis added).

[50] For example, the final rules establishing CAFE standards for MY 1981–84 passenger cars, 42 FR 33,533, 33,540–1 and 33,551; June 30, 1977, and for MY 1983–85 light trucks, 45 FR 81,593, 81,597; December 11, 1980.

[51] 53 FR 39,275, 39,302; October 6, 1988.

[52] 54 FR 21985,

[53] The IPCC 2007 reports can be found at *http://www.ipcc.ch/.* (Last accessed April 20, 2008.)

[54] *See, e.g., Center for Auto Safety* v. *NHTSA* (CAS), 793 F. 2d 1322 (DC Cir. 1986) (Administrator's consideration of market demand as component of economic practicability found to be reasonable); Public Citizen 848 F.2d 256 (Congress established broad guidelines in the fuel economy statute; agency's decision to set lower standard was a reasonable accommodation of conflicting policies). As the United States Court of Appeals pointed out in upholding NHTSA's exercise of judgment in setting the 1987–1989 passenger car standards, ''NHTSA has always examined the safety consequences of the CAFE standards in its overall consideration of relevant factors since its earliest rulemaking under the CAFE program.'' *Competitive Enterprise Institute* v. *NHTSA* (CEI I), 901 F.2d 107, 120 at n.11 (DC Cir. 1990).

[55] In addition, Executive Order No. 13432 provides that a Federal agency undertaking a regulatory action that can reasonably be expected to directly regulate emissions, or to substantially and predictably affect emissions, of greenhouse gases from motor vehicles, shall act jointly and consistently with other agencies to the extent possible and to consider the views of other agencies regarding such action.

[56] 49 U.S.C. 32904(c).

procedures in place as of 1975 (or procedures that give comparable results), which are the city and highway tests of today, with adjustments for procedural changes that have occurred since 1975.

EPA's fuel economy test procedures specify equations for calculating fuel economy. These equations are based on the carbon balance technique which allows fuel economy to be determined from measurement of exhaust emissions. This technique relies upon the premise that the quantity of carbon in a vehicle's exhaust gas is equal to the quantity of carbon consumed by the engine as fuel.

When NHTSA finds that a manufacturer is not in compliance, it notifies the manufacturer. Surplus credits generated from the five previous years can be used to make up the deficit. If there are no (or not enough) credits available, then the manufacturer can either pay the fine, or submit a carry back plan to the agency. A carry back plan describes what the manufacturer plans to do in the following three model years to make up for the deficit in credits. NHTSA must examine and determine whether to approve the plan.

III. Fuel Economy Enhancing Technologies

In the Agency's last two rulemakings covering light truck CAFE standards for MYs 2005–2007 and MYs 2008–2011, the agency relied on the 2002 National Academy of Sciences' report, Effectiveness and Impact of Corporate Average Fuel Economy Standards (''the 2002 NAS Report'') [57] for estimating potential fuel economy benefits and associated retail costs of applying combinations of technologies in 10 classes of production vehicles. The NAS cost and effectiveness numbers were the best available estimates at this time, determined by a panel of experts formed by the National Academy of Sciences, and the report had been peer reviewed by individuals chosen for their diverse perspectives and technical expertise in accordance with procedures approved by the Report Review Committee of the National Research Council. However, since the publication of the 2002 NAS Report, there has been substantial advancement in fuel-saving technologies, including technologies not discussed in the NAS Report that are expected to appear on vehicles in the MY 2011–2015 timeframe. There also have been reports issued and studies conducted by several other organizations and companies that discuss fuel economy technologies and their benefits and costs. NHTSA has contracted with the NAS to update the fuel economy section, Chapter 3, of the 2002 NAS Report. However, this update will not be available in time for this rulemaking. Due to the expedited nature of this rulemaking, NHTSA, in consultation with the Environmental Protection Agency (EPA), developed an updated technology cost and effectiveness list to be used in this document.

This list presents NHTSA and EPA technical staff's current assessment of the costs and effectiveness from a broad range of technologies which can be applied to cars and light-duty trucks. EPA published the results of this collaboration in a report and submitted it to the NAS committee.[58] A copy of the report and other studies used in the technology update will be placed in NHTSA's docket.

NHTSA believes that the estimates used for this document, which rely on the best available public and confidential information, are defensible and reasonable predictions for the next five years. Nevertheless, NHTSA still believes that the ideal source for this information comes from a peer reviewed process such as the NAS. NHTSA will continue to work with NAS to update this list on a five year interval as required by the Energy Independence and Security Act of 2007.

The majority of the technologies discussed in this section are in production and available on vehicles today, either in the United States, Japan, or Europe. A number of the technologies are commonly available, while others have only recently been introduced into the market. In a few cases, we provide estimates on technologies which are not currently in production, but are expected to be so in the next few years. These are technologies which can be applied to cars and trucks that are capable of achieving significant improvements in fuel economy and reductions in carbon dioxide emissions, and improve vehicle fuel economy, at reasonable costs.

NHTSA and EPA conducted the technology examination using concepts from the 2002 NAS report which constituted a starting point for the analysis. In the NAS Report, there were three exemplary technology paths or scenarios identified for each class of production vehicles, which lead to successively greater improvements in fuel consumption and greater costs. Path I included production-intent technologies that will be available within 10 years and could be implemented under current economic and regulatory conditions. Path II included more costly production-intent technologies that are technically feasible for introduction within 10 years if economic and regulatory conditions justify their use. Path III included emerging technologies that will be available within 10 to 15 years but that may require further development prior to commercial introduction. These three paths represented vehicle development steps that would offer increasing levels of fuel economy gains (as incremental gains) at incrementally increasing cost. As stated earlier, since the publication of the 2002 NAS Report, automotive technology has continued to advance and many of the technologies that were identified in the report as emerging have already entered the marketplace.

In this rulemaking, NHTSA in consultation with EPA have examined a variety of technologies, looking beyond path I and path II to path III and to emerging technologies beyond path III. These technologies were in their infancy when the 2002 NAS Report was being formulated. In addition, unlike for past rulemakings where NHTSA projected the use of different variants of a technology as a combined technology, in this rulemaking, NHTSA working with EPA examined advanced forms and subcategories of existing technologies and reflected the effectiveness and cost for each of the variants separately for all ten vehicle classes. The specific technologies affected are variable valve timing (VVT), variable valve lift and timing (VVLT) and cylinder deactivation. Manufacturers are currently using many different types of VVTs and VVLTs, which have a variety of different names and methods. This rulemaking employs specific cost and effectiveness estimates for variants of VVT, including Intake Camshaft Phasing (ICP), Coupled Camshaft Phasing (CCP), and Dual (Independent) Camshaft Phasing (DCP). It also employs specific cost and effectiveness estimates for variants of VVLT, including Discrete Variable Valve Lift (DVVL) and Continuous Variable Valve Lift (CVVL). We also now include the effectiveness and cost estimates for each of the variants of cylinder deactivation. The most common type of cylinder deactivation is one in which an eight-cylinder overhead

[57] National Research Council, ''Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards,'' National Academy Press, Washington, DC (2002). *Available at http://www.nap.edu/openbook.php?isbn=0309076013* (last accessed April 20, 2008).

[58] EPA Staff Technical Report: Cost and Effectiveness Estimates of Technologies Used to Reduce Light-duty Vehicle Carbon Dioxide Emissions. EPA420–R–08–008, March, 2008.

valve engine disables four of its cylinders under light loads. Cylinder deactivation could be incorporated on overhead cam engines, and can be applied to four and six cylinder engines as well (we have restricted application to 6 and 8 cylinder engines). Thus, the variants of cylinder deactivation that now have specific cost and effectiveness estimates include both overhead valve engine cylinder deactivation and overhead cam engine cylinder deactivation.

The update also revisited technology lead time issues and took a fresh look at technology application rates, how to link certain technologies to certain redesign and refresh patterns, synergistic impacts resulting from adding technology packaging, and learning costs.

A. Data Sources for Technology Assumptions

A large number of technical reports and papers are available which contain data and estimates of the fuel economy improvements of various vehicle technologies. In addition to specific peer-reviewed papers respecting individual technologies, we also utilized a number of recent reports which had been utilized by various State and Federal Agencies and which were specifically undertaken for the purpose of estimating future vehicle fuel economy reduction effectiveness or improvements in fuel economy. The reports we utilized most frequently were:

• 2002 National Academy of Science (NAS) report titled ''Effectiveness and Impact of Corporate Average Fuel Economy Standards''. At the time it was published, the NAS report was considered by many to be the most comprehensive summary of current and future fuel efficiencies improvements which could be obtained by the application of individual technologies. The focus of this report was fuel economy, which can be directly correlated with CO_2 emissions. The 2002 NAS report contains effectiveness estimates for ten different vehicle classifications (small car, mid-SUV, large truck, etc), but did not differentiate these effectiveness values across the classes. Where other sources or engineering principles indicated that a differentiation was warranted, we utilized the 2002 NAS effectiveness estimates as a starting point and further refined the estimate to one of the vehicle classes using engineering judgment or by consulting additional reliable sources.

• 2004 Northeast States Center for a Clean Air Future (NESCCAF) report ''Reducing Greenhouse Gas Emissions from Light-Duty Motor Vehicles''. This report, which was utilized by the California Air Resources Board for their 2004 regulatory action on vehicle CO_2 emissions, includes a comprehensive vehicle simulation study undertaken by AVL, a world-recognized leader in automotive technology and engineering. In addition, the report included cost estimates developed by the Martec Group, a market-based research and consulting firm which provides services to the automotive industry. The NESCCAF report considered a number of technologies not examined in the 2002 NAS report. In addition, through the use of vehicle simulation modeling, the 2004 NESCCAF report provides a scientifically rigorous estimation of the synergistic impacts of applying multiple fuel economy technologies to a given vehicle.

• 2006 Energy and Environmental Analysis Inc (EEA) report ''Technology to Improve the Fuel Economy of Light Duty Trucks to 2015'' Prepared for The U.S. Department of Energy and The U.S. Department of Transportation. This update of technology characteristics is based on new data obtained by EEA from technology suppliers and auto-manufacturers, and these data are compared to data from studies conducted earlier by EEA, the National Academy of Sciences (NAS), the Northeast States Center for a Clean Air future (NESCCAF) and California Air Resources Board (CARB).

• Data from Vehicle Manufacturers, Component Suppliers, and other reports. We also evaluated confidential data from a number of vehicle manufacturers as well as a number of technology component suppliers. In February of 2007, the NHTSA published a detailed Request for Comment (RFC) in the **Federal Register**. This RFC included, among other items, a request for information from automotive manufacturers and the public on the fuel economy improvement potential of a large number of vehicle technologies. The manufacturer's submissions to this RFC were supplemented by confidential briefing and data provided by vehicle component suppliers, who for many of the technologies considered are the actual manufacturers of the specific technology and often undertake their own development and testing efforts to investigate the fuel economy improvement potential of their products. Manufacturers that provided NHTSA and EPA with fuel economy cost and effectiveness estimates include BMW, Chrysler, Ford, General Motors, Honda, Nissan, Toyota and Volkswagen. The major suppliers that provided NHTSA with fuel economy cost and effectiveness estimates include Borg-Warner, Bosch, Corning, Delphi, and Siemens.

• Finally, to verify that the fuel economy cost and effectiveness estimates for each of the technologies was reasonable and within currently available estimates for these technologies, NHTSA examined those estimates provided by other reports or sources, such as the Martec (contained in the 2004 NESCAFF report) and Sierra Research reports.[59]

B. Technologies and Estimates of Costs and Effectiveness

This section describes each technology and associated cost and effectiveness numbers. The technologies can be classified into five main groups similar to how they were classified in the NAS Report: engine technologies; transmission technologies; accessory technologies; vehicle technologies; and hybrid technologies.

While NHTSA and EPA followed the general approach taken by the NAS in estimating the cost and effectiveness numbers, we decided to update some of these estimates to reflect better the changed marketplace and regulatory environment, as well as the advancement in and greater penetration of some production-intent and emerging technologies, which have led to lower costs. The values contained in the 2002 NAS report were used to establish a baseline for the fuel economy cost and effectiveness estimates for each of the technologies. We then examined all other estimates provided by manufacturers and major suppliers or other sources. In examining these values, we gave more weight to values or estimates provided by manufacturers that have already implemented these technologies in their fleet, especially those that have introduced them in the largest quantities. Likewise, for technologies that have not penetrated the fleet to date, but will by early in the next decade (according to confidential manufacturer plans), we gave more weight to values or estimates provided by manufacturers that have stated that they will be introducing these technologies in their fleet, especially those that plan to introduce them in the largest quantities. In addition, for the technologies that will appear on vehicles by early in the next decade, we carefully examined the values provided

[59] ''Alternative and Future Technologies for Reducing Greenhouse Gas Emission from Road Vehicles'' Sierra Research Report for Environment Canada, 1999 (SR99–07–01). *http://www.sierraresearch.com/ReportListing.htm* (Last accessed April 20, 2008.)

by those suppliers who have developed these technologies and may have contracts in place to provide them to manufacturers.

Because not all technologies can be applied on all types of vehicles, engines or transmissions, we separately evaluated 10 classes of vehicles to estimate fuel economy cost and effectiveness for each of the technologies. As discussed above, these ten classes, also used in NHTSA's 2006 light truck CAFE rule, were derived from the 2002 NAS Report, which estimated the feasibility, potential incremental fuel consumption benefit and the incremental cost of three product development paths for the following ten vehicle classes: Subcompact passenger cars, compact passenger cars, midsize passenger cars, large passenger cars, small sport utility vehicles, midsize sport utility vehicles, large sport utility vehicles, small pickups, large pickups, and minivans.

The application of technologies to a vehicle class is limited not only by whether the manufacturer is capable of applying it within a particular development cycle, but also by whether the technology may physically be applied to the vehicle. For example, continuously variable transmissions (CVTs) were only allowed to be projected on vehicles with unibody construction, which includes all passenger cars and minivans and some small and midsize SUVs. CVTs could not be projected for use on vehicles with ladder-frame construction, which includes all pickups and large SUVs and some small and midsize SUVs. Another example is cylinder deactivation being limited to vehicles with 6- or 8-cylinder engines. To simplify the analysis, NHTSA assumed that each class of vehicles would typically have vehicle construction and engines with a specific number of cylinders that is most representative of that vehicle class.

Although we looked at ten vehicle classes separately, for some technologies the estimated incremental fuel consumption benefit and incremental cost were the same across all vehicle classes (as for engine accessory improvement), while for other technologies the estimated incremental fuel consumption benefit and incremental cost differed across classes (as for hybrid drivetrains). The main difference was with which path(s) each technology was expected to be associated.

The exact cost and benefit of a given technology depends on specific vehicle characteristics (size, weight, base engine, etc.) and the existence of additional technologies that were already applied to the vehicle. In the section below, ranges of incremental cost and fuel consumption reduction values are listed where the values depend on vehicle characteristics and are independent of the order in which they are applied to a vehicle. All costs, which are reflective of estimated retail price equivalents (RPEs) were inflated by the producer price index (if needed) and are presented in year 2006 dollars, because this is the last year for which final economic indexing is available. Some cost estimates are based on supplier costs. In those instances, multipliers were included in those costs so that they would be treated in the same manner as cost estimates that are based on manufacturer costs. These incremental values were calculated by subtracting out all same-path synergies associated with a given technology and any preceding items on the same path. Essentially, the incremental percent reduction in fuel consumption and cost impacts represent improvements beyond the ones realized due to technologies already applied to the vehicle. As an example, a 5-speed automatic transmission could incrementally reduce fuel consumption by 2 to 3 percent at an incremental cost of $75 to $165 per vehicle, relative to a 4-speed automatic transmission. In turn, a 6-speed automatic transmission could incrementally reduce fuel consumption by 4.5 to 6.5 percent at an incremental cost of $10 to $20 per vehicle, relative to a 5-speed transmission.

NHTSA acknowledges that this approach is different from the one it followed in establishing the reformed light truck standards for MYs 2008–2011, where we relied nearly exclusively on the 2002 NAS report's estimates. Our preference remains to rely upon peer-review and credible studies, such as the 2002 NAS report; however we believe that the estimates made by the joint EPA/NHTSA team are accurate and defensible. The agency seeks comments on our assumptions and the cost, effectiveness and availability estimates provided. NHTSA also seeks comments on whether the order in which these technologies was applied by the Volpe model is proper and whether we have accurately accounted for technologies already included on vehicles and whether we have accurately accounted for technologies that are projected to be applied to vehicles. The agency also seeks comments on the ''synergy'' factors (discussed below) it has applied in order to adjust the estimated incremental effectiveness of some pairs of technology and on whether similar adjustments to the estimated incremental cost of some technologies should be made. In preparation for a final rule, NHTSA intends to update its technology-related methodologies and estimates, and expects that these anticipated updates will affect the form and stringency of the final standards.

a. Engine Technologies

Low-Friction Lubricants

The use of lower viscosity engine and transmission lubricants can reduce fuel consumption. More advanced multi-viscosity engine and transmission oils are now available with improved performance in a wider temperature band, with better lubricating properties. However, even without any changes to fuel economy standards, most MY 2011–2015 vehicles are likely to use 5W–30 motor oil, and some will use even less viscous oils, such as 5W–20 or possibly even 0W–20 to reduce cold start friction. This may directionally benefit the fuel economy improvements of valvetrain technologies such as cylinder deactivation, which rely on a minimum oil temperature (viscosity) for operation. Most manufacturers therefore attributed smaller potential fuel economy reductions and cost increases to lubricant improvements.

The NAS Report estimated that low-friction lubricants could incrementally reduce fuel consumption by 1 percent at an incremental cost of $8 to $11.[60] The NESCCAF study projected that low-friction lubricants could incrementally reduce fuel consumption by 1 percent at an incremental cost of $5 to $15; while the EEA report projected that low-friction lubricants could incrementally reduce fuel consumption by 1 percent at an incremental cost of $10 to $20. In contrast, manufacturer data projected an estimated fuel consumption potential of 0 percent to 1 percent at an incremental cost that ranged from $1 to $11, with many of them stating the costs as ranging from $1 to $5. NHTSA believes that these manufacturer estimates are more accurate and estimates that low-friction lubricants could reduce fuel consumption by 0.5 percent for all vehicle types at an incremental cost of $3, which represents the mid-point of $2.50, rounded up to the next dollar.

Reduction of Engine Friction Losses

All reciprocating and rotating components in the engine are candidates for friction reduction, and minute improvements in several

[60] The price increases noted in this chapter are slightly higher than shown in the NAS study, since they have been converted into calendar year 2006 prices.

components can add to a measurable fuel economy improvement. The amount of energy an engine loses to friction can be reduced in a variety of ways. Improvements in the design of engine components and subsystems will result in friction reduction, improved engine operation, greater fuel economy and reduced emissions. Examples include low-tension piston rings, roller cam followers, crankshaft design, improved material coatings, material substitution, more optimal thermal management, piston surface treatments, and as lubricant friction reduction. Additionally, as computer-aided modeling software continues to improve, more opportunities for incremental friction reduction might become apparent. Even without any changes to fuel economy standards, most MY 2010–2015 vehicles are likely to employ one or more such techniques to reduce engine friction and other mechanical and hydrodynamic losses.

The NAS Report estimated that such technologies could incrementally reduce fuel consumption by 1 to 5 percent at an incremental cost of $36 to $146. NESCCAF predicted that such technologies could incrementally reduce fuel consumption by 0.5 percent at an incremental cost of $5 to $15; while the EEA report predicted that such technologies could reduce fuel consumption at an incremental cost of $10 to $55. Confidential manufacturer data indicates that engine friction reduction could incrementally reduce fuel consumption by 1 to 3 percent at an incremental cost of $0 to $168. Based on available information from these reports and confidential manufacturer data, NHTSA estimates that friction reduction could reduce fuel consumption for all vehicles by 1 to 3 percent at a cost of $21 per cylinder. Thus, the incremental cost of engine friction reduction for a 4-cylinder engine is $0 to $84 (applicable to subcompact and compact cars); for a 6-cylinder engine is $0 to $126 (applicable to midsize cars, large cars, small pickups, small SUVs, minivans and midsize SUVs); and for an 8-cylinder engine is $0 to $168 (applicable to large pickups and SUVs).

Multi-Valve Overhead Camshaft Engine

It appears likely that many vehicles would still use overhead valve (OHV) engines with pushrods and one intake and one exhaust valve per cylinder during the early part of the next decade. Engines with overhead cams (OHC) and more than two valves per cylinder achieve increased airflow at high engine speeds and reductions of the valve train's moving mass and enable central positioning of spark plugs. Such engines, which are already used in some light trucks, typically develop higher power at high engine speeds. The NAS Report projected that multi-valve OHC engines could incrementally reduce fuel consumption by 2 percent to 5 percent at an incremental cost of $109 to $146, and NHTSA found no sources to update these projections.

For purposes of this rule, OHV engines and OHC engines were considered separately, and the model was generally not allowed to apply multivalve OHC technology to OHV engines, except where continuous variable valve timing and lift (CVVL) is applied to OHV engines. In that case, the model assumes conversion to DOHC valvetrain, because DOHC valvetrains are prerequisites for the application of any advanced engine technology over and above CVVL. Since applying CVVL to an OHV is the last improvement that could be made to such an engine, it's logical to assume that manufacturers would redesign that engine as a DOHC and include CVVL as part of that redesign.

For 4-cylinder engines we estimated that the cost to redesign an OHV engine as a DOHC that includes CVVL would be $599 ($169 for conversion to DVVL, $254 for conversion to CVVL, and $176 for conversion to DOHC, which comprises an additional camshaft and valves), with estimated fuel consumption reduction of 2 to 3 percent. For 6-cylinder engines we estimated that the cost to redesign an OHV engine as a DOHC that includes CVVL would be $1262 ($246 for conversion to DVVL, $488 for conversion to CVVL, and $550 for conversion to DOHC, which comprises an additional camshaft and valves), with estimated fuel consumption reduction of 1 to 4 percent. For 8-cylinder engines we estimated that the cost to redesign an OHV engine as a DOHC that includes CVVL would be $1380 ($322 for conversion to DVVL, $508 for conversion to CVVL, and $550 for conversion to DOHC, which comprises an additional camshaft and valves), with estimated fuel consumption reduction of 2 to 3 percent. Incremental cost estimates for DVVL and CVVL are discussed below.

NHTSA believes that the NESCCAF report and confidential manufacturer data are more accurate, and thereby estimates that a conversion of an OHV engine to a DOHC engine with CVVL could incrementally reduce fuel consumption by 1 to 4 percent at an incremental cost of $599 to $1,380 compared to an OHV with VVT.

Cylinder Deactivation

For the vast majority of vehicles, each cylinder is always active while the engine is running. Under partial load conditions, the engine's specific fuel consumption could be reduced if some cylinders could be disabled, such that the active cylinders operate at higher load. In cylinder deactivation, some (usually half) of the cylinders are ''shut down'' during light load operation—the valves are kept closed, and no fuel is injected—as a result, the trapped air within the deactivated cylinders is simply compressed and expanded as an air spring, with minimal friction and heat losses. The active cylinders combust at almost double the load required if all of the cylinders were operating. Pumping losses are significantly reduced as long as the engine is operated in this ''part-cylinder'' mode.

The theoretical engine operating region for cylinder deactivation is limited to no more than roughly 50 percent of peak power at any given engine speed. In practice, however, cylinder deactivation is employed primarily at lower engine cruising loads and speeds, where the transitions in and out of deactivation mode are less apparent to the operator and where the noise and vibration (NVH) associated with fewer firing cylinders may be less of an issue. Manufacturers are exploring the possibilities of increasing the amount of time that part-cylinder mode might be suitable to a vehicle with more refined powertrain and NVH treatment strategies.

General Motors and Chrysler Group have incorporated cylinder deactivation across a substantial portion of their V8-powered lineups. Honda (Odyssey, Pilot) and General Motors (Impala, Monte Carlo) offer V6 models with cylinder deactivation.

There are two variants of cylinder deactivation. The most common type of cylinder deactivation is one in which an eight-cylinder overhead valve engine disables four cylinders under light loads. Thus an eight-cylinder engine could disable four cylinders under light loads, such as when the vehicle is cruising at highway speed. This technology could be applied to four and six cylinder engines as well. General Motors and Chrysler Group have incorporated cylinder deactivation across a substantial portion of their V8-powered overhead valve lineups.

Cylinder deactivation could be incorporated on overhead cam engines and can be applied to four and six cylinder engines as well. Honda has already begun offering three V6 models

with cylinder deactivation (Accord, Odyssey, and Pilot) and GM will soon release cylinder deactivation on its 3.9L 6-cylinder engine. Fuel economy improvement potential scales roughly with engine displacement-to-vehicle weight ratio: the higher displacement-to-weight vehicles, operating at lower relative loads for normal driving, have the potential to operate in part-cylinder mode more frequently.

Honda's technology includes the use of active engine mounts and noise damping amongst other items added to its V6 engines with cylinder deactivation. This, of course, increases the cost relative to a four or eight cylinder OHC engine.

Some manufacturers are getting results in excess of 6 percent and most are at the high end of the range. This higher number is supported by official fuel economy test data on a V6 Honda Odyssey with cylinder deactivation compared to the same vehicle (and engine displacement) without cylinder deactivation and by confidential manufacturer information.

The NAS Report projected that cylinder deactivation could incrementally reduce fuel consumption by 3 percent to 6 percent at an incremental cost of $112 to $252. The NESCCAF study projected that cylinder deactivation could incrementally reduce fuel consumption by 1.7 percent to 4.2 percent at an incremental cost of $161 to $210; while the EEA report projected that cylinder deactivation could incrementally reduce fuel consumption by 5.2 percent to 7.2 percent at an incremental cost of $105 to $135. Confidential manufacturer data and official fuel economy test data indicates that cylinder deactivation could incrementally reduce fuel consumption by at least 6 percent at an incremental cost of $203 to $229. NHTSA believes that these manufacturer estimates are more accurate and thus estimates that cylinder deactivation could reduce fuel consumption by 4.5 percent to 6 percent at an incremental cost of $203 to $229.

Variable Valve Timing

Variable valve timing is a classification of valvetrain designs that alter the timing of the intake valve, exhaust valve, or both, primarily to reduce pumping losses, increase specific power, and control residual gases. VVT reduces pumping losses when the engine is lightly loaded by positioning the valve at the optimum position needed to sustain horsepower and torque. VVT can also improve thermal efficiency at higher engine speeds and loads. Additionally, VVT can be used to alter (and optimize) the effective compression ratio where it is advantageous for certain engine operating modes.

Variable valve timing has been available in the market for quite a while. By the early 1990s, VVT had made a significant market penetration with the arrival of Honda's ''VTEC'' line of engines. VVT has now become a widely adopted technology: for the 2007 model year, over half of all new cars and light trucks have engines with some method of variable valve timing. Therefore, the degree of further improvement across the fleet is limited to vehicles that have not already implemented this technology.

Manufacturers are currently using many different types of variable valve timing, which have a variety of different names and methods. The major types of VVT are listed below:

Intake Camshaft Phasing (ICP)

Valvetrains with ICP—the simplest type of cam phasing—can modify the timing of the intake valve while the exhaust valve timing remains fixed. This requires the addition of a cam phaser for each bank of intake valves on the engine. An in-line 4-cylinder engine has one bank of intake valves, while V-configured engines would have two banks of intake valves. The NAS Report projected that ICP could incrementally reduce fuel consumption by 3 percent to 6 percent at an incremental cost of $35; while the EEA report projected that ICP could reduce fuel consumption at an incremental cost of $35. The NESCCAF study projected that ICP could incrementally reduce fuel consumption by 1 percent to 2 percent at an incremental cost of $49. Consistent with the EEA report and NESCCAF study, we have used this $35 manufacturer cost to arrive at incremental cost of $59 per cam phaser or $59 for an in-line 4 cylinder and $119 for a V-type, thus NHTSA estimates that ICP could incrementally reduce fuel consumption by 1 to 2 percent at an incremental cost of $59 to $119.

Coupled Camshaft Phasing (CCP)

Coupled (or coordinated) cam phasing is a design in which both the intake and exhaust valve timing are varied with the same cam phaser. For an overhead cam engine, the same phaser added for ICP would be used for CCP control. As a result, its costs should be identical to those for ICP. For an overhead valve engine, only one phaser would be required for both inline and V-configured engines since only one camshaft exists. Therefore, for overhead valve engines, the cost is estimated at $59 regardless of engine configuration, using the logic provided for ICP.

The NESCCAF study projected that CCP could incrementally reduce fuel consumption by 1 percent to 3 percent above that obtained by ICP. Confidential manufacturer data also projects that that CCP could incrementally reduce fuel consumption by 1 percent to 3 percent above that obtained by ICP. According to the NESCCAF report and confidential manufacturer data, NHTSA estimates that CCP could incrementally reduce fuel consumption by 1 to 3 percent at an incremental cost of $59 to $119 above ICP valvetrains.

Dual (Independent) Camshaft Phasing (DCP)

The most flexible VVT design is dual cam phasing, where the intake and exhaust valve opening and closing events are controlled independently. This design allows the option of controlling valve overlap, which can be used as an internal EGR strategy. Our estimated incremental compliance cost for this technology is built upon that for VVT–ICP where an additional cam phaser is added to control each bank of exhaust valves less the cost to the manufacturer of the removed EGR valve. The incremental compliance cost for a 4-cylinder engine is estimated to be $59 for each bank of valves, plus an estimated piece cost of $30 for the valves, for a total incremental compliance cost of $89. The incremental compliance cost for a V6 or a V8 engine is estimated to be $59 for each bank of intake valves (*i.e.*, two banks times $59/bank = $119), $59 for each bank of exhaust valves (*i.e.*, another $119) minus an estimated $29 incremental compliance cost for the removed EGR valve; the total incremental compliance cost being $209.

According to the NESCCAF report and confidential manufacturer data, it is estimated that DCP could incrementally reduce fuel consumption by 1 to 3 percent at an incremental cost of $89 to $209 compared to engines with ICP or CCP.

Because ICP and CCP have the same cost and similar effectiveness, it is assumed that manufacturers will choose the technology that best fits the specific engine architecture and application.

Variable Valve Lift and Timing

Some vehicles have engines for which both valve timing and lift can be at least partially optimized based on engine operating conditions. Engines with variable valve timing and lift (VVLT) can achieve further reductions in pumping losses and further increases in thermal efficiency. Controlling the lift

height of the valves provides additional flexibility and potential for further fuel consumption reduction. By reducing the valve lift, engines can decrease the volumetric flow at lower operating loads, improving fuel-air mixing and in-cylinder mixture motion which results in improved thermodynamic efficiency and also potentially reduced overall valvetrain friction. Also, by moving the throttling losses further downstream of the throttle valve, the heat transfer losses that occur from the throttling process are directed into the fresh charge-air mixture just prior to compression, delaying the onset of knock-limited combustion processes. At the same time, such systems may also incur increased parasitic losses associated with their actuation mechanisms.

The NAS report projected that VVLT could incrementally reduce fuel consumption by 1 to 2 percent over VVT alone at an incremental cost of $73 to 218.

Manufacturers are currently using many different types of variable valve lift and timing, which have a variety of different names and methods. The major types of VVLT are listed below:

Discrete Variable Valve Lift

Discrete variable valve lift (DVVL) is a method in which the valvetrain switches between multiple cam profiles, usually 2 or 3, for each valve. These cam profiles consist of a low and a high-lift lobe, and may include an inert or blank lobe to incorporate cylinder deactivation (in the case of a 3-step DVVL system). According to the NESCCAF report and confidential manufacturer data, it is estimated that DVVL could incrementally reduce fuel consumption by 0.5 to 3 percent at an incremental cost of $169 to $322 compared to VVT depending on engine size and overhead cam versus overhead valve engines. Included in this cost estimate is $25 for controls and associated oil supply needs (these costs not reflected in the NESCCAF study). We also project that a single valve lifter could control valve pairs, thus engines with dual intake and/or dual exhaust valves would require only one lifter per pair of valves. Due to this, the estimated costs for applying DVVL to overhead cam and overhead valve engines are the same.

Continuous Variable Valve Lift

Continuous variable valve lift (CVVL) employs a mechanism that varies the pivot point in the rocker arm. This design is realistically limited to overhead cam engines. Currently, BMW has implemented this type of system in its Valvetronic engines, which employs fully flexible valve timing to allow an extra set of rocker arms to vary the valve lift height. CVVL enables intake valve throttling in engines, which allows for the use of more complex systems of sensors and electronic controls to enable further optimization of valve lift.

The NESCCAF study projected incremental costs from $210 to $420, depending on vehicle class, while the EEA report projected incremental costs of $180 to $350, depending on vehicle class. Confidential manufacturer data projects that CVVL could incrementally reduce fuel consumption by 1.5 by 4 percent at an incremental cost of $200 to $515. NHTSA believes that these manufacturer estimates are more accurate than NESCCAF estimates, thus it gives more weight to them. According to the NESCCAF report and confidential manufacturer data, NHTSA estimates that CVVL could incrementally reduce fuel consumption by 1.5 by 4 percent at an incremental cost of $254 to $508 compared to VVT with cost estimates varying from $254, $466, and $508 for a 4-, 6-, and 8-cylinder engine, respectively.

Camless Valve Actuation

Camless valve actuation relies on electromechanical actuators instead of camshafts to open and close the cylinder valves. When electromechanical actuators are used to replace cams and coupled with sensors and microprocessor controls, valve timing and lift can be optimized over all conditions. An engine valvetrain that operates independently of any mechanical means provides the ultimate in flexibility for intake and exhaust timing and lift optimization. With it comes infinite valve overlap variability, the rapid response required to change between operating modes (such as HCCI and GDI), intake valve throttling, cylinder deactivation, and elimination of the camshafts (reduced friction). This level of control can enable even further incremental reductions in fuel consumption.

Camless valvetrains have been under research for many decades due to the design flexibility and the attractive fuel economy improvement potential they might provide. Despite the promising features of camless valvetrains, significant challenges remain. High costs and design complexity have reduced manufacturers' enthusiasm for camless engines in light of other competing valvetrain technologies. The advances in VVT, VVLT, and cylinder deactivation systems demonstrated in recent years have reduced the potential efficiency advantage of camless valvetrains.

The NAS Report projected that camless valve actuation could incrementally reduce fuel consumption by 5 to 10 percent over VVLT at an incremental cost of $336 to $673. Confidential manufacturer information provides incremental fuel consumption losses that range from 2 to 10 percent at costs that range from $300 to $1,100. The NESCCAF study projected that camless valve actuation could incrementally reduce fuel consumption by 11 to 13 percent at an incremental cost of $805 to $1,820; while the EEA report projected that camless valve actuation could incrementally reduce fuel consumption by 10 to 14 percent at an incremental cost of $210 to $600. These benefits and costs are believed to be incremental to engines with VVT.

In reviewing our sources for costs, we have determined that the adjusted costs presented in the 2002 NAS study, which ranged from $336 to $673—depending on vehicle class—represent the best available estimates. Subtracting out the improvements associated with the application of VVLT provides an estimated fuel consumption reduction of 2.5 percent.

Stoichiometric Gasoline Direct Injection Technology

Gasoline direct injection (GDI, or SIDI) engines inject fuel at high pressure directly into the combustion chamber (rather than the intake port in port fuel injection). Direct injection improves cooling of the air/fuel charge within the cylinder, which allows for higher compression ratios and increased thermodynamic efficiency. Injector design advances and increases in fuel pressure have promoted better mixing of the air and fuel, enhancing combustion rates, increasing exhaust gas tolerance and improving cold start emissions. GDI engines achieve higher power density and match well with other technologies, such as boosting and variable valvetrain designs.

Several manufacturers (Audi, BMW, and Volkswagen) have recently released GDI engines while General Motors and Toyota will be introducing GDI engines. In addition, BMW and GM have announced their plans to dramatically increase the number of GDI engines in their portfolios.

The NESCCAF report projected that the incremental cost for GDI of $189 to $294; while the EEA report projected an incremental cost of $77 to $135. Confidential manufacturer data provides data with higher upper end costs than these estimates, with incremental fuel consumption estimates ranging from 1

to 2 percent. For our analysis, we have estimated the costs of individual components of a GDI system and used a ''bottom up'' approach looking at incremental costs for injectors, fuel pumps, etc., to arrive at system incremental compliance costs ranging from $122 to $420 for small cars and up to $228 to $525 for large trucks. The lower end of the ranges represents our best estimate using a bottom up approach while the upper end of the ranges represent levels more consistent with the manufacturer CBI submittals. As a result, we estimate that stoichiometric GDI could incrementally reduce fuel consumption by 1 to 2 percent at an incremental cost of $122 to $525 compared to engines of similar power output.

Gasoline Engine Turbocharging and Engine Downsizing

The specific power of a naturally aspirated engine is limited, in part, by the rate at which the engine is able to draw air into the combustion chambers. Turbocharging and supercharging are two methods to increase the intake manifold pressure and cylinder charge-air mass above naturally aspirated levels. By increasing the pressure differential between the atmosphere and the charging cylinders, superchargers and turbochargers increase this available airflow, and thus increase the specific power level, and with it the ability to reduce engine size while maintaining performance. This effectively reduces the pumping losses at lighter loads in comparison to a larger, naturally aspirated engine, while at the same time reducing net friction losses

Almost every major manufacturer currently markets a vehicle with some form of boosting. While boosting has been a common practice for increasing performance for several decades, it has considerable fuel economy potential when the engine displacement is reduced. Specific power levels for a boosted engine often exceed 100 hp/L—compared to average naturally aspirated engine power density of roughly 70 hp/L. As a result, engines can conservatively be downsized roughly 30 percent to achieve similar peak output levels.

In the last decade, improvements to turbine design have improved their reliability and performance across the entire engine operating range. New variable geometry turbines spool up to speed faster (eliminating the once-common ''turbo lag'') while maintaining high flow rates for increased boost at high speeds.

Turbocharging and downsizing involve the addition of a boost system, removal of two cylinders in most cases (from an 8-cylinder to a 6, or a 6 to a 4) and associated valves, and the addition of some form of cold start control system (*e.g.*, air injection) to address possible cold start emission control. The NAS Report projected that turbocharging and downsizing could incrementally reduce fuel consumption by 5 to 7 percent at an incremental cost of $364 to $582. The EEA report projected turbocharging and downsizing could incrementally reduce fuel consumption by 5.2 to 7.8 percent.

In developing estimated costs for turbocharging and downsizing an engine, NHTSA, in conjunction with EPA, relied upon piece cost estimates contained in the NESCCAF report. The cost estimates provided by the NESCCAF report are as follows: $600 for the turbocharger and associated parts; $90 for an air injection pump and associated parts (each turbocharger requires an air injection pump); $75 per cylinder and associated components; $15 per each valve and associated components; and $150 per camshaft.

In developing the cost estimates for each of the 10 classes of vehicles, we determined the most logical type of downsizing that would occur for each class and starting with the turbocharger and air injector cost, either added or deleted cost, depending on the situation. For subcompact and compact cars, we determined that the downsizing wouldn't involve the removal of any cylinders, valves and camshafts, but instead would result in a manufacturer using a smaller displacement 4-cylinder engine and adding the turbocharger and the air injector to the smaller engine. Thus, for subcompact and compact cars, we estimated the cost of turbocharging and downsizing to be $690 ($600 for the turbocharger plus $90 for the air injector).

For large trucks and large SUVs we determined that the most logical engine downsizing would involve replacing an 8-cylinder overhead valve engine with a turbocharged 6-cylinder dual overhead cam engine. This change would result in the removal of 2 cylinders, and the addition of a turbocharger, an air injector, 8 valves and 2 camshafts. Thus, we have estimated the cost of turbocharging and downsizing to be $810 ($600 for the turbocharger plus $90 for the air injector, plus $120 for eight valves plus $150 for a camshaft and minus $150 for the removal of two cylinders).

For midsize cars, large cars, small trucks, small SUVs, midsize SUVs and minivans, we determined that the most logical engine downsizing would involve replacing a 6-cylinder dual overhead cam engine with a turbocharged 4-cylinder dual overhead cam engine. This change would result in the removal of 2 cylinders, 8 valves and 2 camshafts and the addition of a turbocharger and air injector. Thus, we have estimated the cost of turbocharging and downsizing to be $120 ($600 for the turbocharger plus $90 for the air injector, minus $150 for the removal of two cylinders, minus $120 for the removal of eight valves and minus $300 for the removal of two camshafts).

Thus, we have estimated the cost for a boosted/downsized engine system at $690 for small cars, $810 for large trucks, and $120 for other vehicle classes. Projections of the fuel consumption reduction potential of a turbocharged and downsized engine from the NAS Report are backed by EEA estimates and confidential manufacturer data. According to the NAS Report, the EEA report, cost estimates developed in conjunction with EPA and confidential manufacturer data, NHTSA estimates that downsized turbocharged engines could incrementally reduce fuel consumption from 5 to 7.5 percent at an incremental cost of $120 to $810.

Diesel Engine

Diesel engines have several characteristics that give them superior fuel efficiency to conventional gasoline, spark-ignited engines. Pumping losses are greatly reduced due to lack of (or greatly reduced) throttling. The diesel combustion cycle operates at a higher compression ratio, with a very lean air/fuel mixture, and typically at much higher torque levels than an equivalent-displacement gasoline engine. Turbocharged light-duty diesels typically achieve much higher torque levels at lower engine speeds than equivalent-displacement naturally-aspirated gasoline engines. Additionally, diesel fuel has higher energy content per gallon. However, diesel engines have emissions characteristics that present challenges to meeting Tier 2 emissions standards.

Compliance strategies are expected to include a combination of combustion improvements and after-treatment. Several key advances in diesel technology have made it possible to reduce emissions coming from the engine (prior to after-treatment). These technologies include improved fuel systems (higher pressures and more responsive injectors), advanced controls and sensors to optimize combustion and emissions performance, higher EGR levels to reduce NO_X, lower

compression ratios and advanced turbocharging systems.

For after-treatment, the traditional 3-way catalyst found on gasoline-powered vehicles is ineffective due to the lean-burn combustion of a diesel. All diesels will require a particulate filter, an oxidation catalyst, and a NO_X reduction strategy to comply with Tier 2 emissions standards.

The NO_X reduction strategies most common are outlined below:

Lean NO_X Trap Catalyst After-Treatment

A lean NO_X trap (LNT) operates, in principle, by storing NO_X (NO and NO_2) when the engine is running in its normal (lean) state. When the control system determines (via mathematical model or a NO_X sensor) that the trap is saturated with NO_X, it switches to a rich operating mode. This rich mode produces excess hydrocarbons that act as a reducing agent to convert the stored NO_X to N_2 and water, thereby ''regenerating'' the LNT and opening up more locations for NO_X to be stored. LNTs are sensitive to sulfur deposits which can reduce catalytic performance, but periodically undergo a desulfation engine operating mode to clean it of sulfur buildup.

According to confidential manufacturer data, NHTSA estimates that LNT-based diesels can incrementally reduce fuel consumption by 8 to 15 percent at an incremental cost of $1,500 to $1,600 compared to a direct injected turbocharged and downsized internal combustion engine. These costs are based on a ''bottom up'' cost analysis that was performed with EPA which then subtracted the costs of all previous steps on the decision tree prior to diesel engines.

Selective Catalytic Reduction NO_X After-Treatment

SCR uses a reductant (typically, ammonia derived from urea) continuously injected into the exhaust stream ahead of the SCR catalyst. Ammonia combines with NO_X in the SCR catalyst to form N_2 and water. The hardware configuration for an SCR system is more complicated than that of an LNT, due to the onboard urea storage and delivery system (which requires a urea pump and injector into the exhaust stream). While there is no required rich engine operating mode prescribed for NO_X reduction, the urea is typically injected at a rate of 3 to 4 percent of that of fuel consumed. Manufacturers designing SCR systems are intending to align urea tank refills with standard maintenance practices such as oil changes. Incremental fuel consumption reduction estimates for diesel engines with an SCR system range from 11 to 20 percent at an incremental cost of $2,051 to $2,411 compared to a direct injected turbocharged and downsized internal combustion engine. These costs are based on a ''bottom up'' cost analysis that was performed with EPA, which then subtracted the costs of all previous steps on the decision tree prior to diesel engines.

Based on public information and on recent discussions that NHTSA and EPA have had with auto manufacturers and aftertreatment device manufacturers, NHTSA has received strong indications that LNT systems would probably be used on smaller vehicles while the SCR systems would be used on larger vehicles and trucks. The primary reason given for this choice is the trade off between the rhodium needed for the LNT and the urea injection system needed for SCR. The breakeven point between these two cost factors appears to occur around 3.0 liters. Thus, it is believed that it is cheaper to manufacture diesel engines smaller than 3.0 liters with an LNT system, and that conversely, it is cheaper to manufacture diesel engines larger than 3.0 liters with a SCR system. Of course, there are other factors that influence a manufacturer's decision on which system to use, but we have used this rule-of-thumb for our analysis.

b. Transmission Technologies

Five-, Six-, Seven-, and Eight-Speed Automatic Transmissions

The number of available transmission speeds influences the width of gear ratio spacing and overall coverage and, therefore, the degree of transmission ratio optimization available under different operating conditions. In general, transmissions can offer a greater available degree of engine optimization and can therefore achieve higher fuel economy when the number of gears is increased. However, potential gains may be reduced by increases in transmission weight and rotating mass. Regardless of possible changes to fuel economy standards, manufacturers are increasingly introducing 5- and 6-speed automatic transmissions on their vehicles. Additionally, some manufacturers are introducing 7-, and 8-speed automatic transmissions, with 7-speed automatic transmissions appearing with increasing frequency.

Automatic 5-Speed Transmissions

As automatic transmissions have been developed over the years, more forward speeds have been added to improve fuel efficiency and performance. Increasing the number of available ratios provides the opportunity to optimize engine operation under a wider variety of vehicle speeds and load conditions. Also, additional gears allow for overdrive ratios (where the output shaft of the transmission is turning at a higher speed than the input shaft) which can lower the engine speed at a given road speed (provided the engine has sufficient power at the lower rpm point) to reduce pumping losses. However, additional gears can add weight, rotating mass, and friction. Nevertheless, manufacturers are increasingly adding 5-speed automatic transmissions to replace 3- and 4-speed automatic transmissions.

The 2002 NAS study projected that 5-speed automatic transmissions could incrementally reduce fuel consumption by 2 to 3 percent at an incremental cost of $76 to $167. The NESCCAF study projected that 5-speed automatic transmissions could incrementally reduce fuel consumption by 1 percent at an incremental cost of $140; while the EEA report projected that 5-speed automatic transmissions could incrementally reduce fuel consumption by 2 to 3 percent at an incremental cost of $130. Confidential manufacturer data projected that 5-speed automatic transmissions could incrementally reduce fuel consumption by 1 to 6 percent at an incremental cost of from $60 to $281. NHTSA believes that the NAS study's estimates are still valid and estimates that 5-speed automatic transmissions could incrementally reduce fuel consumption by 2.5 percent at an incremental cost of $76 to $167 (relative to a 4-speed automatic transmission).

Automatic 6-, 7-, and 8-Speed Transmissions

In addition to 5-speed automatic transmissions, manufacturers can also choose to utilize 6-, 7-, or 8-speed automatic transmissions. Additional ratios allow for further optimization of engine operation over a wider range of conditions, but this is subject to diminishing returns as the number of speeds increases. As additional planetary gear sets are added (which may be necessary in some cases to achieve the higher number of ratios), additional weight and friction are introduced. Also, the additional shifting of such a transmission can be perceived as bothersome to some consumers, so manufacturers need to develop strategies for smooth shifts. Some manufacturers are replacing 4-speed automatics with 6-speed automatics (there are also increasing numbers of 5-speed automatic transmissions that are

being replaced by 6-speed automatic transmissions), and 7-, and 8-speed automatics have entered production, albeit in lower-volume applications.

The NAS study projected that 6-, 7- or 8-speed transmissions could incrementally reduce fuel consumption by 1 to 2 percent at an incremental cost of $70 to $126. Confidential manufacturer data projected that 6-, 7- or 8-speed transmissions could incrementally reduce fuel consumption by 1 to 3 percent at an incremental cost of $20 to $120. However, according to the EEA report, a Lepelletier gear set design provides for 6-speeds at the same cost as a 5-speed automatic. Based on that analysis, we have estimated the cost of a 6-speed automatic to be equivalent to that for a 5-speed automatic. We have not developed any estimate costs for 7- or 8-speed transmissions because of the diminishing returns in efficiency versus the costs for transmissions beyond 6-speeds. NHTSA estimates that 6-, 7-, or 8-speed automatic transmissions could incrementally reduce fuel consumption by 0.5 to 2.5 percent at an incremental cost of $0 to $20 (relative to a 5-speed automatic transmission). We are estimating up to an additional $20 in costs because we have tried to account for the engineering effort in addition to the hardware which we believe the EEA did not and we wanted to capture some of the higher costs reported by manufacturers.

Aggressive Shift Logic

In operation, an automatic transmission's controller decides when to upshift or downshift based on a variety of inputs such as vehicle speed and throttle position according to programmed logic. Aggressive shift logic (ASL) can be employed so that a transmission is engineered in such a way as to maximize fuel efficiency by upshifting earlier and inhibiting downshifts under some conditions. Through partial lock-up under some operating conditions and early lock-up under others, automatic transmissions can achieve some reduction in overall fuel consumption. Aggressive shift logic is applicable to all vehicle types with automatic transmissions, and since in most cases it would require no significant hardware modifications, it can be adopted during vehicle redesign or refresh or even in the middle of a vehicle's product cycle. The application of this technology does, however, require a manufacturer to confirm that driveability, durability, and noise, vibration, and harshness (NVH) are not significantly degraded.

The NAS study projected that aggressive shift logic could incrementally reduce fuel consumption by 1 to 2 percent at an incremental cost of $0 to $70. Confidential manufacturer data projected that aggressive shift logic could incrementally reduce fuel consumption by 0.5 to 3 percent at an incremental cost of $18 to $70. The NAS study estimates and confidential manufacturer data are within the same ranges, thus NHTSA believes that the NAS estimates are still accurate. Thus, NHTSA estimates aggressive shift logic could incrementally reduce fuel consumption by 1 to 2 percent at an incremental cost of $38, which is approximately the average of the midpoint of the NAS cost range and the manufacturer cost range.

Early Torque Converter Lockup

A torque converter is a fluid coupling located between the engine and transmission in vehicles with automatic transmissions and continuously-variable transmissions (CVTs). This fluid coupling allows for slip so the engine can run while the vehicle is idling in gear, provides for smoothness of the powertrain, and also provides for torque multiplication during acceleration. During light acceleration and cruising, this slip causes increased fuel consumption, so modern automatic transmissions utilize a clutch in the torque converter to lock it and prevent this slippage. Fuel consumption can be further reduced by locking up the torque converter early, and/or by using partial-lockup strategies to reduce slippage.

Some torque converters will require upgraded clutch materials to withstand additional loading and the slipping conditions during partial lock-up. As with aggressive shift logic, confirmation of acceptable driveability, performance, durability and NVH characteristics is required to successfully implement this technology.

The 2002 NAS study did not include any estimates for this technology. The NESCCAF study projected that early torque converter lockup could incrementally reduce fuel consumption by 0.5 percent at an incremental cost of $0 to $10; while the EEA report projected that low-friction lubricants could incrementally reduce fuel consumption by 0.5 percent at an incremental cost of $5. NHTSA estimates the cost of this technology (i.e., the calibration effort) at $30 based in part on NESCCAF and the CBI submissions which provided costs with a midpoint of $30. We have used a higher value here than NESCCAF and EEA because we have tried to account for the engineering effort in addition to the hardware which we believe NESCCAF and EEA did not do and which were captured in the manufacturers' higher costs.

NHTSA estimates that early torque converter lockup could incrementally reduce fuel consumption by approximately 0.5 percent at an incremental cost of approximately $30.

Automated Shift Manual Transmissions

An automated manual transmission (AMT) is mechanically similar to a conventional transmission, but shifting and launch functions are controlled by the vehicle. There are two basic types of AMTs, single-clutch and dual-clutch. A single-clutch AMT is essentially a manual transmission with automated clutch and shifting. Because there are some shift quality issues with single-clutch designs, dual-clutch AMTs are more common. A dual-clutch AMT uses separate clutches for the even-numbered gears and odd-numbered gears. In this way, the next expected gear is pre-selected, which allows for faster and smoother shifting.

Overall, AMTs likely offer the greatest potential for fuel consumption reduction among the various transmission options presented in this report because they offer the inherently lower losses of a manual transmission with the efficiency and shift quality advantages of computer control. AMTs offer the lower losses of a manual transmission with the efficiency advantages of computer control. The lower losses stem from the elimination of the conventional lock-up torque converter and a greatly reduced need for high pressure hydraulic circuits to hold clutches to maintain gear ratios (in automatic transmissions) or hold pulleys in position to maintain gear ratio (in continuously variable transmissions, discussed below). However, the lack of a torque converter will affect how the vehicle launches from rest, so an AMT will most likely be paired with an engine that offers enough torque in the low-RPM range to allow for adequate launch performance.

An AMT is mechanically similar to a conventional manual transmission, but shifting and launch functions are controlled by the vehicle rather than the driver. A switch from a conventional automatic transmission with torque converter to an AMT incurs some costs but also allows for some cost savings. Savings can be realized through elimination of the torque converter which is a very costly part of a traditional automatic transmission, and through reduced need for high pressure hydraulic circuits to hold clutches (to maintain gear ratios in automatic transmissions) or hold pulleys (to maintain gear ratios in Continuously

Variable Transmissions). Cost increases would be incurred in the form of calibration efforts since transmission calibrations would have to be redone, and the addition of a clutch assembly for launce and gear changes.

The NESCCAF study projected that AMTs could incrementally reduce fuel consumption by 5 to 8 percent at an incremental cost of $0 to $280; while the EEA report projected that low-friction lubricants could incrementally reduce fuel consumption by 6 to 7 percent at an incremental cost of $195 to $225. Confidential manufacturer data projected that AMTs could incrementally reduce fuel consumption by 2 to 5 percent at an incremental cost of $70 to $400.

Taking all these estimates into consideration, NHTSA estimates that AMTs could incrementally reduce fuel consumption by 4.5 to 7.5 percent at an incremental cost of approximately $141. We believe that, overall, the hardware associated with an AMT, whether single clutch or dual clutch, is no more costly than that for a traditional automatic transmission given the savings associated with removal of the torque converter and high pressure hydraulic circuits, which is estimated to amount to at least $30. Nonetheless, given the need for engineering effort (e.g., calibration and vehicle integration work) when transitioning from a traditional automatic to an AMT, we have estimated the incremental compliance cost at $141, independent of vehicle class, which is the midpoint of the NESCCAF estimates and within the range provided confidential manufacturer data.

Continuously Variable Transmission

A Continuously Variable Transmission (CVT) is unique in that it does not use gears to provide ratios for operation. Unlike manual and automatic transmissions with fixed transmission ratios, CVTs provide, within their operating ranges, fully variable transmission ratios with an infinite number of gears. This enables even finer optimization of the transmission ratio under different operating conditions and, therefore, some reduction of pumping and engine friction losses. CVTs use either a belt or chain on a system of two pulleys.

The main advantage of a CVT is that the engine can operate at its most efficient point more often, since there are no fixed ratios. Also, CVTs often have a wider range of ratios than conventional automatic transmissions.

The most common CVT design uses two V-shaped pulleys connected by a metal belt. Each pulley is split in half and a hydraulic actuator moves the pulley halves together or apart. This causes the belt to ride on either a larger or smaller diameter section of the pulley which changes the effective ratio of the input to the output shafts.

It is assumed that CVTs will only be used on cars, small SUVs, midsize crossover vehicles and minivans because they are currently used mainly in lower-torque applications. While a high-torque CVT could be developed for small pickup trucks and large pickup trucks and large SUVs, it would likely have to be treated separately in terms of effectiveness. We do not see development in the area of high-torque CVTs and therefore did not include this type in our analysis.

The 2002 NAS study projected that CVTs could incrementally reduce fuel consumption by 4 to 8 percent at an incremental cost of $140 to $350. The NESCCAF study projected that CVTs could incrementally reduce fuel consumption by 4 percent at an incremental cost of $210 to $245. Confidential manufacturer data projected that CVTs could incrementally reduce fuel consumption by 3 to 9 percent at an incremental cost of $140 to $800. These values are incremental to a 4-speed transmission.

Based on an aggregation of manufacturers' information, we estimate a CVT benefit of about 6 percent over a 4-speed automatic. This is above the NESCCAF value, but in the range of NAS. In reviewing our sources for costs, we have determined that the adjusted costs presented in the 2002 NESCCAF study represent the best available estimates. Subtracting the estimated fuel consumption reduction and costs of replacing a 4-speed automatic transmission with a 5-speed automatic transmission results in NHTSA's projecting that CVTs could incrementally reduce fuel consumption by 3.5 percent when compared to a conventional 5-speed automatic transmission at an incremental cost of $100 to $139.

Manual 6-, 7-, and 8-Speed Transmissions

As with automatic transmissions, increasing the number of available ratios in a manual transmission can improve fuel economy by allowing the driver to select a ratio that optimizes engine operation at a given speed. Typically, this is achieved through adding additional overdrive ratios to reduce engine speed (which saves fuel through reduced pumping losses). Six-speed manual transmissions have already achieved significant market penetration, so manufacturers have considerable experience with them and the associated costs. For those vehicles with five-speed manual transmissions, an upgrade to a six-speed could incrementally reduce fuel consumption by 0.5 percent. Based on CBI submissions, which provided costs with a midpoint of $107, NHTSA estimates that 6-speed manual transmissions could incrementally reduce fuel consumption by 0.5 percent when compared to 5-speed automatic transmission at an incremental cost of $107.

c. Vehicle Technologies

Rolling Resistance Reduction

Tire characteristics (*e.g.*, materials, construction, and tread design) influence durability, traction control, vehicle handling, and comfort. They also influence rolling resistance—the 30 frictional losses associated mainly with the energy dissipated in the deformation of the tires under load—and therefore, CO_2 emissions. This technology is applicable to all vehicles, except for body-on-frame light trucks and performance vehicles (described in the next section). Based on a 2006 NAS/NRC report, a 10 percent rolling resistance reduction would provide an increase in fuel economy of 1 to 2 percent. The same report estimates a $1 per tire cost for low rolling resistance tires. For four tires, our incremental compliance cost estimate is $6 per vehicle, independent of vehicle class, although not applicable to large trucks.

Low Drag Brakes

Low drag brakes reduce the sliding friction of disc brake pads on rotors when the brakes are not engaged because the brake shoes are pulled away from the rotating drum. While most passenger cars have already adopted this technology, there are indications that this technology is still available for body-on-frame trucks. According to confidential manufacturer data, low drag brakes could incrementally reduce fuel consumption by 1 to 2 percent at an incremental cost of $85 to $90. NHTSA has adopted these values for its analysis.

Front or Secondary Axle Disconnect for Four-Wheel Drive Systems

To provide shift-on-the-fly capabilities, many part-time four-wheel drive systems use some type of axle disconnect: Front axle disconnect in ladder-frame vehicles, and secondary (*i.e.*, either front or rear) axle disconnect in unibody vehicles. Front and secondary axle disconnects serve two basic purposes. Using front axle

disconnect as an example, in two-wheel drive mode, the technology disengages the front axle from the front driveline so the front wheels do not turn the front driveline at road speed, saving wear and tear. Then, when shifting from two- to four-wheel drive ''on the fly'' (while moving), the front axle disconnect couples the front axle to the front differential side gear only when the transfer case's synchronizing mechanism has spun the front driveshaft up to the same speed as the rear driveshaft.

Four-wheel drive systems that have axle disconnect typically do not have either manual- or automatic-locking hubs. To isolate (for example) the front wheels from the rest of the front driveline, front axle disconnects use a sliding sleeve to connect or disconnect an axle shaft from the front differential side gear.

This technology has been used by ladder-frame vehicles for some time, but has only started to appear on unibody vehicles recently. The incremental costs and benefits of applying front axle disconnect differ, depending on the vehicle's type of construction. According to confidential manufacturer data, front axle disconnects for ladder frame vehicles could achieve incremental fuel consumption reductions of 1.5 percent at an incremental cost of $114, while secondary axle disconnects for unibody vehicles could achieve incremental fuel consumption reductions of 1 percent at an incremental cost of $676. NHTSA has adopted these estimates for its analysis.

Aerodynamic Drag Reduction

A vehicle's size and shape determine the amount of power needed to push the vehicle through the air at different speeds. Changes in vehicle shape or frontal area can therefore reduce CO_2 emissions. Areas for potential aerodynamic drag improvements include skirts, air dams, underbody covers, and more aerodynamic side view mirrors. NHTSA and EPA estimate a fleet average of 20 percent total aerodynamic drag reduction is attainable for passenger cars, whereas a fleet average of 10 percent reduction is more realistic for trucks (with a caveat for ''high-performance'' vehicles, described below). These drag reductions equate to increases in fuel economy of 2 percent and 3 percent for trucks and cars, respectively. These numbers are in agreement with the technical literature and supported by confidential manufacturer information. The CBI submittals generally showed the RPE associated with these changes at less than $100. NHTSA and EPA estimate that the incremental compliance cost to range from $0 to $75, independent of vehicle class.

Aerodynamic drag reduction technologies are readily available today, although the phase-in time required to distribute over a manufacturer's fleet is relatively long (6 years or so).

Weight Reduction

The term weight reduction encompasses a variety of techniques with a variety of costs and lead times. These include lighter-weight materials, higher strength materials, component redesign, and size matching of components. Lighter-weight materials involve using lower density materials in vehicle components, such as replacing steel parts with aluminum or plastic. The use of higher strength materials involves the substitution of one material for another that possesses higher strength and less weight. An example would be using high strength alloy steel versus cold rolled steel. Component redesign is an on-going process to reduce costs and/or weight of components, while improving performance and reliability. An example would be a subsystem replacing multiple components and mounting hardware.

The cost of reducing weight is difficult to determine and is dependent upon the methods used. For example, a change in design that reduces weight on a new model may or may not save money. On the other hand, material substitution can result in an increase in price per application of the technology if more expensive materials are used.

For purposes of this proposed rule, NHTSA has considered only vehicles weighing greater than 5,000 pounds for weight reduction through materials substitution. Provided that those vehicles remain above 5,000 pounds weight, vehicles may realize up to roughly 2 percent incremental fuel consumption through materials substitution (corresponding to a 3 percent reduction in vehicle weight) at incremental costs of $0.75 to $1.25 per pound reduced.

d. Accessory Technologies

Electric Power Steering

Electric power steering (EPS) is advantageous over hydraulic steering in that it only draws power when the wheels are being turned, which is only a small percentage of a vehicle's operating time. EPS may be implemented on many vehicles with a standard 12V system; however, for heavier vehicles, a 42V system may be required, which adds cost and complexity.

The NAS study projected that a 12V EPS system could incrementally reduce fuel consumption by 1.5 to 2.5 percent at an incremental cost of $105 to $150. The NESCCAF study projected that a 12V EPS could incrementally reduce fuel consumption by 1 percent at an incremental cost of $28 to $56; while the EEA report projected that a 12V EPS could incrementally reduce fuel consumption by 1.5 to 1.9 percent at an incremental cost of $70 to $90. According to confidential manufacturer data, electric power steering could achieve incremental fuel consumption reductions of 1.5 to 2.0 percent at an incremental cost of $118 to $197.

NHTSA believes that these manufacturer estimates are more accurate and thus estimates that a 12V EPS system could incrementally reduce fuel consumption by 1.5 to 2 percent at an incremental cost of $118 to $197, independent of vehicle class.

Engine Accessory Improvement

The accessories on an engine, like the alternator, coolant, and oil pumps, are traditionally driven by the accessory belt. Improving the efficiency or outright electrification (12V) of these accessories (in the case of the mechanically driven pumps) would provide an opportunity to reduce the accessory loads on the engine. However, the potential for such replacement will be greater for vehicles with 42V electrical systems. Some large trucks also employ mechanical fans, some of which could also be improved or electrified. Additionally, there are now higher efficiency alternators which require less of an accessory load to achieve the same power flow to the battery.

According to the NAS Report engine accessory improvement could achieve incremental fuel consumption reductions of 1 to 2 percent at an incremental cost of $124 to $166. Confidential manufacturer information is also within these ranges. The NESCCAF study estimated a cost of $56, but that estimate included only a high efficiency generator and did not include electrification of other accessories. In reviewing our sources for costs, we have determined that the adjusted costs presented in the 2002 NAS study, which ranged from $124 to $166—depending on vehicle class—represent the best available estimates. Based on the NAS study and confidential manufacturer information, NHTSA estimates that accessory improvement could incrementally reduce fuel consumption by 1 to 2 percent at an incremental cost of $124 to $166.

Forty-Two Volt (42V) Electrical System

Most vehicles today (aside from hybrids) operate on 12V electrical systems. At higher voltages, which appear to be under consideration to meet expected increases in on-board electrical demands, the power density of motors, solenoids, and other electrical components may increase to the point that new and more efficient systems, such as electric power steering, may be feasible. A 42V system can also accommodate an integrated starter generator. According to the NAS Report, 42V engine accessory improvement could achieve incremental fuel consumption reductions of 1 to 2 percent at an incremental cost of $194 to $259. According to confidential manufacturer data, a 42V system could achieve incremental fuel consumption reductions of 0 to 4 percent at an incremental cost of $62 to $280.

We believe that the state of 42V technology has evolved to where it is on par with the incremental costs and benefits of 12V engine accessory improvement. In reviewing our sources, we have determined that the numbers provided in the 2002 NAS study, which estimated that engine accessory improvement could achieve incremental fuel consumption reductions of 1 to 2 percent at an incremental cost of $124 to $166—depending on vehicle class—represent the best available estimates for both 12V and 42V systems. Thus, we are estimating that a 42V electrical system could achieve incremental fuel consumption reductions of 1 to 2 percent at an incremental cost of $124 to $166. These estimates are independent of vehicle class and exclusive of improvements to the efficiencies or electrification of 12V accessories. These estimates are incremental to a 12V system, regardless of whether the 12V system has improved efficiency or not.

e. Hybrid Technologies

A hybrid describes a vehicle that combines two or more sources of propulsion energy, where one uses a consumable fuel (like gasoline) and one is rechargeable (during operation, or by another energy source). Hybrids reduce fuel consumption through three major mechanisms: by optimizing the operation of the internal combustion engine (through downsizing, or other control techniques) to operate at or near its most efficient point more of the time; by recapturing lost braking energy and storing it for later use; and by turning off the engine when it is not needed, such as when the vehicle is coasting or when stopped.

Hybrid vehicles utilize some combination of the above three mechanisms to reduce fuel consumption. The effectiveness of a hybrid depends on the utilization of the above mechanisms and how aggressively they are pursued. Different hybrid concepts utilize these mechanisms differently, so they are treated separately in this analysis. Below is a discussion of the major hybrid concepts judged to be available for use within the timeframe of this rulemaking.

Integrated Starter-Generator With Idle-Off

Integrated Starter-Generator (ISG) systems are the most basic of hybrid systems and offer mainly idle-stop capability. They offer the least power assist and regeneration capability of the hybrid approaches, but their low cost and easy adaptability to existing powertrains and platforms can make them attractive for some applications. ISG systems operate at around 42V and so have smaller electric motors and less battery capacity than other HEV designs because of their lower power demand.

ISG systems replace the conventional belt-driven alternator with a belt-driven, higher power starter-alternator. The starter-alternator starts the engine during idle-stop operation, but often a conventional 12V gear-reduction starter is retained to ensure cold-weather startability. Also, during idle-stop, some functions such as power steering and automatic transmission hydraulic pressure are lost with conventional arrangements, so electric power steering and an auxiliary transmission pump are added. These components are similar to those that would be used in other hybrid designs. An ISG system could be capable of providing some launch assist, but it would be limited in comparison to other hybrid concepts. According to the NAS Report, an EEA report and confidential manufacturer data, ISG systems could achieve incremental fuel consumption reductions that range from 5 to 10 percent.

In addition, when idle-off is used (*i.e.*, the petroleum fuelled engine is shut off during idle operation), an electric power steering and auxiliary transmission pump are added to provide for functioning of these systems which, in a traditional vehicle, were powered by the petroleum engine. The 2002 NAS study estimated the cost of these systems at $210 to $350 with a 12V electrical system and independent of vehicle class, while the NESCCAF study estimated the cost for these systems at $280 with a 12 Volt electrical system for a small car. The 2002 NAS study estimated the cost of these systems to be $210 to $350 with a 12 volt electrical system and independent of vehicle class, while the NESCCAF study estimated the cost for these systems of $280 with a 12 volt electrical system for a small car. Confidential manufacturer information provides cost estimates for ISGs that range from $418 to $800. We believe that the NAS and the NESCCAF estimates are still accurate for ISGs with a 12V system. Thus, if you add these cost estimates to those we estimated for 42V systems plus associated equipment, which results an estimated incremental compliance cost of these systems, including the costs associated with upgrading to a 42 volt electrical system of $563 to $600, depending on vehicle class.

Therefore, NHTSA estimates that ISG systems could achieve incremental fuel consumption reductions of 5 to 10 percent at incremental costs of $563 to $600, depending on vehicle class (this includes the costs associated with upgrading to a 42 volt electrical system).

Integrated Motor Assist (IMA)/Integrated Starter-Alternator-Dampener (ISAD) Hybrid

Honda is the only manufacturer that uses Integrated Motor Assist (IMA), which utilizes a thin axial electric motor bolted to the engine's crankshaft and connected to the transmission through a torque converter or clutch. This electric motor acts as both a motor for helping to launch the vehicle and a generator for recovering energy while slowing down. It also acts as the starter for the engine and the electrical system's main generator. Since it is rigidly fixed to the engine, if the motor turns, the engine must turn also, but combustion does not necessarily need to occur. The Civic Hybrid uses cylinder deactivation on all four cylinders for decelerations and some cruise conditions.

The main advantage of the IMA system is that it is relatively low cost and adapts readily to conventional vehicles and powertrains, while providing excellent efficiency gains. Packaging space is a concern for the physically longer engine-motor-transmission assembly as well as the necessary battery pack, cabling and power electronics. According to EPA test data and confidential manufacturer data, the IMA system could achieve incremental fuel consumption reductions of 3.5 to 8.5 percent.[61] NHTSA has adopted these estimates for its analysis.

[61] The cost estimates are protected as confidential business information.

The 2002 NAS study did not consider this technology while the NESCCAF study estimated the cost for these systems at $2,310 to $2,940 for a small car and large car, respectively. We have used these estimates combined with confidential manufacturer data as the basis for our incremental compliance costs of $1,636 for the small car and $2,274 for the large car, expressed in 2006 dollars. We have not estimated incremental compliance costs for the other vehicle classes because we do not believe those classes would use this technology and would, instead, use the hybrid technologies discussed below.

2-Mode Hybrids

GM, DaimlerChrysler, and BMW have formed a joint venture to develop a new HEV system based on HEV transmission technology originally developed by GM's Allison Transmission Division for heavy-duty vehicles like city buses. This technology uses an adaptation of a conventional stepped-ratio automatic transmission by replacing some of the transmission clutches with two electric motors, which makes the transmission act like a CVT. Like Toyota's Power Split design, these motors control the ratio of engine speed to vehicle speed. But unlike the Power Split system, clutches allow the motors to be bypassed, which improves both the transmission's torque capacity for heavy-duty applications and fuel economy at highway speeds. According to confidential manufacturer data, 2-mode hybrids could achieve incremental fuel consumption reductions of 25 to 40 percent. NHTSA estimates that 2-mode hybrids could achieve fuel reductions of 3.5 percent to 7 percent incremental to an Integrated Motor Assist (IMA)/Integrated Starter-Alternator-Dampener (ISAD) Hybrid.

The 2002 NAS study did not consider this technology, while the NESCCAF study estimated the costs to range from $4,340 to $5,600, depending on vehicle class. These estimates are not incremental to an Integrated Motor Assist (IMA)/Integrated Starter-Alternator-Dampener (ISAD) Hybrid. To accurately project the cost of 2-mode hybrids when they were applied to midsize and large cars, we subtracted the estimated costs of an Integrated Motor Assist (IMA)/Integrated Starter-Alternator-Dampener (ISAD) Hybrid. We have used the NESCCAF estimates as the basis for our incremental compliance costs of $1,501 to $5,127 in 2006 dollars, incremental to an Integrated Motor Assist (IMA)/ Integrated Starter-Alternator-Dampener (ISAD) Hybrid or an ISG system depending on vehicle class.[62] We have not estimated incremental compliance costs for small cars because we believe that this ISG or IMA/ISAD technology is a better fit for small cars.

Power Split Hybrid

Toyota's Hybrid Synergy Drive system as used in the Prius is a completely different approach than Honda's IMA system and uses a ''Power Split'' device in place of a conventional transmission. The Power Split system replaces the vehicle's transmission with a single planetary gear and a motor/generator. A second, more powerful motor/generator is permanently connected to the vehicle's final drive and always turns with the wheels. The planetary gear splits the engine's torque between the first motor/generator and the drive motor. The first motor/generator uses its engine torque to either charge the battery or supply additional power to the drive motor. The speed of the first motor/generator determines the relative speed of the engine to the wheels. In this way, the planetary gear allows the engine to operate completely independently of vehicle speed, much like a CVT.

The Power Split system allows for outstanding fuel economy in city driving. The vehicle also avoids the cost of a conventional transmission, replacing it with a much simpler single planetary and motor/generator. However, it is less efficient at highway speeds due to the requirement that the first motor/generator must be constantly spinning at a relatively high speed to maintain the correct ratio. Also, load capacity is limited to the first motor/generator's capacity to resist the reaction torque of the drive train.

A version of Toyota's Power Split system is also used in the Lexus RX400h and Toyota Highlander sport utility vehicles. This version has more powerful motor/generators to handle higher loads and also adds a third motor/generator on the rear axle of four-wheel-drive models. This provides the vehicle with four wheel drive capability and four wheel regenerative braking capability. Ford's eCVT system used in the hybrid Escape is another version of the Power Split system, but four-wheel-drive models use a conventional transfer case and drive shaft to power the rear wheels.

Other versions of this system are used in the Lexus GS450h and Lexus LS600h luxury sedans. These systems have modifications and additional hardware for sustained high-speed operation and/or all-wheel-drive capability. However, the Power Split system isn't planned for usage on full-size trucks and SUVs due to its limited ability to provide the torque needed by these vehicles. It's anticipated that full-size trucks and SUVs would use the 2-mode hybrid system. The 2002 NAS study didn't consider this technology, while the NESCCAF study estimated the incremental costs at to be $3,500 prior to any cost adjustment. Based on the NESCCAF study and fuel economy test data from EPA's certification database which shows these systems being capable of reducing fuel consumption by 25 to 35 percent, NHTSA estimates that Power Split hybrids can achieve incremental fuel consumption reductions of 25 to 35 percent over conventionally powered vehicles at an incremental cost of $3,700 to $3,850. Because NHTSA applies technologies incrementally to the technologies preceding them on our decision trees, the incremental fuel consumption reductions for Power Split hybrids are estimated to be 5 to 6.5 percent incremental to 2-Mode Hybrids (the technology that precedes Power Split hybrids on the decision tree), because the technologies applied prior to and including 2-Mode hybrids are estimated to have incremental fuel consumption reductions of 20 to 28.5 percent over conventionally powered vehicles. The technologies discussed below were not projected for use during the MY 2011 to 2015 timeframes because NHTSA isn't aware that any manufacturer is including these technologies in any vehicle for which we have production plans for nor has any manufacturer publicly stated that any of these technologies will definitively be included on future products. If NHTSA receives such information regarding one or more technologies, it will revisit this decision for the final rule. NHTSA is including its discussion of these technologies and their estimated costs and fuel consumption reductions as a reference for commenters and in anticipation of their possible inclusion in the final rule.

Variable Compression Ratio

A spark-ignited engine's specific power is limited by the engine's compression ratio, which is, in turn, currently limited by the engine's susceptibility to knock, particularly under high load conditions. Engines with variable compression ratio (VCR) improve fuel economy by the use of higher compression ratios at lower loads and lower compression ratios under higher loads. The NAS Report projected that VCR could incrementally reduce

[62] GM's cost estimates are protected as confidential business information.

fuel consumption by 2 to 6 percent over 4-valve VVT at an incremental cost of $218 to $510. NHTSA has no information which suggests that VCR will be included on any vehicles during the MY 2011–2015 timeframe, thus NHTSA does not use this technology in its analysis. Additionally, no updates to these estimates were sought.

Lean-Burn Gasoline Direct Injection Technology

One way to improve dramatically an engine's thermodynamic efficiency is by operating at a lean air-fuel mixture (excess air). Fuel system improvements, changes in combustion chamber design and repositioning of the injectors have allowed for better air/fuel mixing and combustion efficiency. There is currently a shift from wall-guided injection to spray guided injection, which improves injection precision and targeting towards the spark plug, increasing lean combustion stability. Combined with advances in NO_X after-treatment, lean-burn GDI engines may be a possibility in North America. However, a key technical requirement for lean-burn GDI engines to meet EPA's Tier 2 NO_X emissions levels is the availability of low-sulfur gasoline, which is projected to be unavailable during MY 2011–2015.

According to the NESCCAF report and confidential manufacturer data NHTSA estimates that lean-burn GDI engines could incrementally reduce fuel consumption from 9 to 16 percent at an incremental cost of $500 to $750 compared to a port-fueled (stoichiometric) engine. NHTSA did not project the use of this technology during the time frame covered by this proposal, due to large uncertainties surrounding the availability of low-sulfur gasoline. Nonetheless, we have estimated the incremental compliance cost for these systems at $750, independent of vehicle class, and incremental to a stoichiometric GDI engine.

Homogeneous Charge Compression Ignition

Homogeneous charge compression ignition (HCCI), also referred to as controlled auto ignition (CAI), is an alternate engine operating mode that does not rely on a spark event to initiate combustion. The principles are more closely aligned with a diesel combustion cycle, in which the compressed charge exceeds a temperature and pressure necessary for spontaneous ignition. The resulting burn is much shorter in duration with higher thermal efficiency.

An HCCI engine has inherent advantages in its overall efficiency for several reasons. An extremely lean fuel/air charge increases thermodynamic efficiency. Shorter combustion times and higher EGR tolerance permit very high compression ratios (which also increase thermodynamic efficiency). Additionally, pumping losses are reduced because the engine can run unthrottled.

However, due to the nature of its combustion process, HCCI is difficult to control, requiring in-cylinder pressure sensors and very fast engine control logic to optimize combustion timing, especially considering the variable nature of operating conditions seen in a vehicle. To be used in a commercially acceptable vehicle application, an HCCI-equipped engine would most likely be ''dual-mode,'' in which HCCI operation is complemented with a traditional SI combustion process at idle and at higher loads and speeds.

Until recently, HCCI technology was considered to still be in the research phase. However, several manufacturers have made public statements about the viability of incorporating HCCI into production vehicles over the next 10 years. The NESCCAF study estimated the cost to range from $560 to $840, depending on vehicle class, including the costs for a stoichiometric GDI system with DVVL. We have based our estimated incremental compliance cost on the NESCCAF estimates and, after subtracting out the estimated incremental cost for a stoichiometric GDI system with DVVL, we estimate the incremental cost for HCCI to be from $263 to $685, depending on vehicle class. This estimated incremental compliance cost is incremental to a stoichiometric GDI engine.

According to the NESCCAF report and confidential manufacturer data, NHTSA estimates that gasoline HCCI/GDI dual-mode engines could incrementally reduce fuel consumption from 10 to 12 percent at an incremental cost of $233 to $606, compared to a comparable GDI engine.

Advanced CVT

Advanced CVTs have the ability to deliver higher torques than existing CVTs and have the potential for broader market penetration. These new designs incorporate toroidal friction elements or cone-and-ring assemblies with varying diameters. According to the NAS Report, advanced CVT could incrementally reduce fuel consumption by up to 2 percent at an incremental cost of $364 to $874. NHTSA has no information which suggests that VCR will be included on any vehicles during the MY 2011–2015 timeframe, thus NHTSA does not use this technology in its analysis. Additionally, no updates to these estimates were sought.

Plug-in Hybrids

Plug-In Hybrid Electric Vehicles (PHEVs) are very similar to hybrid electric vehicles, but with three significant functional differences. The first is the addition of a means to charge the battery pack from an outside source of electricity (usually the electric grid). Second, a PHEV would have a larger battery pack with more energy storage, and a greater capability to be discharged. Finally, a PHEV would have a control system that allows the battery pack to be significantly depleted during normal operation.

Deriving some of their propulsion energy from the electric grid provides several advantages for PHEVs. PHEVs offer a significant opportunity to replace petroleum used for transportation energy with domestically-produced electricity. The reduction in petroleum usage does, of course, depend on the amount of electric drive the vehicle is capable of under its duty cycle.

The fuel consumption reduction potential of PHEVs depends on many factors, the most important being the electrical capacity designed into the battery pack. To estimate the fuel consumption reduction potential of PHEVs, EPA has developed an in-house vehicle energy model (PEREGRIN) which is based on the PERE (Physical Emission Rate Estimator) physics-based model used as a fuel consumption input for EPA's MOVES mobile source emissions modelB.

EPA modeled the PHEV small car, large car, minivan and small trucks using parameters from a midsize car similar to today's hybrids and scaled to each vehicle's weight. The large truck PHEV was modeled separately assuming very little engine downsizing. Each PHEV was assumed to have enough battery capacity for a 20-mile-equivalent all-electric range and a power requirement to provide similar performance to a hybrid vehicle. A twenty mile range was selected because it offers a good compromise for vehicle performance, weight, battery packaging and cost.

To calculate the total energy use of a PHEV, a vehicle can be thought of as operating in two distinct modes, electric (EV) mode, and hybrid (HEV) mode. The energy consumed during EV operation can be accounted for and calculated in terms of gasoline-equivalent MPG by using 10CFR474, Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Petroleum-Equivalent Fuel Economy Calculation. The EV mode fuel economy can then be

combined with the HEV mode fuel economy using the Utility Factor calculation in SAE J1711 to determine a total MPG value for the vehicle. Calculating a total fuel consumption reduction based on model outputs, gasoline-equivalent calculations, and the Utility Factor calculations, results in a 28 percent fuel consumption reduction for small cars, large cars, minivans, and small trucks and a 31 percent fuel consumption reduction for large trucks.

The fuel consumption reduction potential of PHEVs will vary based on the electrical capacity designed into the battery pack. Assuming a 20-mile ''all-electric range'' design, a PHEV might incrementally reduce fuel consumption by 28 to 31 percent.[63] Based on discussions with EPA, we have estimated the incremental cost of PHEVs to be from $4,500 to $10,200, depending on vehicle class.

However, all indications suggest that any PHEVs that may be available within the time frame of this rulemaking will be concept vehicles and not production vehicles. Additionally, NHTSA is unaware of the existence of any batteries that are deemed acceptable for the performance characteristics necessary for a plug-in hybrid. Therefore, although we discuss them here, the model does not apply them.

NHTSA would like to note that if it receives new and/or updated information from manufacturers regarding the likelihood of PHEV production during the MY 2011 to 2015 timeframe, it will make every effort to include PHEVs as a technology in its final rule. To enable the possible inclusion of PHEVs as a technology, NHTSA would also have to configure the Volpe model to account for the estimated source(s) that would supply the electricity for electrical grid charging of the battery. Work has started on this effort, but has not yet been completed.

Tables III–1 through III–3 below summarize for each of the 10 classes of vehicles the cost and effectiveness assumptions used in this rulemaking as well as the year of availability of each technology. The agency seeks comments on our assumptions and the cost and effectiveness estimates provided.

TABLE III–1.—TECHNOLOGY COST ESTIMATES

Technologies	Vehicle technology incremental retail price equivalent per vehicle ($) by vehicle class									
	Sub-compact car	Com-pact car	Midsize car	Large car	Small pickup	Small SUV	Minivan	Midsize SUV	Large pickup	Large SUV
Low friction lubricants—incremental to base engine	3	3	3	3	3	3	3	3	3	3
Engine friction reduction—incremental to base engine	0–84	0–84	0–126	0–126	0–126	0–126	0–126	0–126	0–168	0–168
Overhead Cam Branch	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
VVT—intake cam phasing	59	59	119	119	119	119	119	119	119	119
VVT—coupled cam phasing	59	59	119	119	119	119	119	119	119	119
VVT—dual cam phasing	89	89	209	209	209	209	209	209	209	209
Cylinder deactivation	n.a.	n.a.	203	203	203	203	203	203	229	229
Discrete VVLT	169	169	246	246	246	246	246	246	322	322
Continuous VVLT	254	254	466	466	466	466	466	466	508	508
Overhead Valve Branch	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Cylinder deactivation	n.a.	n.a.	203	203	203	203	203	203	229	229
VVT—coupled cam phasing	59	59	59	59	59	59	59	59	59	59
Discrete VVLT	169	169	246	246	246	246	246	246	322	322
Continuous VVLT (includes conversion to Overhead Cam)	599	599	1262	1262	1262	1262	1262	1262	1380	1380
Camless valvetrain (electromagnetic)	336–673	336–673	336–673	336–673	336–673	336–673	336–673	336–673	336–673	336–673
GDI—stoichiometric	122–420	122–420	204–525	204–525	204–525	204–525	204–525	204–525	228–525	228–525
GDI—lean burn	750	750	750	750	750	750	750	750	750	750
Gasoline HCCI dual-mode	263	263	390	390	390	390	390	390	685	685
Turbocharge & downsize	690	690	120	120	120	120	120	120	810	810
Diesel—Lean NO_X trap	1586	1586	.....	.....	.....	.....	.....	.....	.....	.....
Diesel—urea SCR	.....	.....	2051	2051	2411	2411	2126	2411	2261	2261
Aggressive shift logic	38	38	38	38	38	38	38	38	38	38
Early torque converter lockup	30	30	30	30	30	30	30	30	30	30
5-speed automatic	76–167	76–167	76–167	76–167	76–167	76–167	76–167	76–167	76–167	76–167
6-speed automatic	76–187	76–187	76–187	76–187	76–187	76–187	76–187	76–187	76–187	76–187
6-speed AMT	141	141	141	141	141	141	141	141	141	141
6-speed manual	107	107	107	107	107	107	107	107	107	107
CVT	100	100	139	139	n.a.	139	139	139	n.a.	n.a.
Stop-Start with 42 volt system	563	563	600	600	600	600	600	600	600	600
IMA/ISA/BSG (includes engine downsize)	1636	1636	2274	2274	n.a	n.a	n.a	n.a	n.a	n.a
2-Mode hybrid electric vehicle	n.a.	n.a.	4655	4655	4655	4655	4655	4655	6006	6006
Power-split hybrid electric vehicle (P–S HEV)	3700–3850	3700–3850	3700–3850	3700–3850	3700–3850	3700–3850	3700–3850	3700–3850	.....	.....
Plug-in hybrid electric vehicle (PHEV)	4500	4500	6750	6750	6750	6750	6750	6750	10200	10200
Improved high efficiency alternator & electrification of accessories (12 volt)	124–166	124–166	124–166	124–166	124–166	124–166	124–166	124–166	124–166	124–166
Electric power steering (12 or 42 volt)	118–197	118–197	118–197	118–197	118–197	118–197	118–197	118–197	118–197	118–197
Improved high efficiency alternator & electrification of accessories (42 volt)	124–166	124–166	124–166	124–166	124–166	124–166	124–166	124–166	124–166	124–166
Aero drag reduction (20% on cars, 10% on trucks)	0–75	0–75	0–75	0–75	0–75	0–75	0–75	0–75	0–75	0–75
Low rolling resistance tires (10%)	6	6	6	6	6	6	6	6	.....	.....
Low drag brakes (ladder frame only)	.....	.....	.....	.....	87	87	.....	87	87	87
Secondary axle disconnect (unibody only)	676	676	676	676	676	676	676	676	.....	.....
Front axle disconnect (ladder frame only)	.....	.....	.....	.....	114	114	.....	114	114	114
Weight reduction (1%)—above 5,000 lbs only	.....	.....	.....	.....	.....	.....	.....	.....	[1]	[1]
Weight reduction (2%)—incremental to 1%	.....	.....	.....	.....	.....	.....	.....	.....	[1]	[1]

[63] This estimate is based on the EPA test cycle. We are unable to provide cost estimates for PHEV technology due to the great amount of uncertainty in deciding the appropriate battery chemistry to be used.

TABLE III–1.—TECHNOLOGY COST ESTIMATES—Continued

Technologies	Vehicle technology incremental retail price equivalent per vehicle ($) by vehicle class									
	Sub-compact car	Com-pact car	Midsize car	Large car	Small pickup	Small SUV	Minivan	Midsize SUV	Large pickup	Large SUV
Weight reduction (3%)—incremental to 2%	.....	.....	.....	.....	.....	.....	.....	.....	[2]	[2]

[1] 2/pound.
[2] 3/pound.

TABLE III–2.—TECHNOLOGY PERCENT EFFECTIVENESS ESTIMATES

Technologies	Vehicle technology incremental fuel consumption reduction (%) by vehicle class									
	Sub-compact car	Com-pact car	Midsize car	Large car	Small pickup	Small SUV	Minivan	Midsize SUV	Large pickup	Large SUV
Low friction lubricants—incremental to base engine	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Engine friction reduction—incremental to base engine	1–3	1–3	1–3	1–3	1–3	1–3	1–3	1–3	1–3	1–3
Overhead Cam Branch										
VVT—intake cam phasing	2	2	1	1	1	1	1	1	2	2
VVT—coupled cam phasing	1	1	3	3	2	2	1	1	2	2
VVT—dual cam phasing	1	1	3	3	1	1	1	1	2	2
Cylinder deactivation	n/a	n/a	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5
Discrete VVLT	3	3	1.5	1.5	1.5	1.5	0.5	0.5	1.5	1.5
Continuous VVLT	4	4	3.5	3.5	2.5	2.5	1.5	1.5	2.5	2.5
Overhead Valve Branch										
Cylinder deactivation	n/a	n/a	6	6	6	6	6	6	6	6
VVT—coupled cam phasing	3	3	2.5	2.5	1.5	1.5	0.5	0.5	2.5	2.5
Discrete VVLT	1.5	1.5	1.5	1.5	1.5	1.5	0.5	0.5	1.5	1.5
Continuous VVLT (includes conversion to Overhead Cam)	2.5	2.5	3.5	3.5	2.5	2.5	1.5	1.5	2.5	2.5
Camless valvetrain (electromagnetic)	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5
GDI—stoichiometric	1–2	1–2	1–2	1–2	1–2	1–2	1–2	1–2	1–2	1–2
GDI—lean burn	—	—	—	—	—	—	—	—	—	—
Gasoline HCCI dual-mode	10–12	10–12	10–12	10–12	10–12	10–12	10–12	10–12	10–12	10–12
Turbocharge & Downsize	5.0–7.5	5.0–7.5	5.0–7.5	5.0–7.5	5.0–7.5	5.0–7.5	5.0–7.5	5.0–7.5	5.0–7.5	5.0–7.5
Diesel—Lean NO_x trap	11.5	11.5	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Diesel—urea SCR	n/a	n/a	15.5	15.5	15.5	15.5	15.5	15.5	15.5	15.5
Aggressive shift logic	1–2	1–2	1–2	1–2	1–2	1–2	1–2	1–2	1–2	1–2
Early torque converter lockup	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
5-speed automatic	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5
6-speed automatic	0.5–2.5	0.5–2.5	0.5–2.5	0.5–2.5	0.5–2.5	0.5–2.5	0.5–2.5	0.5–2.5	0.5–2.5	0.5–2.5
6-speed AMT	4.5–7.5	4.5–7.5	4.5–7.5	4.5–7.5	4.5–7.5	4.5–7.5	4.5–7.5	4.5–7.5	4.5–7.5	4.5–7.5
6-speed manual	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
CVT	3.5	3.5	3.5	3.5	n/a	3.5	3.5	3.5	n/a	n/a
Stop-Start with 42 volt system	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5
IMA/ISA/BSG (includes engine downsize)	8.5	8.5	3.5	3.5	n/a	n/a	n/a	n/a	n/a	n/a
2-Mode hybrid electric vehicle	n/a	n/a	3.5	3.5	7	7	7	7	3.5	3.5
Power-split hybrid electric vehicle (P–S HEV)	5	5	6.5	6.5	6.5	6.5	6.5	6.5	n/a	n/a
Plug-in hybrid electric vehicle (PHEV)	28	28	28	28	28	28	28	28	31	31
Improved high efficiency alternator & electrification of accessories (12 volt)	1–2	1–2	1–2	1–2	1–2	1–2	1–2	1–2	1–2	1–2
Electric power steering (12 or 42 volt)	1.5	1.5	1.5–2	1.5–2	2	2	2	2	2	2
Improved high efficiency alternator & electrification of accessories (42 volt)	1–2	1–2	1–2	1–2	1–2	1–2	1–2	1–2	1–2	1–2
Aero drag reduction (20% on cars, 10% on trucks)	3	3	3	3	2	2	3	3	2	2
Low rolling resistance tires (10%)	1–2	1–2	1–2	1–2	1–2	1–2	1–2	1–2	n/a	n/a
Low drag brakes (ladder frame only)	n/a	n/a	n/a	n/a	1	1	n/a	n/a	1	1
Secondary axle disconnect (unibody only)	1	1	1	1	1	1	1	1	n/a	n/a
Front axle disconnect (ladder frame only)	n/a	n/a	n/a	n/a	1.5	1.5	n/a	n/a	1.5	1.5
Weight reduction (1%)—above 5,000 lbs only	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.7	0.7
Weight reduction (2%)—incremental to 1%	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.7	0.7
Weight reduction (3%)—incremental to 2%	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.7	0.7

TABLE III–3.—YEAR OF AVAILABILITY

Technologies	Year of availability
Low friction lubricants—incremental to base engine.	Present.
Engine friction reduction—incremental to base engine.	Present.
Overhead Cam Branch	
VVT—intake cam phasing.	Present.
VVT—coupled cam phasing.	Present.
VVT—dual cam phasing	Present.
Cylinder deactivation	Present.
Discrete VVLT	Present.
Continuous VVLT	Present.
Overhead Valve Branch	
Cylinder deactivation	Present.
VVT—coupled cam phasing.	Present.
Discrete VVLT	Present.
Continuous VVLT (includes conversion to Overhead Cam).	Present.
Camless valvetrain (electromagnetic).	2020.
GDI—stoichiometric	Present.
GDI—lean burn	2020.
Gasoline HCCI dual-mode	2016.
Turbocharging & Downsizing	2010.
Diesel—Lean NO_X trap	2010.
Diesel—urea SCR	2010.
Aggressive shift logic	Present.
Early torque converter lockup	Present.
5-speed automatic	Present.
6-speed automatic	Present.
6-speed AMT	2010.
6-speed manual	Present.
CVT	Present.
Stop-Start with 42 volt system	2014.
IMA/ISA/BSG (includes engine downsize).	2014.
2-Mode hybrid electric vehicle	2014.
Power-split hybrid electric vehicle (P–S HEV).	2014.
Full-Series hydraulic hybrid	NA.
Plug-in hybrid electric vehicle (PHEV).	NA.
Full electric vehicle (EV)	NA.
Improved high efficiency alternator & electrification of accessories (12 volt).	Present.
Electric power steering (12 or 42 volt).	Present.
Improved high efficiency alternator & electrification of accessories (42 volt).	Present.
Aero drag reduction (20% on cars, 10% on trucks).	Present.
Low rolling resistance tires (10%).	Present.
Low drag brakes (ladder frame only).	Present.
Secondary axle disconnect (unibody only).	2012.
Front axle disconnect (ladder frame only).	Present.
Weight reduction (1%)—above 6,000 lbs only.	Present.
Weight reduction (2%)—incremental to 1%.	Present.
Weight reduction (3%)—incremental to 2%.	Present.

C. Technology Synergies

When two or more technologies are added to a particular vehicle model to improve its fuel efficiency, the resultant fuel consumption reduction may sometimes be higher or lower than the product of the individual effectiveness values for those items. This may occur because one or more technologies applied to the same vehicle partially address the same source or sources of engine or vehicle losses. Alternately, this effect may be seen when one technology shifts the engine operating points, and therefore increases or reduces the fuel consumption reduction achieved by another technology or set of technologies. The difference between the observed fuel consumption reduction associated with a set of technologies and the product of the individual effectiveness values in that set is sometimes referred to as a ''synergy.'' Synergies may be positive (increased fuel consumption reduction compared to the product of the individual effects) or negative (decreased fuel consumption reduction).

The NAS committee which authored the 2002 Report was aware of technology synergies and considered criticisms as part of the peer-review process that its analysis was ''judgment-simplified,'' but concluded overall that its approach was ''sufficiently rigorous'' for purposes of the report.[64] After examining its analysis again, the committee stated that ''* * * the path 1 and path 2 estimate average fuel consumption improvements * * * appear quite reasonable, although the uncertainty in the analysis grows as more technology features are considered.''[65] In essence, as more technology features are considered, the features are more likely to overlap and result in synergies. Because NAS did not expect vehicle manufacturers to reach ''path 3'' in the timeframe considered, it did not concern itself deeply with the effect of technology synergies in its analysis.

NHTSA's rulemaking regarding CAFE standards for MY 2008–MY 2011 light trucks made significant use of NAS' ''path 2'' estimates of the effectiveness and cost of available technologies. In part because its analysis did not extend to the more aggressive ''path 3,'' the agency concluded that the NAS-based multiplicative approach it followed when aggregating these technologies was reasonable. In contrast, the agency's current proposal is based on an analysis that includes a broader range of technologies than was considered by NAS in 2001 and 2002. Also, the extent to which technologies are included in the current analysis is more consistent with NAS' prior ''path 3'' approach. Therefore, the agency's current analysis uses estimated ''synergies'' to address the uncertainties mentioned in the 2002 NAS report.

The Volpe model has been modified to estimate the interactions of technologies using estimates of incremental synergies associated with a number of technology pairs identified by NHTSA, Volpe Center, and EPA staff. The use of discrete technology pair incremental synergies is similar to that in DOE's National Energy Modeling System (NEMS).[66] Inputs to the Volpe model incorporate NEMS-identified pairs, as well as additional pairs from the set of technologies considered in the Volpe model. However, to maintain an approach that was consistent with the technology sequencing developed by NHTSA, Volpe Center, and EPA staff, new incremental synergy estimates for all pairs were obtained from a first-order ''lumped parameter'' analysis tool created by EPA.[67] Results of this analysis were generally consistent with those of full-scale vehicle simulation modeling performed by Ricardo, Inc.[68] NHTSA's analysis applies these incremental synergy values, obtained from the tool using baseline passenger car engine and vehicle inputs, to all vehicle classes.

Incremental synergy values are specified in Volpe model input files in two ways: as part of the incremental effectiveness values table (same path technologies) and in a separate incremental synergies table (separate path technologies). In the case of same path technologies, each technology's incremental effectiveness value was obtained from the technical literature and manufacturers' submitted information, and then the sum of all

[64] NAS Report, p. 151.

[65] *Id.*

[66] U.S. Department of Energy, Energy Information Administration, *Transportation Sector Module of the National Energy Modeling System: Model Documentation* 2007, May 2007, Washington, DC, DOE/EIA–M070(2007), pp. 29–30.

[67] This tool is a simple spreadsheet model that represents energy consumption in terns of average performance over the fuel economy test procedure, rather than explicitly analyzing specific drive cycles. The tool begins with an apportionment of fuel consumption across several loss mechanisms, and accounts for the average extent to which different technologies affect these loss mechanisms, using estimates of engine and motor characteristics and other variables that are averaged over a driving cycle.

[68] EPA contracted with Ricardo, Inc. (an independent consulting firm) to study the potential effectiveness of carbon dioxide-reducing (and thus, fuel economy-improving) vehicle technologies. The Ricardo study is available in the docket for this NPRM.

incremental synergies associated with that technology and each technology located higher on the same path was subtracted to determine the incremental effectiveness. For example, all engine technologies take into account incremental synergy factors of preceding engine technologies; all transmission technologies take into account incremental synergy factors of preceding transmission technologies. These factors are expressed in the fuel consumption improvement factors in the input files used by the Volpe model.

For applying incremental synergy factors in separate path technologies, the Volpe model uses an input table which lists technology pairings and incremental synergy factors associated with those pairings, most of which are between engine technologies and transmission technologies. When a technology is applied to a vehicle by the Volpe model, all instances of that technology in the incremental synergy table which match technologies already applied to the vehicle (either pre-existing or previously applied by the Volpe model) are summed and applied to the fuel consumption improvement factor of the technology being applied. When the Volpe model applies incremental synergies, the fuel consumption improvement factors cannot be reduced below zero.

Incremental synergy values were calculated assuming the prior application (implying succession in some cases) of all technologies located higher along both paths than the pair considered. This is usually a true reflection of a given vehicle's equipment at any point in the model run and thus the method is expected to produce reasonable results in most cases.

NHTSA considered other methods for estimating interactions between technologies. For example, the agency has considered integrating detailed simulation of individual vehicles' performance into the Volpe model.[69] However, while application of such simulation techniques could provide a useful source of information when developing *inputs* to the Volpe model, the agency believes that applying detailed simulation when analyzing the entire fleet of future vehicles is neither necessary nor feasible. NHTSA is charged with setting standards at the maximum feasible level. To understand the potential impacts of its standards, the agency analyzes entire fleets of vehicles expected to be produced in the future. Although some expected engineering characteristics of these vehicles are available, the level of detail needed for full vehicle simulation—a level of detail that would be important if NHTSA were actually designing vehicles—is not available.

As another possible alternative to using ''synergy'' factors, NHTSA has also considered modifying the Volpe model to accept as inputs different measures of efficiency for each engine, transmission, and vehicle model in the product plans. For instance, manufacturers could provide estimates of mechanical and drivetrain efficiencies. Mechanical efficiency (usually between 70 and 90 percent) gives an estimate of the amount of fuel consumed by engine friction and pumping losses. Drivetrain efficiency (usually between 80 and 90 percent) gives an estimate of the amount of fuel consumed by parasitic loads, gearbox friction, and torque converter losses. From these efficiencies along with other inputs such as compression ratio, aerodynamic drag, rolling resistance, and vehicle mass, the model could estimate the fuel consumption associated with each loss mechanism and enforce a maximum fuel consumption reduction for each vehicle model based on those estimates and the technologies applied. Like the use of incremental synergies, this method could help the model avoid double counting fuel consumption benefits when applying multiple technologies to the same vehicle model.[70] The agency believes that this approach, like the use of ''synergy'' factors currently used by the Volpe model, could conceivably provide a means of addressing uncertainty in fuel consumption estimation within the context of CAFE analysis. However, the agency is not confident that model-by-model estimates of baseline fuel consumption partitioning would be available. Also, partitioned estimates of the effects of all the technologies considered in the analysis of this proposal were not available. If both of these concerns could be addressed, NHTSA believes it would be possible to implement partitioned accounting of fuel consumption. However, the agency is unsure whether and, if so, to what extent doing so would represent an improvement over our current approach of using incremental synergy factors.

The agency solicits comments on its use of incremental synergy factors to address uncertainty in the estimation of the extent to which fuel consumption is reduced by applying technologies. For additional detail on the synergies used, please see Section V of this document. In particular, the agency solicits comment on (a) the values of the factors the agency has applied, (b) possible variations across the ten categories of vehicles the agency has considered, and (c) additional technology pairs that may involve such interactions. The proposal of any additional methodologies, such as prototyping and testing, full vehicle simulation, or partitioned accounting, should address information and resource requirements, particularly as related to the analysis of entire fleets of future vehicles expected to be produced through MY 2015. Synergies used for this analysis can be found in Section V of this document.

D. Technology Cost Learning Curve

In past rulemaking analyses, NHTSA did not explicitly account for the cost reductions a manufacturer may realize through learning achieved from experience in actually applying a given technology. NHTSA understood technology cost-estimates to reflect already the full learning costs of technology. EPA felt that for some of the newer, emerging technologies, cost estimates did not reflect the full impact of learning. NHTSA tentatively agreed, but is seeking comment on the impact of learning on cost and the production volumes where it occurs. NHTSA has modified its previous approach in this rulemaking for that reason. In this rulemaking we have included a learning factor for some of the technologies. The ''learning curve'' describes the reduction in unit incremental production costs as a function of accumulated production volume and small redesigns that reduce costs.

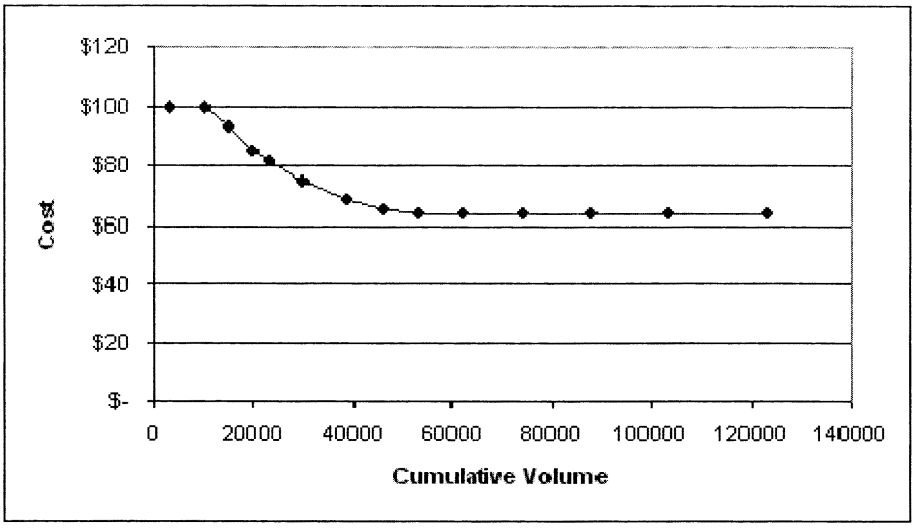
NHTSA implemented technology learning curves by using three parameters: (1) The initial production volume that must be reached before cost reductions begin to be realized (referred to as ''threshold volume''); (2) the percent reduction in average unit cost that results from each successive doubling of cumulative production volume (usually referred to as the ''learning rate''); and (3) the initial cost of the technology. Section V below describing the Volpe model contains additional information on learning curve functions.

Figure III–1 illustrates a learning curve for a vehicle technology with an

[69] In other words, this would mean having the Volpe model run a full vehicle simulation every time the Volpe model is evaluating the potential effect of applying a specific technology to a specific vehicle model.

[70] This approach was proposed in a paper criticizing NAS' approach to synergies in the 2001–02 peer-review process for the NAS Report. *See* Patton, *et al.*, ''Aggregating Technologies for Reduced Fuel Consumption: A Review of the Technical Content in the 2002 National Research Council Report on CAFE'', SAE 2002–01–0628, March 2002.

initial average unit cost of $100 and a learning rate of approximately 20 percent. In this hypothetical example, the initial production volume before cost reductions begin to be realized is set at 12,000 units and the production volume at the cost floor is set at roughly 50,000 units with a cost of $64.



Most studies of the effect of the learning curve on production costs appear to assume that cost reductions begin only after some initial volume threshold has been reached, but not all of these studies specify what this threshold volume is. The rate at which costs decline beyond the initial threshold is usually expressed as the percent reduction in average unit cost that results from each successive doubling of cumulative production volume, sometimes referred to as the learning rate. Many estimates of learning experience curves do not specify a cumulative production volume beyond which cost reductions no longer occur, instead depending on the asymptotic behavior of the above expression of (CQ) for learning rates below 100 percent to establish a floor on costs.

For this analysis, NHTSA has applied learning curve cost reductions on a manufacturer-specific basis, and has assumed that learning-based reductions in technology costs occur at the point that a manufacturer applies the given technology to the first 25,000 cars or trucks, and are repeated a second time as it produces another 25,000 cars or trucks for the second learning step (car and truck volumes are treated separately for determining these sales volumes). The volumes chosen represent our best estimate for where learning would occur. As such, we believe that these estimates are better suited to this analysis than a more general approach of a single number for the learning curve factor, because each manufacturer would be implementing technologies at its own pace in this rule, rather than assuming that all manufacturers implement identical technology at the same time. NHTSA is aware that some of the cost estimates that it has relied upon were derived from suppliers and has added multipliers so that these costs are reflective of what manufacturers would pay for this technology. NHTSA seeks comments on the estimated level of price markups that manufacturers pay for technologies purchased from suppliers and whether different learning curves should be applied to those types of technologies. In addition, NHTSA seeks comments on how learning curves should be adjusted if a supplier supplies more than one manufacturer.

Ideally, we would know the development production cycle and maturity level for each technology so that we could calculate learning curves precisely. Without that knowledge, we have to use engineering judgment. After having produced 25,000 cars or trucks with a specific part or system, we believe that sufficient learning will have taken place such that costs will be lower by 20 percent for some technologies and 10 percent for others. After another 25,000 units, it is expected that, for some technologies, such as 6-speed AMTs, another cost reduction will have been realized.

For each of the technologies, we have considered whether we could project future cost reductions due to manufacturer learning. In making this determination, we considered whether or not the technology was in wide-spread use today or expected to be by the model year 2011–2012 time frame, in which case no future learning curve would apply because the technology would already be in wide-spread production by the automotive industry by that timeframe, e.g., on the order of multi-millions of units per year. (Examples of these include 5-speed automatic transmissions and intake-cam phasing variable valve timing. These technologies have been in production for light-duty vehicles for more than 10 years.) In addition, we carefully considered the underlying source data for our cost estimates. If the source data specifically stated that manufacturer cost reduction from future learning would occur, we took that information into account in determining whether we would apply manufacturer learning in our cost projections. Thus, for many of the technologies, we have not applied any future cost reduction learning curve.

However, there are a number of technologies which are not yet in mass production for which we have applied a learning curve. As indicated in Table III–4 below, we have applied the learning curve beginning in MY 2011 to one set of technologies, and for a number of additional technologies we did not apply manufacturer learning until MY 2014. The distinction between MYs 2011 and 2014 is due to our source data for our cost estimates. For those technologies where we have applied manufacturer learning in MY 2011, the source of our cost estimate did not rely on manufacturer learning to develop the initial cost estimate we have used—therefore we apply the manufacturer

learning methodology beginning in MY 2011.

TABLE III.–4.—LEARNING CURVE APPLICATION TO TECHNOLOGIES

Technology	First year of application	Learning factor (percent)
Overhead Cam Branch Cylinder deactivation	2014	20
Continuous VVLT	2014	20
Camless valvetrain (electromagnetic)	2011	20
GDI—lean burn	2011	20
Gasoline HCCI dual-mode	2011	20
Turbocharging & downsizing	2014	20
Diesel—Lean NO_X trap*	2011	10
Diesel—urea SCR*	2011	10
6-speed AMT	2011	20
Stop-Start with 42 volt system	2014	20
IMA/ISA/BSG (includes engine downsize)	2014	20
2-Mode hybrid electric vehicle	2014	20
Power-split hybrid electric vehicle (P–S HEV)	2014	20
Plug-in hybrid electric vehicle (PHEV)	2011	20
Improved high efficiency alternator & electrification of accessories (42 volt)	2011	20
Secondary axle disconnect (unibody only)	2011	20
Weight reduction (1%)—above 6,000 lbs only	2011	20
Weight reduction (2%)—incremental to 1%	2011	20
Weight reduction (3%)—incremental to 2%	2011	20

* For diesel technologies, learning is only applied to the cost of the emission control equipment, not the cost for the entire diesel system.

The technologies for which we do not begin applying learning until 2014 all have the same reference source, the 2004 NESCCAF study, for which the sub-contractor was The Martec Group. In the work done for the 2004 NESCCAF report, Martec relied upon actual price quotes from Tier 1 automotive suppliers to develop automotive manufacturer cost estimates. Based on information presented by Martec to the National Academy of Sciences (NAS) Committee during their January 24, 2008, public meeting in Dearborn, Michigan,[71] we understand that the Martec cost estimates incorporated some element of manufacturer learning. Martec stated that the Tier 1 suppliers were specifically requested to provide price quotes which would be valid for three years (2009–2011), and that for some components the Tier 1 supplier included cost reductions in years two and three which the supplier anticipated could occur, and which they anticipated would be necessary in order for their quote to be competitive with other suppliers. Therefore, for this analysis, we did not apply any learning curve to any of the Martec-sourced costs for the first three years of this proposal (2011–2013). However, the theory of manufacturer learning is that it is a continuous process, though the rate of improvement decreases as the number of units produced increases. While we were not able to gain access to the detailed submissions from Tier 1 suppliers which Martec relied upon for their estimates, we do believe that additional cost reductions will occur in the future for a number of the technologies for which we relied upon the Martec cost estimates for the reasons stated above in reference to the general learning curve effect. For those technologies we applied a learning curve beginning in 2014. Martec has recently submitted a study to the NAS Committee comparing the 2004 NESCCAF study with new updated cost information. Given that this study had just been completed, the agency could not take it into consideration for the NPRM. However, the agency will review the new study and consider its findings in time for the final rule.

Manufacturers' actual costs for applying these technologies to specific vehicle models are likely to include significant additional outlays for accompanying design or engineering changes to each model, development and testing of prototype versions, recalibrating engine operating parameters, and integrating the technology with other attributes of the vehicle. Manufacturers may also incur additional corporate overhead, marketing, or distribution and selling expenses as a consequence of their efforts to improve the fuel economy of individual vehicle models and their overall product lines.

In order to account for these additional costs, NHTSA has applied an indirect cost multiplier of 1.5 to its estimate of the vehicle manufacturers' direct costs for producing or acquiring each fuel economy-improving technology to arrive at a consumer cost. This estimate was developed by Argonne National Laboratory in a recent review of vehicle manufacturers' indirect costs. The Argonne study was specifically intended to improve the accuracy of future cost estimates for production of vehicles that achieve high fuel economy by employing many of the same advanced technologies considered in the agency's analysis.[72] Thus, its recommendation that a multiplier of 1.5 be applied to direct manufacturing costs to reflect manufacturers' increased indirect costs for deploying advanced fuel economy technologies appears to be appropriate for use in the current analysis. Historically, NHTSA has used almost the exact same multiplier, a multiplier of 1.51, as the markup from variable costs or direct manufacturing costs to consumer costs. This markup takes into account fixed costs, burden, manufacturer's profit, and dealer's profit. Table VII–2 of the PRIA shows the estimated incremental consumer costs for each vehicle type.[73]

[71] ''Variable Costs of Fuel Economy Technologies'' Martec Group, Inc Report Presented to: Committee to Assess Technologies for Improving Light-Duty Vehicle Fuel Economy. Division on Engineering and Physical Systems, Board on Energy and Environmental Systems, the National Academy of Sciences, January 24, 2008.

[72] Vyas, Anant, Dan Santini, and Roy Cuenca, *Comparison of Indirect Cost Multipliers for Vehicle Manufacturing,* Center for Transportation Research, Argonne National Laboratory, April 2000.

[73] PRIA, VII–9.

E. Ensuring Sufficient Lead Time

In analyzing potential technological improvements to the product offerings for each manufacturer with a substantial share of the market, NHTSA added technologies based on our engineering judgment and expertise about possible adjustments to the detailed product plans submitted to NHTSA. Our decision whether and when to add a technology reflected our consideration of the practicability of applying a specific technology and the necessity for lead time in its application. NHTSA recognizes that vehicle manufacturers must have sufficient lead time to incorporate changes and new features into their vehicles and hence added technologies in a cost-minimizing fashion. That is, we generally added technologies that were most cost-effective and took into account the year of availability of the technologies.

NHTSA realizes that not all technologies will be available immediately or could be applied immediately and that there are different phase-in rates (how rapidly a technology is able to be applied across a manufacturer's fleet of vehicles) applicable to each technology as well as windows of opportunities when certain technologies could be applied (*i.e.*, when a product is redesigned or refreshed).

a. Linking To Redesign and Refresh

In the automobile industry there are two terms that describe when changes to vehicles occur: redesign and refresh. In projecting the technologies that could be applied to specific vehicle models, NHTSA tied the application of the majority of the technologies to a vehicle's refresh/redesign cycle. Vehicle redesign usually encompasses changes to a vehicle's appearance, shape, dimensions, and powertrain and is traditionally associated with the introduction of ''new'' vehicles into the market, and often is characterized as the next generation of a vehicle. In contrast vehicle refresh usually only encompasses changes to a vehicle's appearance, and may include an upgraded powertrain and is traditionally associated with mid-cycle cosmetic changes to a vehicle within its current generation to make it appear ''fresh.'' Vehicle refresh traditionally occurs no earlier than two years after a vehicle redesign or at least two years before a scheduled redesign. Table III–5 below contains a complete list of the technologies that were applied and whether NHTSA allowed them to be applied during a redesign year, a refresh year or during any model year is shown in the table below.

TABLE III–5.—TECHNOLOGY REFRESH AND REDESIGN APPLICATION

Technology	Abbr.	Can be applied during redesign model year only	Can be applied during a redesign or refresh model year	Can be applied during any model year
Low Friction Lubricants	LUB		X	X
Engine Friction Reduction	EFR		X	
Variable Valve Timing (ICP)	VVTI		X	
Variable Valve Timing (CCP)	VVTC		X	
Variable Valve Timing (DCP)	VVTD		X	
Cylinder Deactivation	DISP		X	
Variable Valve Lift & Timing (CVVL)	VVLTC	X		
Variable Valve Lift & Timing (DVVL)	VVLTD	X		
Cylinder Deactivation on OHV	DISPO		X	
Variable Valve Timing (CCP) on OHV	VVTO		X	
Multivalve Overhead Cam with CVVL	DOHC	X		
Variable Valve Lift & Timing (DVVL) on OHV	VVLTO	X		
Camless Valve Actuation	CVA	X		
Stoichiometric GDI	SIDI	X		
Lean Burn GDI	LBDI	X		
Turbocharging and Downsizing	TURB	X		
HCCI	HCCI	X		
Diesel with LNT	DSLL	X		
Diesel with SCR	DSLS	X		
5 Speed Automatic Transmission	5SP		X	
Aggressive Shift Logic	ASL		X	X
Early Torque Converter Lockup	TORQ		X	
6 Speed Automatic Transmission	6SP		X	
Automatic Manual Transmission	AMT	X		
Continuously Variable Transmission	CVT	X		
6 Speed Manual	6MAN	X		
Improved Accessories	IACC			X
Electronic Power Steering	EPS		X	
42-Volt Electrical System	42V	X		
Low Rolling Resistance Tires	ROLL			X
Low Drag Brakes	LDB			X
Secondary Axle Disconnect—Unibody	SAXU		X	
Secondary Axle Disconnect—Ladder Frame	SAXL		X	
Aero Drag Reduction	AERO		X	
Material Substitution (1%)	MS1	X		
Material Substitution (2%)	MS2	X		
Material Substitution (5%)	MS5	X		
ISG with Idle-Off	ISGO	X		
IMA/ISAD/BSG Hybrid (includes engine downsizing)	IHYB	X		
2-Mode Hybrid	2HYB	X		

TABLE III–5.—TECHNOLOGY REFRESH AND REDESIGN APPLICATION—Continued

Technology	Abbr.	Can be applied during redesign model year only	Can be applied during a redesign or refresh model year	Can be applied during any model year
Power Split Hybrid	PHYB	X		

As can be seen in the above table, most technologies would only be applied by the Volpe model when a specific vehicle was due for a redesign or refresh. However, for a limited set of technologies, the model was not restricted to applying them during a refresh/redesign year and thus they were made available for application at any time.

These specific technologies are:

- Low Friction Lubricants
- Improved Accessories
- Low Rolling Resistance Tires
- Low Drag Brakes

All of these technologies are very cost-effective, can apply to multiple vehicle models/platforms and can be applied across multiple vehicle models/platforms in one year. Although they can also be applied during a refresh/redesign year, they are not restricted to that timeframe because their application is not viewed as necessitating a major engineering redesign and testing/calibration.

There is an additional technology whose application is not tied to refresh/redesign, which is Aggressive Shift Logic (ASL). ASL is accomplished through reprogramming the shift points for a transmission to be more like a manual transmission. Upgrading a transmission to utilize ASL can happen at refresh/redesign, but because it is not a hardware change, it can also occur at other points in a vehicle's design cycle. If a model that is scheduled for refresh/redesign has a transmission that is being upgraded to ASL, it is possible that all other vehicles that utilize the same transmission (which is usually produced at the same manufacturing plant) could be upgraded at the same time to incorporate ASL and that ASL could permeate other vehicle models in years other than a refresh/redesign year.

NHTSA based the redesign rates used in the Volpe Model on a combination of the manufacturers' confidential product plans and NHTSA's engineering judgment. In most instances, NHTSA has accepted the projected redesign periods from the companies who provided them through MY 2013. If companies did not provide product plan date, NHTSA used publicly available data about vehicle redesigns to establish the redesign rates for the vehicles produced by these companies.

NHTSA assumes that passenger cars will be redesigned every 5 years, based on the trend over the last 10–15 years for passenger cars to be redesigned every 5 years. These trends are reflected in the manufacturer production plans that NHTSA received in response to its request for product plan information and was confirmed by many automakers in meetings held with NHTSA to discuss various issues with manufacturers.

NHTSA believes that the vehicle design process has progressed and improved rapidly over the last decade and these improvements have resulted in the ability of manufacturers to shorten the design process and to introduce vehicles more frequently to respond to competitive market forces. Almost all passenger cars will be on a 5-year redesign cycle by the end of the decade, with the exception being some high performance vehicles and vehicles' with specific market niches.

Currently, light trucks are redesigned every 5 to 7 years, with some vehicles having longer redesign periods (*e.g.*, full-size vans). In the most competitive SUV and crossover vehicle segments, the redesign cycle currently averages slightly above 5 years. It is expected that the light truck redesign schedule will be shortened in the future due to competitive market forces and in response to fuel economy and other regulatory requirements. It is expected that by MY 2014, almost all light trucks will be redesigned on a 5-year cycle. Thus, for almost all vehicles scheduled for a redesign in model year 2014 and later, NHTSA estimated that all vehicles would be redesigned on a 5-year cycle. Exceptions were made for high performance vehicles and other vehicles that traditionally had longer than average design cycles (*e.g.*, 2-seater sports cars). For those vehicles, NHTSA attempted to preserve the historic redesign cycle rates.

b. Technology Phase-in Caps

In analyzing potential technological improvements to the product offerings for each manufacturer with a substantial share of the market, NHTSA added technologies based on our engineering judgment and expertise about possible adjustments to the detailed product plans submitted to NHTSA. Our decision whether and when to add a technology reflected our consideration of the practicability of applying a specific technology and the necessity for lead-time in its application.

NHTSA recognizes that vehicle manufacturers must have sufficient lead time to incorporate changes and new features into their vehicles and that these changes cannot occur all at once, but must be phased in over time. As discussed above, our analysis addresses these realities in part by timing the estimated application of most technologies to coincide with anticipated vehicle redesigns and/or freshenings. We have estimated that future vehicle redesigns can be implemented on a 5-year cycle with mid-cycle freshening, except where manufacturers have indicated plans for shorter redesign cycles.

However, the agency further recognizes that engineering, planning and financial constraints prohibit most technologies from being applied across an entire fleet of vehicles within a year. Thus, as for the analysis supporting its 2006 rulemaking regarding light truck CAFE, the agency is employing overall constraints on the rates at which each technology can penetrate a manufacturer's fleet. The Volpe model applies these ''phase-in caps'' by ceasing to add a given technology to a manufacturer's fleet in a specific model year once it has increased the corresponding penetration rate by at least amount of the cap. Having done so, the model proceeds to apply other technologies in lieu of the ''capped'' technology.

For its regulatory analysis in 2006, NHTSA applied phase-in caps expected to be consistent with NAS' indication in its 2002 report that even existing technologies would require 4 to 8 years to achieve widespread penetration of the fleet. The NAS report, which is believed to be the only peer-reviewed source which provides phase-in rates, was relied upon for establishing the phase-in caps that we used for all

technologies, except diesels and hybrids, for which the report didn't include that information. Most of the phase-in caps applied by the agency in 2006 ranged from 25 percent (4 year introduction) to 17 percent (approximately 6 years, the midpoint of the NAS estimate). The agency assumed shorter implementation rates for technologies that did not require changes to the manufacturing line. For other technologies (*e.g.*, hybrid and diesel powertrains), the agency employed phase-in caps as low as 3 percent, to reflect the major redesign efforts and capital investments required to implement these technologies.

Considerable changes have occurred since NHTSA's 2006 analysis, and even more since the 2002 NAS report. Not only have fuel prices increased, but official forecasts of future fuel prices have increased, as well. This suggests a market environment in which consumers are more likely to demand fuel-saving technologies than previously anticipated, and it suggests a financial environment in which investors are more likely to invest in companies developing and producing such technologies. Indeed, some technologies have penetrated the marketplace more quickly than projected in 2006. Confidential product plan information submitted to NHTSA in 2007 and information from suppliers confirm that the rate of technology penetration has increased as compared to 2006.

Also, the statutory environment has changed since 2006. With the enactment of EISA, Congress has adopted the specific objectives of increasing new vehicle fuel economy to at least 35 mpg by 2020 and making ratable progress toward that objective in earlier model years. This reduces manufacturers' uncertainty about the general direction of future fuel economy standards in the United States. Moreover, developments in other regions (*e.g.*, Europe) and countries (*e.g.*, Canada and China) suggest that the generalized expectation that future vehicles will perform well with respect to energy efficiency is not unique to the United States. Discussions with manufacturers in late 2007 and early 2008 indicate that the industry is highly sensitive to all of these developments and has been anticipating the need to accelerate the rate of technology deployment in response to the passage of major energy legislation in the U.S.

Considering these developments, the agency revisited the phase-in caps it had applied in 2006 and determined that it would be appropriate to relax many of them. In our judgment, most of the engine technologies could penetrate the fleet in as quickly as five years—rather than in the six we previously estimated—as long as they are applied during redesign. Low friction lubricants are already widely used, and our expectation is that they can quickly penetrate the remainder of the fleet. Therefore, we relaxed the 25 percent (4-year) phase-in cap to 50 percent (2 years). Similarly, product plans indicate that transmissions with 5 or more forward gears will widely penetrate the fleet even without the current proposal. Also, given the technology cost and effectiveness estimates discussed above, the Volpe model frequently estimates that manufacturers will ''leapfrog'' past 5-speed transmissions to apply more advanced transmissions (*e.g.*, 6-speed or AMT). We have therefore increased the phase-in cap for 5-speed transmissions from 25 percent (4 years) to 100 percent (1 year). However, in our judgment, phase-in caps of 17 percent (6 years) are currently still appropriate for most other transmission technologies.

Although NHTSA has applied phase-in caps of 25 percent (4 years) for most remaining technologies, we continue to anticipate that phase-in caps of 3 percent are appropriate for some advanced technologies, such as hybrids and diesels. Although engine, vehicle, and exhaust aftertreatment manufacturers have, more recently, expressed greater optimism than before regarding the outlook for light vehicle diesel engines, our expectation is that the phase-in cap that we have chosen is appropriate at this time. We also estimate that a 3 percent rate is appropriate for hybrid technologies, which are very complex, require significant engineering resources to implement, but are just now starting to penetrate the market.

Table III–6 below presents the phase-in caps applied in the current analysis, with rates from the analysis of the 2006 final rule provided for comparison. NHTSA requests comments on the phase-in caps shown here, and on whether slower or faster rates would be more appropriate and, if so, why.

TABLE III.—6. PHASE-IN CAP APPLICATION

Technology	2006 final rule	Current NPRM
Low Friction Lubricants	25	50
Engine Friction Reduction	17	20
Variable Valve Timing (ICP)	17	20
Variable Valve Timing (CCP)	17	20
Variable Valve Timing (DCP)	17	20
Cylinder Deactivation	17	20
Variable Valve Lift & Timing (CVVL)	17	20
Variable Valve Lift & Timing (DVVL)	17	20
Cylinder Deactivation on OHV	17	20
Variable Valve Timing (CCP) on OHV	17	20
Multivalve Overhead Cam with CVVL	17	20
Variable Valve Lift & Timing (DVVL) on OHV	17	20
Camless Valve Actuation	10	20
Stoichiometric GDI	3	20
Diesel following GDI-S (SIDI)	3	3
Lean Burn GDI	.....	20
Turbocharging and Downsizing	17	20
Diesel following Turbo D/S	3	3
HCCI	.....	13
Diesel following HCCI	3	3
5 Speed Automatic Transmission	17	100
Aggressive Shift Logic	17	25
Early Torque Converter Lockup	.....	25
6 Speed Automatic Transmission	17	17

TABLE III.—6. PHASE-IN CAP APPLICATION—Continued

Technology	2006 final rule	Current NPRM
Automated Manual Transmission	17	17
Continuously Variable Transmission	17	17
6 Speed Manual	.....	17
Improved Accessories	25	25
Electric Power Steering	17	25
42-Volt Electrical System	17	25
Low Rolling Resistance Tires	25	25
Low Drag Brakes	17	25
Secondary Axle Disconnect—Unibody	17	17
Secondary Axle Disconnect—Ladder Frame	17	17
Aero Drag Reduction	17	17
Material Substitution (1%)	17	17
Material Substitution (2%)	17	17
Material Substitution (5%)	17	17
ISG with Idle-Off	5	3
IMA/ISAD/BSG Hybrid (includes engine downsizing)	5	3
2-Mode Hybrid	5	3
Power Split Hybrid	5	3
Plug-in Hybrid	.....	3

IV. Basis for Attribute-Based Structure for Setting Fuel Economy Standards

A. Why attribute-based instead of a single industry-wide average?

NHTSA is obligated under 49 U.S.C. 32902(a)(3)(A), recently added by Congress, to set attribute-based fuel economy standards for passenger cars and light trucks. NHTSA welcomes Congress' affirmation through EISA of the value of setting attribute-based fuel economy standards, because we believe that an attribute-based structure is preferable to a single industry-wide average standard for the following reasons. First, attribute-based standards increase fuel savings and reduce emissions when compared to an equivalent industry-wide standard under which each manufacturer is subject to the same numerical requirement. Under such a single industry-wide average standard, there are always some manufacturers that are not required to make any improvements for any given year because they already exceed the standard. Under an attribute-based system, in contrast, every manufacturer can potentially be required to continue improving each year. Because each manufacturer produces a different mix of vehicles, attribute-based standards are individualized for each manufacturer's different product mix. All manufacturers must ensure they have used available technologies to enhance fuel economy levels of the vehicles they sell. Therefore, fuel savings and emissions reductions will always be higher under an attribute-based system than under a comparable industry-wide standard.

Second, attribute-based standards eliminate the incentive for manufacturers to respond to CAFE standards in ways harmful to safety.[74] Because each vehicle model has its own target (based on the attribute chosen), attribute-based standards provide no incentive to build smaller vehicles simply to meet a fleet-wide average, because the smaller vehicles will be subject to more stringent fuel economy and emissions targets.

Third, attribute-based standards provide a more equitable regulatory framework for different vehicle manufacturers.[75] A single industry-wide average standard imposes disproportionate cost burdens and compliance difficulties on the manufacturers that need to change their product plans and no obligation on those manufacturers that have no need to change their plans. Attribute-based standards spread the regulatory cost burden for fuel economy more broadly across all of the vehicle manufacturers within the industry.

And fourth, attribute-based standards respect economic conditions and consumer choice, instead of having the government mandate a certain fleet mix. Manufacturers are required to invest in technologies that improve the fuel economy achieved by the vehicles they sell, regardless of their size.

B. Which attribute is most effective?

Although NHTSA previously set the MY 2008–2011 light truck fuel economy standards based on vehicle footprint as the relevant attribute, the agency took a fresh look for purposes of this rulemaking. Although several attributes offer benefits, NHTSA has preliminarily concluded that a footprint-based function will again be the most effective and efficient for both passenger car and light truck standards. The discussion below explains our conclusion in favor of footprint, and also examines the relative benefits and drawbacks of the other attributes considered.

1. Footprint-Based Function

NHTSA is proposing to set fuel economy standards for manufacturers according to vehicle footprint, as light truck CAFE standards are currently set by NHTSA. A vehicle's ''footprint'' is the product of the average track width (the distance between the centerline of the tires[76]) and wheelbase (basically, the distance between the centers of the axles[77]). Each vehicle footprint value is assigned a mile per gallon target specific to that footprint value. Footprint-based

[74] The 2002 NAS Report, on which NHTSA relied in reforming the CAFE program for light trucks, described at length and quantified the potential safety problem with average fuel economy standards that specify a single numerical requirement for the entire industry. *See* National Academy of Sciences, ''Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards,'' (''NAS Report'') National Academy Press, Washington, DC (2002), 5, finding 12. *Available at http://www.nap.edu/openbook.php?record_id=10172page=R1* (last accessed April 20, 2008).

[75] Id. at 4–5, finding 10.

[76] The proposed definition for track width is the same as that used in NHTSA's April 2006 light truck CAFE rule, which is ''the lateral distance between the centerlines of the base tires at ground, including camber angle.'' 49 CFR 523.2, 71 FR 19450 (Apr. 14, 2006).

[77] The proposed definition for wheelbase is also the same as that used in NHTSA's April 2006 light truck CAFE rule. Wheelbase is ''the longitudinal distance between front and rear wheel centerlines.'' *Id.*

standards have a number of benefits, as described below.

First, NHTSA tentatively concludes that use of the footprint-attribute helps us achieve greater fuel economy/emissions reductions without having a potentially negative impact on safety. While past analytic work [78] focused on the relationship between vehicle weight and safety, weight was understood to encompass a constellation of size-related factors, not just weight. More recent studies [79] have begun to consider whether the relationship between vehicle size and safety differs. To the extent that reduction of mass has historically been associated with reductions in many other size attributes, and given the construct of the current fleet, we believe that the relationship between size or weight (on the one hand) and safety (on the other) has been similar.

Overall, use of vehicle footprint is ''weight-neutral'' and thus does not exacerbate the vehicle compatibility safety problem.[80] A footprint-based system does not encourage manufacturers to add weight to move vehicles to a higher footprint category, because additional weight makes no difference to the required target. Nor would the system penalize manufacturers for making limited weight reductions. By using vehicle footprint in lieu of a weight-based metric, the standards would also facilitate the use of promising lightweight materials that, although perhaps not cost-effective in mass production today, may ultimately achieve wider use in the fleet, become less expensive, and enhance emissions reductions, vehicle safety, and fuel economy.[81]

Finally, vehicle footprint is more difficult to modify than other attributes. It is more integral to a vehicle's design than either vehicle weight or shadow, and cannot easily be altered between model years in order to move a vehicle into a different category with a lower fuel economy target. Footprint is dictated by the vehicle platform, which is typically used for a multi-year model lifecycle. Short-term changes to a vehicle's platform would be expensive and difficult to accomplish without disrupting multi-year product planning. In some cases, several models share a common platform, thus adding to the cost, difficulty, and therefore unlikelihood of short-term changes.

Concurrent with the NPRM, NHTSA will develop a test procedure for measuring wheelbase and track width and for calculating footprint. This test procedure will be available on NHTSA's Web site. We note that the test procedure will be used to validate the corresponding wheelbase, track width, and footprint data provided to us by the manufacturers in their pre-model year reports but could include other CAFE-related enforcement activities in the future. We seek comment on the test procedure.

2. Functions Based on Other Attributes

Although NHTSA has concluded that footprint is the best attribute for CAFE standards, we considered a number of other attributes on which to base the standards, including, but not limited to, curb weight, engine displacement, interior volume, passenger capacity, towing capability, and cargo hauling capability. Below we have described the relative merits and drawbacks of the other attributes considered.

Curb weight: One of the benefits of choosing curb weight as the relevant attribute for the standards is that it correlates with fuel economy and emissions controls better than vehicle footprint. Additionally, because reductions in weight would lead to higher targets, weight-based standards prevent the systemic downweighting of vehicles and the associated detriment to safety. However, weight-based standards also discourage the down-weighting of vehicles through the use of lightweight materials that could improve fuel economy and safety and reduce emissions. Weight-based standards are also more susceptible to gaming and creep, because weight can be altered very easily compared to other attributes. Weight is also only rarely considered by consumers, in contrast to size (which is reflected in footprint and shadow), and can be raised considerably (thus decreasing fuel economy/increasing CO_2 emissions) without consumers being aware of the change.

Engine displacement: The primary benefit of choosing engine displacement as the relevant attribute for the standards is that it correlates well with fuel economy, since a larger engine consumes fuel at a faster rate. However, engine-displacement-based standards would be highly susceptible to gaming and creep, given that many vehicle manufacturers already offer identical models with different size engines. Additionally, engine-displacement-based standards would discourage the use of small turbo-charged engines, which have the potential to improve fuel economy without sacrificing the engine power that American consumers generally seek.

Interior volume: Standards based on interior volume would have virtually no correlation with fuel economy, so they were not extensively considered. Such standards would have the advantage of not encouraging downsizing, so they could have a positive impact on safety in that respect, but few other benefits were discerned.

Passenger capacity: Besides having virtually no correlation with fuel economy, passenger capacity has the disadvantage of being identical for a substantial portion of the light-duty vehicle population (*i.e.*, many vehicles have five seats). Thus, using passenger capacity as the attribute on which to base fuel economy standards would essentially result in a single industry-wide average standard, which is precisely what Congress sought to avoid in requiring attribute-based standards.

Towing or cargo-hauling capability: In its light truck rulemaking for MYs 2008–2011, NHTSA sought comment on whether towing or cargo-hauling capability should be used as an attribute in addition to footprint—in other words, whether the footprint attribute should be modified in any way due to towing or cargo-hauling capability. The reason that NHTSA sought comment was that two vehicles with equal footprint would nevertheless achieve different fuel economies if one's towing or cargo-hauling capability was greater, because engineering a vehicle to provide that kind of power occurs at the expense of engineering for fuel economy. NHTSA posited that perhaps for vehicle manufacturers that have a product mix weighted toward vehicles with superior towing and/or cargo-hauling capabilities, a footprint-based Reformed CAFE standard might not provide a

[78] *See* Kahane, Charles J., PhD, DOT HS 809 662, ''Vehicle Weight, Fatality Risk and Crash Compatibility of Model Year 1991–99 Passenger Cars and Light Trucks,'' October 2003. *Available at http://www.nhtsa.dot.gov/cars/rules/regrev/Evaluate/809662.html* (last accessed April 20, 2008). *See also* Van Auken, R.M. and J.W. Zellner, ''An Assessment of the Effects of Vehicle Weight on Fatality Risk in Model Year 1985–98 Passenger Cars and 1985–97 Light Trucks,'' Dynamic Research, Inc., February 2002. *Available at* Docket No. NHTSA–2003–16318–2.

[79] *See* Van Auken, R.M. and J.W. Zellner, Supplemental Results on the Independent Effects of Curb Weight, Wheelbase, and Track on Fatality Risk in 1985–1997 Model Year LTVs, Dynamic Research, Inc., May 2005. *Available at* Docket No. NHTSA–2003–16318–17.

[80] The vehicle compatibility safety problem refers to the disparity in effects experienced by smaller lighter vehicles in crashes with larger heavier vehicles.

[81] For example, the Aluminum Association indicated in the April 2006 light truck CAFE rulemaking that using aluminum to decrease a vehicle's weight by 10 percent could improve its fuel economy (and thus, reduce its CO_2 emissions) by 5–8 percent, without reducing performance in frontal barrier crash tests. *See* comments provided by the Aluminum Association, Inc., at Docket No. NHTSA–2003–16128–1120, pp. 5 and 12.

fully equitable competitive environment. Based on comments to the final rule for the MY 2008–2011 light truck rulemaking, however, NHTSA concluded that the lack of an objective measure for tow rating and the potential for gaming of a system based on this attribute made towing or cargo-hauling capacity an inappropriate attribute at that time. NHTSA tentatively concludes that such is still the case.

In summary, then, NHTSA has tentatively decided that a footprint-based system will be optimal for this rulemaking. However, we seek comment on whether the proposed standards should be based on vehicle footprint alone, or whether other attributes such as the ones described above should be considered. If any commenters advocate one or more additional attributes, the agency requests those commenters to supply a specific, objective measure for each attribute that is accepted within the industry and that can be applied to the full range of light-duty vehicles covered by this rulemaking.

C. The Continuous Function

NHTSA considered this issue of how to set attribute-based functions in its 2006 light truck CAFE rulemaking, and examined the relative merits of both step functions and continuous functions. In the CAFE context, a step function would separate the vehicle models along the spectrum of attribute magnitudes into discrete groups, and each group would be assigned a fuel economy target (that end up looking like steps), so that the average of the groups would be the average fleet fuel economy. A continuous function, in contrast, would not separate the vehicles into a set of discrete categories. Each vehicle model produced by a manufacturer would have its own fuel economy target, based on its particular footprint. In other words, a continuous function is a mathematical function that defines attribute-based targets across the entire range of possible footprint values, and applies them through a harmonically weighted formula to derive regulatory obligations for fleet averages.

In proposing the current standards in this rulemaking, NHTSA relied on its experience in the last light truck rulemaking. In that rulemaking, NHTSA decided in favor of the continuous function for three main reasons.

- First, under a step function, manufacturers who build vehicle models whose footprints fall near the upper boundary of a step have a considerable incentive to upsize the vehicle in order to receive the lower target of the next step. A continuous function reduces the incentive created by a step function to upsize a vehicle whose footprint is near a category boundary, because on an uninterrupted spectrum, upsizing slightly can never cause a drastic decrease in the stringency of the applicable target.
- Second, the continuous function minimizes the incentive to downsize a vehicle as a way to meet the standards, because any downsizing results in higher targets being applicable.
- And finally, the continuous function provides manufacturers with greater regulatory certainty, because there are no category boundaries that could be redefined in future rulemaking.

The considerations in favor of NHTSA's decision to base the MY 2008–11 light truck CAFE standards on a continuous function are also applicable to the current rulemaking, which would set footprint-based fuel economy standards for both light trucks and passenger cars. Thus, NHTSA has tentatively decided that a continuous function is the best choice for applying the footprint-based standards.

We note, however, that there are a variety of mathematical forms available to estimate the relationship between vehicle footprint and fuel economy that could be used as a continuous function. In the MY 2008–11 light truck CAFE rule, NHTSA considered a simple linear (straight-line) function, a quadratic (U-shaped) function, an exponential (curve that continuously becomes steeper or shallower) function, and an unconstrained logistic (S-shaped) function. Each of these relationships was estimated in gallons per mile (gpm) rather than in miles per gallon (mpg), because the relationship between fuel economy measured in mpg and fuel savings is not linear.[82] NHTSA plotted the optimized fleets in terms of footprint versus gpm, and once a shape of a function was determined in terms of gpm, the agency then converted the functions to mpg for the purpose of evaluating the potential target values. *See* 71 FR 17600–17607 (Apr. 6, 2006) for a fuller discussion of the agency's process.

Ultimately, NHTSA decided in the light truck CAFE rule that none of those four functional forms as presented would be appropriate for the CAFE program because they tended toward excessively high stringency levels at the smaller end of the footprint range, excessively low stringency levels at the larger end of the footprint range, or both. Too high stringency levels for smaller vehicles could potentially result in target values beyond the technological capabilities of manufacturers, while too low levels for larger vehicles would reduce fuel savings below that of the optimized fleet. NHTSA determined that a constrained logistic function[83] provided a relatively good fit to the data points without creating problems associated with some or all of the other forms, *i.e.*, excessively high targets for small vehicles, excessively low targets for large vehicles, or regions in which targets for large vehicles exceeded those for small vehicles. The constrained logistic function also limited the potential for the curve to be disproportionately influenced by a single vehicle model located at either end of the range (*i.e.*, by outliers). Because most vehicle models are clustered in the middle of the footprint range, models toward either end have a greater influence on their target value, and thus on the overall shape of the curve that fits the data points. The constrained logistic function minimizes this problem.

NHTSA's constrained logistic function in the light truck rule was defined by four parameters. Two parameters established the function's upper and lower bounds (asymptotes), respectively. A third parameter specified the footprint at which the function was halfway between the upper and lower bounds. The last parameter established the rate or ''steepness'' of the function's transition between the upper (at low footprint) and lower (at high footprint) boundaries.[84]

[82] That is to say, an increase of one mpg in a vehicle with low fuel economy (*e.g.*, 20 mpg to 21 mpg) results in higher fuel savings than if the change occurs in a vehicle with high fuel economy (*e.g.*, 30 mpg to 31 mpg). Increasing fuel economy by equal increments of gallons per mile provides equal fuel savings regardless of the fuel economy of a vehicle. For example, increasing the fuel economy of a vehicle from 0.06 gpm to 0.05 gpm saves exactly the same amount of fuel as increasing the fuel economy of a vehicle from 0.03 gpm to 0.02 gpm.

[83] A ''constrained'' logistic function is still S-shaped, like an unconstrained logistic function, but plateaus at the top and bottom rather than continuing to increase or decrease to infinity.

[84] NHTSA determined the values of the parameters establishing the upper and lower asymptotes by calculating the sales-weighted harmonic average values of optimized fuel economy levels for light trucks with footprints below 43 square feet and above 65 square feet, respectively. Because these ranges respectively included the smallest and largest models represented at that time in the light truck fleet, the agency determined that these two segments of the light truck fleet were appropriate for establishing the upper and lower fuel economy bounds of a continuous function.

The remaining two parameters (*i.e.*, the ''midpoint'' and ''curvature'' parameters) were estimated using production-weighted nonlinear least-squares regression to achieve the closest fit to data on footprint and optimized fuel economy for all light truck models expected to be produced during each of the model years 2008–2011. More

The resulting curve was an elongated reverse ''S'' shape, with fuel economy targets decreasing as footprint increased.

NHTSA has tentatively concluded that a constrained logistic function would continue to be appropriate for setting CAFE standards for both passenger cars and light trucks. We have reached that conclusion because the concerns that prevented NHTSA from choosing another mathematical function in the light truck CAFE rule continue to be relevant to the new standards. The description below of the Volpe model and how it works explains in much more detail how the constrained logistic function has been updated for purposes of this rulemaking. NHTSA seeks comment on whether another mathematical function might result in improved standards consistent with EPCA and EISA.

V. Volpe Model/Analysis/Generic Description of Function

A. The Volpe model

1. What is the Volpe model?

As it did for the development and analysis of the April 2006 light truck final rule, in developing this proposal NHTSA made significant use of a peer-reviewed modeling system developed by the Department of Transportation's Volpe National Transportation Systems Center (Volpe Center). The CAFE Compliance and Effects Modeling System (referred to herein as the Volpe model) serves two fundamental purposes: Identifying technologies each manufacturer could apply in order to comply with a specified set of CAFE standards, and calculating the costs and effects of manufacturers' application of technologies.

Before working with the Volpe Center to develop and apply this model, NHTSA had considered other options, including other modeling systems. NHTSA was unable to identify any other system that could operate at a sufficient level of detail with respect to manufacturers' future products, which involve thousands of unique vehicle models using hundreds of unique engines and hundreds of unique transmissions. NHTSA was also unable to identify any other system that could simulate a range of different possible reforms to CAFE standards. The Volpe model provides these and other capabilities, and helps NHTSA examine potential regulatory options.

2. How does the Volpe model apply technologies to manufacturers' future fleets?

The Volpe model begins with an ''initial state'' of the domestic vehicle market, which in this case is the market for passenger cars and light trucks to be sold during the period covered by the proposed rule. The vehicle market is defined on a model-by-model, engine-by-engine, and transmission-by-transmission basis, such that each defined vehicle model refers to a separately-defined engine and a separately-defined transmission.

For the model years covered by the current proposal, the light vehicle (passenger car and light truck) market forecast included more than 3,000 vehicle models, more than 400 specific engines, and nearly 400 specific transmissions.[85] This level of detail in the representation of the vehicle market is vital to an accurate analysis of manufacturer-specific costs and the analysis of reformed CAFE standards, and is much greater than the level of detail used by many other models and analyses relevant to light vehicle fuel economy. Because CAFE standards apply to the average performance of each manufacturer's fleets of cars and light trucks, the impact of potential standards on individual manufacturers cannot be credibly estimated without analysis of manufacturers' planned fleets. NHTSA has used this level of detail in CAFE analysis throughout the history of the program. Furthermore, because required CAFE levels under an attribute-based CAFE standard depend on manufacturers' fleet composition, the stringency of an attribute-based standard cannot be predicted without performing analysis at this level of detail.

Examples of other models and analyses that NHTSA and Volpe Center staff have considered include DOE's NEMS, Oak Ridge National Laboratory's (ORNL) Transitional Alternative Fuels and Vehicles (TAFV) model, and the California Air Resources Board's (CARB) analysis supporting California's adopted greenhouse gas emissions standards for light vehicles.

DOE's NEMS represents the light-duty fleet in terms of four ''manufacturers'' (domestic cars, imported cars, domestic light trucks, and imported light trucks), twelve vehicle market classes (*e.g.*, ''standard pickup''), and sixteen power train/fuel combinations (*e.g.*, methanol fuel-cell vehicle).[86] Therefore, as currently structured, NEMS is unable to estimate manufacturer-specific implications of attribute-based CAFE standards.

TAFV accounts for many power train/fuel combinations, having been originally designed to aid understanding of possible transitions to alternative fueled vehicles, but it represents the light-duty fleet as four aggregated (*i.e.*, industry-wide) categories of vehicles: Small cars, large cars, small light trucks, and large light trucks.[87] Thus, again, as currently structured, TAFV is unable to estimate manufacturer-specific implications of attribute-based CAFE standards.

CARB's analysis of light vehicle GHG emissions standards uses two levels of accounting. First, based on a report prepared for Northeast States Center for a Clean Air Future (NESCCAF), CARB represents the light-duty fleet in terms of five ''representative'' vehicles. Use of these ''representative'' vehicles ignores the fact that the engineering characteristics of individual vehicle models vary widely both among manufacturers and within manufacturers' individual fleets. For each of these five vehicles, NESCCAF's report contains the results of full vehicle simulation given several pre-specified technology ''packages.''[88] Second, to evaluate manufacturer-specific regulatory costs, CARB essentially reduces each manufacturer's fleet to only two average test weights, one for each of California's two regulatory

precisely, these two parameters determine the range between the vehicle footprints where the upper and lower limits of fuel economy are reached, and the value of footprint for which the value of fuel economy is midway between its upper and lower bounds.

[85] The market forecast is an input to the Volpe model developed by NHTSA using product plan information provided to the agency by individual vehicle manufacturers in response to NHTSA's requests. The submitted product plans contain confidential business information (CBI), which the agency is prohibited by federal law from disclosing. As the agency receives new product plan information in response to future requests, the market forecast is updated.

[86] U.S. Department of Energy, ''Transportation Sector Module of the National Energy Modeling System: Model Documentation 2007,'' DOE/EIA–M070, May 2007. *Available at http://tonto.eia.doe.gov/FTPROOT/modeldoc/m070(2007).pdf* (last accessed April 20, 2008). NEMS's Manufacturers Technology Choice Submodule (MTCS) is believed to have logical structures similar to those in Energy and Environmental Analysis, Inc.'s (EEA's) Fuel Economy Regulatory Analysis Model (FERAM). However, FERAM documentation and source code have not been made available to NHTSA or Volpe Center staff.

[87] Greene, David. ''TAFV Alternative Fuels and Vehicles Choice Model Documentation,'' ORNL//TM–2001//134, July 2001. *Available at http://www-cta.ornl.gov/cta/Publications/Reports/ORNL_TM_2001_134.pdf* (last accessed April 20, 2008).

[88] Northeast States Center for a Clean Air Future (NESCCAF), Reducing Greenhouse Gases from Light-Duty Vehicles (2004). *Available at http://bronze.nescaum.org/committees/mobile/rpt040923ghglightduty.pdf* (last accessed April 20, 2008).

classes.[89] Even for a flat standard such as considered by California, NHTSA would not base its analysis of manufacturer-level costs on this level of aggregation. Use of CARB's methods would not enable NHTSA to estimate manufacturer-specific implications of the attribute-based CAFE standards proposed today.[90]

The Volpe model also uses several additional categories of data and estimates provided in various external input files:

One input file specifies the characteristics of fuel-saving technologies to be represented, and includes, for each technology, the first year in which the technology is expected to be ready for commercial application; upper and lower estimates of the effectiveness and cost (retail price equivalent) of the technology; coefficients defining the extent to which costs are expected to decline as a result of ''learning effects'' (discussed below); inclusion or exclusion of the technology on up to three technology ''paths''; and constraints (''phase-in caps'') on the annual rate at which manufacturers are estimated to be able to increase the technology's penetration rate. These technology characteristics and estimates are specified separately for each of the following categories of vehicles: Small sport/utility vehicles (SUVs), midsize SUVs, large SUVs, small pickups, large pickups, minivans, subcompact cars, compact cars, midsize cars, and large cars. In addition, the input file defining technology characteristics can (but need not) contain specified ''synergies'' between technologies—that is, differences in a given technology's effect on fuel consumption that result from the presence of other technologies.

Another input file specifies vehicular emission rates for the following pollutants: Carbon monoxide (CO), volatile organic compounds (VOCs), nitrogen oxides (NO_X), particulate matter (PM), and sulfur dioxide (SO_2). These rates are defined on a model year-by-model year and calendar year-by-calendar year basis, and are used to estimate changes in emissions that result from changes in vehicular travel (*i.e.*, vehicle-miles traveled or VMT).

A third input file specifies a variety of economic and other data and estimates. The model can accommodate vehicle survival (*i.e.*, percent of vehicles of a given vintage that remain in service) and mileage accumulation (*i.e.*, annual travel by vehicles of a given vintage) rates extending as many years beyond the year of sale as for which estimates are available and use those for estimating VMT, fuel consumption, and emissions. The model can also accommodate forecasts of price and fuel taxation rates for up to seven fuels (*e.g.*, gasoline, diesel) over a similar period. The model uses pump prices (*i.e.*, including taxes) to estimate the value manufacturers expect vehicle purchasers to place on saved fuel, because they indicate the amount by which the manufacturer is expected to consider itself able to increase the retail price of the vehicle based on the purchaser's consideration of the vehicle's increased fuel economy. However, the model uses pretax fuel prices to estimate the monetized societal benefits of reduced fuel consumption, because fuel taxes represent transfers of resources from fuel buyers to government agencies rather than real resources that are consumed in the process of supplying or using fuel, so their value must be deducted from retail fuel prices to determine the value of fuel savings to the U.S. economy.

Other economic inputs include the rebound effect coefficient (*i.e.*, the elasticity of VMT with respect to the per-mile cost of fuel); the discount rate; the ''payback period'' (*i.e.*, the number of years manufacturers are estimated to assume vehicle purchasers consider when taking into account fuel savings); the ''gap'' between laboratory and actual fuel economy; the per-vehicle value of travel time (in dollars per hour); the economic costs (in dollars per gallon) of petroleum consumption; various external costs (all in dollars per mile) associated with changes in vehicle use; damage costs (all on a dollar per ton basis) for each of the above-mentioned criteria pollutants; and the rate at which noncompliance causes civil penalties. Section V below describes in much more detail how these inputs are included and used by the model.

The model also accommodates input data and estimates addressing the properties of different fuels. These include upstream carbon dioxide and criteria pollutant emission rates (*i.e.*, U.S. emissions resulting from the production and distribution of each fuel), density (pounds/gallon), energy density (BTU/gallon), carbon content, shares of fuel savings leading to reduced domestic refining, and relative shares of different gasoline blends. These fuel properties and related estimates are used to calculate changes in domestic upstream emissions resulting from changes in fuel consumption.

Coefficients defining the probability distributions to apply when performing sensitivity analysis (*i.e.*, Monte Carlo simulation) are also specified in this input file.[91] These coefficients determine the likelihood that any given value will be selected when performing this type of analysis (*e.g.*, the likelihood that a rebound effect of -0.1 will be tested). High and low fuel price forecasts are also specified in this input file for this purpose.

The final input file contains CAFE scenarios to be examined. The model accommodates a baseline (*i.e.*, business-as-usual) scenario and different alternative scenarios. Effects of the alternative scenarios are calculated relative to results for the baseline scenario. Each scenario defines the coverage, structure, and stringency of CAFE standards for each of the covered model years.

With all of the above input data and estimates, the modeling system develops an estimate of a set of technologies each manufacturer *could* apply in response to each specified CAFE scenario. Because manufacturers have many choices regarding how to respond to CAFE standards, it is impossible to predict precisely how a given manufacturer *would* respond to a given set of standards. The modeling system begins with the ''initial state'' (*i.e.*, business-as-usual) of each manufacturer's future vehicles, and accumulates the estimated costs of progressive additions of fuel-saving technologies. Within a set of specified constraints, the system adds technologies following a cost-minimizing approach, because this is what NHTSA expects a manufacturer would do in real life. At each step, the system evaluates the effective cost of applying available technologies to individual vehicle models, engines, or transmissions, and selects the application of technology that produces the lowest effective cost. The effective cost estimated to be considered by the manufacturer is calculated by adding the total incurred technology costs (in retail price equivalent or RPE), subtracting the reduction in civil

[89] California Environmental Protection Agency, Air Resources Board, Staff Report: Initial Statement of Reasons (CARB ISOR) (2004), at 111–114. *Available at http://www.arb.ca.gov/regact/grnhsgas/isor.pdf* (last accessed April 20, 2008). We note that California has adopted these standards but is currently unable to enforce them, due to EPA's February 29, 2008, denial of California's request for waiver of federal preemption under Section 209 of the Clean Air Act. For information on EPA's decision, see *http://www.epa.gov/otaq/ca-waiver.htm.* (Last accessed April 20, 2008.) California filed a petition in the Ninth Circuit Court of Appeals challenging EPA's denial of the waiver on January 2, 2008.

[90] Although CARB's analysis covered a wider range of model years than does NHTSA's analysis, this does not lessen the importance of a detailed representation of manufacturers' fleets.

[91] The sensitivity analysis and its usefulness are explained more fully below.

penalties owed for noncompliance with the CAFE standard, subtracting the estimated value [92] of the reduction in fuel costs, and dividing the result by the number of affected vehicles.

In representing manufacturer decision-making in response to a given CAFE standard, the modeling system accounts for the fact that historically some manufacturers have been unwilling to pay penalties and some have been willing to do so. Thus, the system applies technologies until any of the following conditions are met: the manufacturer no longer owes civil penalties for failing to meet the applicable standard, the manufacturer has exhausted technologies expected to be available in that model year, or the manufacturer is estimated to be willing to pay civil penalties, and doing so is estimated to be less expensive than continuing to add technologies. The system then progresses to the next model year (if included in the vehicle market and scenario input files), ''carrying over'' technologies where vehicle models are projected to be succeeded by other vehicle models.[93]

In the modeling system, this ''compliance simulation'' is constrained in several ways. First, technologies are defined as being applicable or not applicable to each of the ten vehicle categories listed above. The vehicle market forecast input file may also define some technologies as being already present or not applicable to specific vehicles, engines or transmissions. For example, a manufacturer may have indicated it plans to use low-drag brakes on some specific vehicle model, or NHTSA may expect that another manufacturer is not likely to apply a 7- or 8-speed transmission after it installs a 6-speed transmission on a vehicle. Second, some technologies are subject to specific ''engineering constraints.'' For example, secondary-axle disconnect can only be applied to vehicles with four-wheel (or all-wheel) drive. Third, some technologies (*e.g.*, conversion from pushrod valve actuation to overhead cam actuation) are nearly always applied only when the vehicle is expected to be redesigned and others (*e.g.*, cylinder deactivation) are applied only when the vehicle is expected to be refreshed or redesigned, so the model will only apply them at those particular points. Fourth, once the system applies a given technology to a percentage of a given manufacturers' fleet exceeding a specified phase-in cap, the system instead applies other technologies. The third and fourth of these constraints are intended to produce results consistent with manufacturers' product planning practices and with limitations on how quickly technologies can penetrate the fleet.

One important aspect of this compliance simulation is that it does not attempt to account for either CAFE credits or intentional over-compliance. In the real world, manufacturers may earn CAFE credits by selling flex-fueled vehicles (FFVs) and/or by exceeding CAFE standards, and may, within limitations, count those credits toward compliance in future or prior model years. However, EPCA and EISA do not allow NHTSA to consider these flexibilities in setting the standards. Therefore, the Volpe model does not attempt to account for these flexibilities.

Another possibility NHTSA and Volpe Center staff have considered, but do not yet know how to analyze, is the potential that manufacturers might ''pull ahead'' the implementation of some technologies in response to CAFE standards that they know will be steadily increasing over time. For example, if a manufacturer plans to redesign many vehicles in MY2011 and not in MY2013, but the standard for MY2013 is considerably higher than that for MY2011, the manufacturer might find it less expensive during MY2011–MY2013 (taken together) to apply more technology in MY2011 than is necessary for compliance with the MY2011 standard. Under some circumstances, doing so might make sense even without regard to the potential to earn and bank CAFE credits.

NHTSA and Volpe Center staff have discussed the potential to represent this type of response, but have thus far encountered two challenges. First, NHTSA is not certain that in determining the maximum feasible standard in a given model year, it would be appropriate to count on manufacturers overcomplying with standards in preceding model years. Second, considering other inter-model year dependencies (*e.g.*, technologies that carry over between model years, phase-in caps that accumulate across model years, volume-based learning curves), Volpe Center staff currently anticipate that some iterative procedure would likely be necessary. Also, the agency wonders whether trying to represent this type of response would require make undue implicit assumptions regarding manufacturers' ability to predict future market conditions. Although NHTSA and Volpe Center staff will continue to explore the potential to represent inter-model year timing, it is not yet clear that it will be appropriate and feasible to do so in the near term.

The agency requests comment on the appropriateness under EPCA of considering (in the standard-setting context) this type of anticipatory application of technology. The agency further requests comment on appropriate methodologies for projecting and representing such decisions by manufacturers.

3. What effects does the Volpe model estimate?

Having completed this compliance simulation for all manufacturers and all model years, the system calculates the total cost of all applied technologies, as well as a variety of effects of changes in fuel economy. The system calculates year-by-year mileage accumulation, taking into account any increased driving estimated to result from the rebound effect. Based on the calculated mileage accumulation and on fuel economy and the estimated gap between laboratory and actual fuel economy, the system calculates year-by-year fuel consumption. Based on calculated mileage accumulation and fuel consumption, and on specified emission factors, the system calculates future full fuel-cycle domestic carbon dioxide and criteria pollutant emissions. The system calculates total discounted and undiscounted national societal costs of year-by-year fuel consumption, taking into account estimated future fuel prices (before taxes) and the estimated economic externalities of fuel consumption. Based on changes in year-by-year mileage accumulation, the system calculates changes in consumer surplus related to additional travel, as well as economic externalities related to additional congestion, accidents, and noise stemming from additional travel. The system calculates the value of time saved because increases in fuel economy produce increases in driving range, thereby reducing the frequency with which some vehicles require refueling. The system calculates the monetary value of damages resulting from criteria pollutants. Finally, the system accumulates all discounted and undiscounted societal benefits of each scenario as compared to the baseline

[92] The estimated value of the reduction in fuel costs represents the amount by which the manufacturer is expected to consider itself able to increase the retail price of the vehicle based on the purchaser's consideration of the vehicle's increased fuel economy. This calculation considers the change in the discounted outlays for fuel (and fuel taxes) during a ''payback period'' specified as an input to the model.

[93] For example, if Honda is expected to produce the Civic in 2012 and 2013, a version of the Civic estimated to be produced in 2013 may carry over technologies from a version of the Civic produced in 2012 if the latter is identified as a ''predecessor'' of the former.

scenario. For each model year, the system compares total incurred technology costs to the total present value of societal benefits for each model year, calculating net societal benefits (*i.e.*, discounted societal benefits minus total incurred technology costs) and the benefit-cost ratio (*i.e.*, discounted societal benefits divided by total incurred technology costs).

One effect not currently estimated by the Volpe model is the market response to CAFE-induced changes in vehicle prices and fuel economy levels. NHTSA and Volpe Center staff have worked to try and develop and apply a market share model capable of estimating changes in sales of individual vehicle models. Doing so would allow estimation of the feedback between market shifts and CAFE requirements. For example, if the relative market share of vehicles with small footprints increases, the average required CAFE level under a footprint-based standard will also increase.

In an early experimental version of the Volpe model, Volpe Center staff included a market share model using a nested multinomial logit specification to calculate model-by-model changes in sales volumes. This allowed the Volpe model to calculate the resulting changes in manufacturers' required CAFE levels, and to seek iteratively a solution at which prices, fuel economy levels, sales volumes, and required CAFE levels converged to stable values. Although the market share model appeared to operate properly (and to converge rapidly), Volpe Center staff suspended its development because of three challenges:

First, Volpe Center staff were not successful in calibrating a logically consistent set of coefficients for the underlying multinomial logit model. The analysis, performed using information from a known (2002 model year) fleet, consistently yielded one or more coefficients that were either directionally incorrect (*e.g.*, indicating that some attributes actually detract from value) or implausibly large (*e.g.*, indicating that some attributes were of overwhelming value). Although Volpe Center staff tested many different specifications of the market share model, none produced results that appeared to merit further consideration.

Second, NHTSA and Volpe Center staff are not confident that baseline sales prices for individual vehicle models, which would be required by a market share model, can be reliably predicted. Although NHTSA requests that manufacturers include planned MSRPs in product plans submitted to NHTSA, MSRPs do not include the effect of various sales incentives that can change actual selling prices. The availability and dollar value of such incentives have been observed to vary considerably, but not necessarily predictably.

Finally, before applying a market share model, it would be necessary to estimate how manufacturers would allocate compliance costs among vehicle models. Although one obvious approach would be to assume that all costs would be passed through in the form of higher prices for those vehicle models with improved fuel economy, other approaches are perhaps equally plausible. For example, a manufacturer might shift compliance costs toward high-demand vehicles in order to compete better in certain market segments. Although the above-mentioned experimental version of the Volpe model included a ''cost allocation'' model that offered several different allocation options, NHTSA and Volpe Center staff never achieved confidence that these aspects of manufacturer decisions could be reasonably estimated.

NHTSA and Volpe Center staff are continuing to explore options for including these types of effects. At the same time, EPA has contracted with Resources for the Future (RFF) to develop a potential market share model. Depending on the extent to which these efforts are successful, the Volpe model could at some point be modified to include cost allocation and market share models. NHTSA seeks comments on possible methodologies for incorporating market responses to CAFE-induced changes in vehicle price and fuel economy in the Volpe model. In particular, NHTSA seeks comments addressing the concerns identified above regarding the formulation and calibration of a market share model, the estimation of future vehicle prices, and the estimation of manufacturers' decisions regarding the allocation of compliance costs.

4. How can the Volpe model be used to calibrate and evaluate potential CAFE standards?

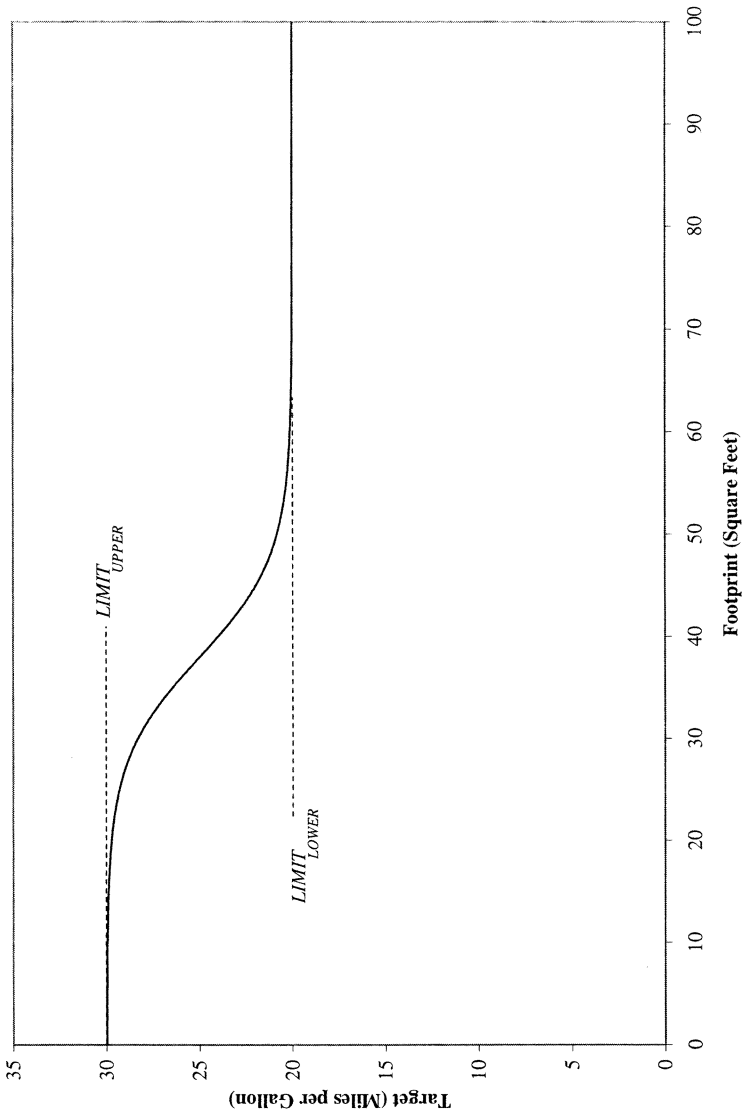
The modeling system can also be applied in a more highly-automated mode whereby the optimal shape of an attribute-based CAFE standard may be estimated and its stringency may be set at a level that produces a specified total technology cost or average required CAFE level among a specified set of manufacturers, or that is estimated to maximize net societal benefits. The first step in this operating mode involves identifying manufacturer-by-manufacturer CAFE levels at which societal benefits are estimated to be maximized. The second step involves combining the resultant fleets and statistically fitting a constrained logistic curve of the following form:

$$\mathrm{TARGET} = \frac{1}{\frac{1}{\mathrm{LIMIT}_{\mathrm{UPPER}}} + \left(\frac{1}{\mathrm{LIMIT}_{\mathrm{LOWER}}} - \frac{1}{\mathrm{LIMIT}_{\mathrm{UPPER}}}\right)\frac{e^{(\mathrm{FOOTPRINT}-\mathrm{MIDPOINT})/\mathrm{WIDTH}}}{1+e^{(\mathrm{FOOTPRINT}-\mathrm{MIDPOINT})/\mathrm{WIDTH}}}}$$

Here, TARGET is the fuel economy target (in mpg) applicable to vehicles of a given footprint (FOOTPRINT, in square feet), $\mathrm{LIMIT}_{\mathrm{LOWER}}$ and $\mathrm{LIMIT}_{\mathrm{UPPER}}$ are the function's lower and upper asymptotes (also in mpg), e is approximately equal to 2.718,[94] MIDPOINT is the footprint (in square feet) at which the inverse of the fuel economy target falls halfway between the inverses of the lower and upper asymptotes, and WIDTH is a parameter (in square feet) that determines how gradually the fuel economy target transitions from the upper toward the lower asymptote as the footprint increases. Figure V–1 below shows an example of a logistic target function, where $\mathrm{LIMIT}_{\mathrm{LOWER}}$ = 20 mpg, $\mathrm{LIMIT}_{\mathrm{UPPER}}$ = 30 mpg, MIDPOINT = 40 square feet, and WIDTH = 5 square feet:

[94] The number e is one of the most important numbers in mathematics and statistics. The function has a hockey stick appearance when plotted. The value of e itself is a never ending number whose first 8 digits equal 2.7182818. NHTSA uses it here because it occurs in many natural processes and tends to fit data well. In the last light truck rulemaking, NHTSA examined several functional forms that did not rely on e, but they were judged not to provide as good a fit for the data. We are using the same conclusion here.

Figure V-1. Sample Logistic Curve



The lower asymptote is determined by calculating the average fuel economy of the largest vehicles in the ''optimized'' fleet discussed above, where the percentage of the fleet to consider is specified externally. Similarly, the upper asymptote is determined by calculating the average fuel economy of the smallest vehicles in the same fleet. Initial values of the other two coefficients of the logistic function are determined through a standard statistical technique (nonlinear least-square regression), except as discussed in sections V and VI below regarding the adjusting of the original curve for the passenger car function.

Following this initial calibration of the target function, the system adjusts the lower and upper asymptotes uniformly (on a gallon per mile basis) until one of the following externally specified conditions is met: the average CAFE level required of the included manufacturers approximately equals an externally specified goal; net societal benefits (*i.e.*, total benefits minus total costs) are maximized, or total benefits are as close as observed (among evaluated stringency levels) to total costs. Due to rounding of fuel economy and CAFE levels, the first condition can only be satisfied on an approximate basis.

The modeling system provides another type of higher-level automation—the ability to perform uncertainty analysis, also referred to as Monte Carlo simulation. For some input parameters, such as technology costs, values can be tested over a specified continuous probability distribution. For others, such as fuel prices, discrete scenarios (*e.g.*, high, low, and reference cases), each with a specified probability, can be tested. The system performs sensitivity analysis by randomly selecting values for parameters to be varied, performing the compliance simulation and effects calculations, repeating these results many times and recording results for external analysis. This operating mode enables the examination of the uncertainty of high-level results (*e.g.*, total costs, fuel savings, or net societal benefits), as well as their sensitivity to variations in the model's input parameters.

5. How has the Volpe model been updated since the April 2006 light truck CAFE final rule?

Several changes were made to the Volpe model between the analysis reported in the April 2006 light truck final rule and the analysis of the current NPRM. As discussed above, the set of technologies represented was updated, the logical sequence for progressing

through these technologies was changed, methods to account for ''synergies'' (*i.e.*, interactions) between technologies and technology cost reductions associated with a manufacturer's ''learning'' were added, the effective cost calculation used in the technology application algorithm was modified, and the procedure for calibrating a reformed standard was changed, as was the procedure for estimating the optimal stringency of a reformed standard.

As discussed in Section III above, the set of technologies considered by the agency has evolved since the previous light truck CAFE rulemaking. The set of technologies now included in the Volpe model is shown below in Table V–1, with codes used by the model to refer to each technology.

TABLE V–1.—REVISED TECHNOLOGY SET FOR VOLPE MODEL

Technology	Code (for Model)
Low Friction Lubricants	LUB
Engine Friction Reduction	EFR
Variable Valve Timing (Intake Cam Phasing).	VVTI
Variable Valve Timing (Coupled Cam Phasing).	VVTC
Variable Valve Timing (Dual Cam Phasing).	VVTD
Cylinder Deactivation	DISP
Variable Valve Lift & Timing (Continuous VVL).	VVLTC
Variable Valve Lift & Timing (Discrete VVL).	VVLTD
Cylinder Deactivation on Overhead Valve (OHV).	DISPO
Variable Valve Timing (CCP) on OHV.	VVTO
Multivalve Overhead Cam with CVVL.	DOHC
Variable Valve Lift & Timing (DVVL) on OHV.	VVLTO
Camless Valve Actuation	CVA
Stoichiometric Gasoline Direct Injection (GDI).	SIDI
Lean Burn GDI	LBDI
Turbocharging and Downsizing	TURB
Homogeneous Charge Compression Ignition.	HCCI
Diesel with Lean NO_X Trap (LNT)	DSLL
Diesel with Selective Catalytic Reduction (SCR).	DSLS
5 Speed Automatic Transmission	5SP
Aggressive Shift Logic	ASL
Early Torque Converter Lockup	TORQ
6 Speed Automatic Transmission	6SP
Automatic Manual Transmission	AMT
Continuously Variable Transmission	CVT
6 Speed Manual	6MAN
Improved Accessories	IACC
Electronic Power Steering	EPS
42-Volt Electrical System	42V
Low Rolling Resistance Tires	ROLL
Low Drag Brakes	LDB
Secondary Axle Disconnect—Unibody.	SAXU
Secondary Axle Disconnect—Ladder Frame.	SAXL
Aero Drag Reduction	AERO
Material Substitution (1%)	MS1
Material Substitution (2%)	MS2
Material Substitution (5%)	MS5
Integrated Starter/Generator (ISG) with Idle-Off.	ISGO
IMA/ISAD/BSG Hybrid (includes engine downsizing).	IHYB
2-Mode Hybrid	2HYB
Power Split Hybrid	PHYB
Full Diesel Hybrid	DHYB

The logical sequence for progressing between these technologies has also been changed. As in the previous version of the Volpe model, technologies are assigned to groups (*e.g.*, engine technologies) and the model follows a cost-minimizing approach to selecting technologies. However, the model now includes some ''branch points'' at which it selects from two or more technologies within the same group. This enables a more detailed representation of some technologies that have multiple variants (*e.g.*, variable valve timing) and, as relevant to the applicability of different technologies, more specific differentiation between technologies that have already been applied to vehicles (*e.g.*, single versus dual overhead cam engines). This revised logical sequencing is expected to produce results that are more realistic in terms of the application of technologies to different vehicle models. For example, in this analysis OHV engines and OHC engines were considered separately, and the model was generally not allowed to apply multivalve OHC technology to OHV engines (except where continuous variable valve timing and lift is applied to OHV engines, in which case the model assumes conversion to DOHC valvetrain).

Figure V–2 below shows the resultant ''decision tree'' for the group of engine technologies. As an example of the ''branching'' mentioned above, having applied cylinder deactivation and coupled cam phasing to an overhead valve engine, the Volpe model selects either discrete valve lift or an engine redesign to multivalve overhead cam with continuous variable valve lift. Figure V–3 shows the decision tree for transmission technologies, and Figure V–4 shows the decision trees for other technologies.

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Figure V-2. Engine Technology Decision Tree

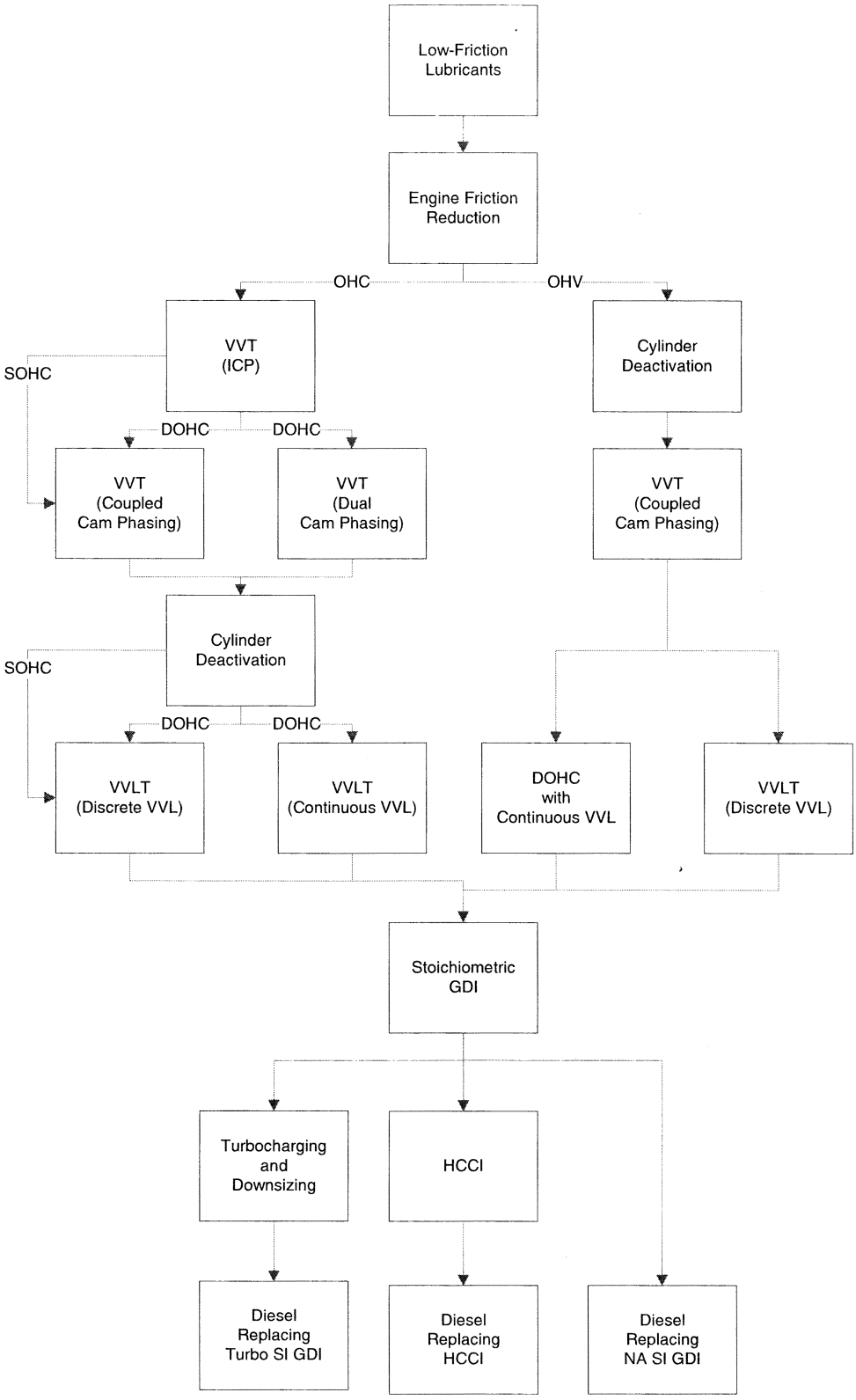


Figure V-3. Transmission Technology Decision Tree

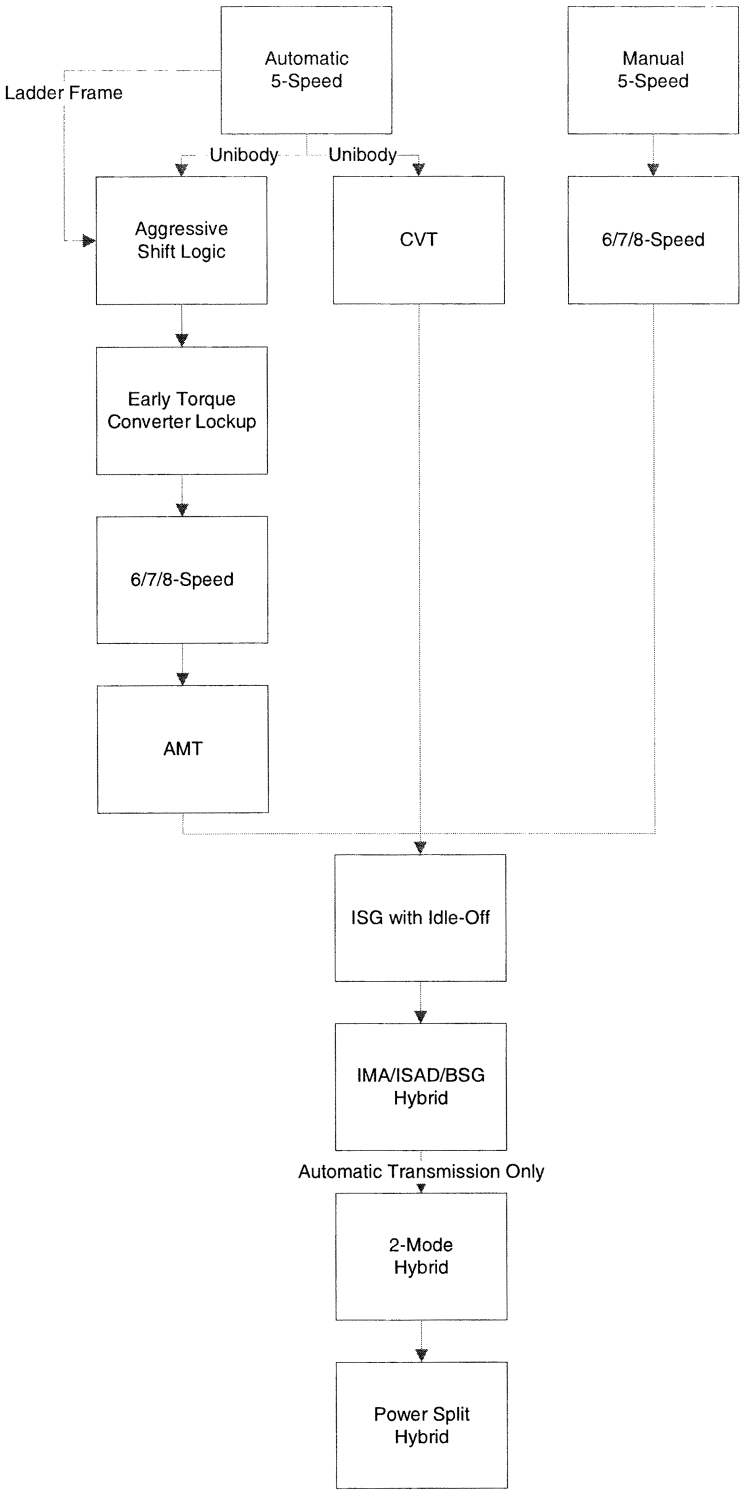
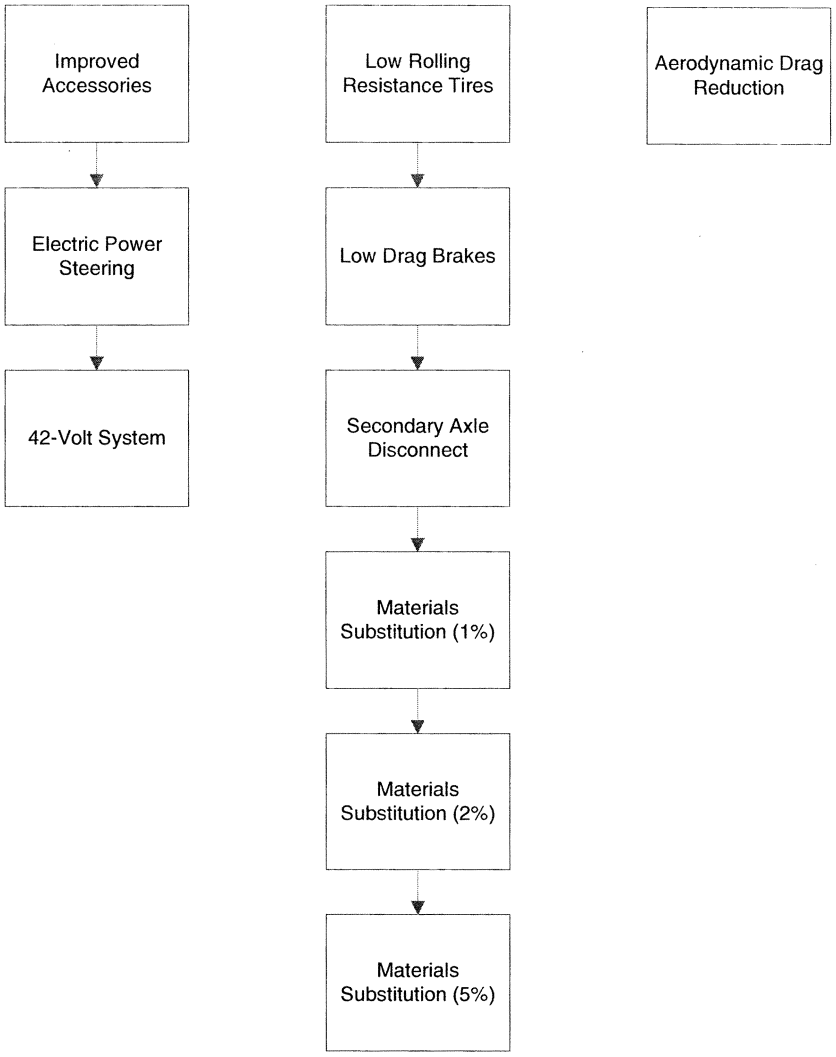


Figure V-4. Decision Trees for Other Technologies



Each time the model applies a technology to a vehicle in the fleet, it considers the next available technology on every available path. An available technology is one that is not included in the base vehicle, has not been applied by the model, and is not disqualified due to the vehicle's characteristics (discussed below). For a given path, the next available technology is the first available item (if no technologies on the path have yet been applied) or the first available item following the most recently applied technology on that path. An available path is any path that includes available technologies.

The engine and transmission paths contain several forks where the model may choose among two or more same-path items along with items from other paths. At some of these forks, conditions on the connecting arrows require the model to follow a particular branch. These conditions are based on previously applied technologies or vehicle characteristics. For example, ladder frame vehicles must follow the left branch of the transmission technology path, while unibody vehicles can follow either the right or left branch. The consequence is that the model considers both aggressive shift logic (ASL) and CVT for unibody vehicles, but only ASL for ladder frame vehicles. Conditions along the engine technologies path are based on valvetrain design (OHV, OHC, SOHC, and DOHC).

Other conditions require the model to discontinue considering technologies along a given path. For example, 2-Mode Hybrid and Power Split Hybrid drivetrains can be applied only to vehicles equipped with automatic transmissions. If the model has already chosen a manual transmission and IMA/ISAD/BSG Hybrid drivetrain (or if the base vehicle is equipped with these), the hybrid path becomes unavailable and the model must choose subsequent technologies from other paths.

a. Technology Synergies

In some cases, the change in fuel economy achieved by applying a given technology depends on what other technologies are already present. The Volpe model has been modified to provide the ability to represent such ''synergies'' between technologies, as discussed above. These effects are specified in one of the model's input files. As shown below in Table V–2, which uses technology codes listed in Table V–1 above, most of the synergies represented in the analysis of this proposal are negative. In other words, most of the interactions are such that a given technology has a smaller effect on fuel economy if some other technologies have already been applied. The inclusion of such effects in the model is

expected to produce more realistic estimates of the benefit of applying various technologies.

TABLE V–2.—"SYNERGIES" FROM TECHNOLOGY INPUT FILE FOR VOLPE MODEL

[In percent]

Synergies		Synergy values by vehicle class. Positive values are synergies, negative values are dissynergies.				
Technology A	Technology B	SUV-Small	SUV-Mid	SUV-Large	Minivan	Pickup-Small
VVTI	5SP	−0.50	−0.50	−0.50	−0.50	−0.50
VVTI	ISGO	−0.50	−0.50	−0.50	−0.50	−0.50
VVTC	5SP	−0.50	−0.50	−0.50	−0.50	−0.50
VVTC	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
VVTC	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
DISP	5SP	−1.00	−1.00	−1.00	−1.00	−1.00
DISP	CVT	−1.00	−1.00	−1.00	−1.00	−1.00
DISP	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
DISP	ISGO	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTC	5SP	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTC	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTC	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTC	6MAN	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTD	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTD	6SP	−0.50	−0.50	−0.50	−0.50	−0.50
DISPO	5SP	−1.50	−1.50	−1.50	−1.50	−1.50
DISPO	CVT	−1.00	−1.00	−1.00	−1.00	−1.00
DISPO	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
DISPO	6SP	−0.50	−0.50	−0.50	−0.50	−0.50
DISPO	ISGO	−1.00	−1.00	−1.00	−1.00	−1.00
VVTO	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
VVTO	6MAN	0.50	0.50	0.50	0.50	0.50
DOHC	5SP	−1.00	−1.00	−1.00	−1.00	−1.00
DOHC	CVT	−1.00	−1.00	−1.00	−1.00	−1.00
DOHC	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
DOHC	6SP	−0.50	−0.50	−0.50	−0.50	−0.50
DOHC	6MAN	−0.50	−0.50	−0.50	−0.50	−0.50
DOHC	ISGO	0.50	0.50	0.50	0.50	0.50
VVLTO	5SP	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTO	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTO	6SP	−0.50	−0.50	−0.50	−0.50	−0.50

[In percent]

Synergies		Synergy values by vehicle class Positive values are synergies, negative values are dissynergies.				
Technology A	Technology B	SUV-Small	SUV-Mid	SUV-Large	Minivan	Pickup-Small
CVA	5SP	−0.50	−0.50	−0.50	−0.50	−0.50
CVA	CVT	−1.00	−1.00	−1.00	−1.00	−1.00
CVA	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
CVA	6SP	−0.50	−0.50	−0.50	−0.50	−0.50
CVA	6MAN	0.50	0.50	0.50	0.50	0.50
HCCI	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
HCCI	6SP	−0.50	−0.50	−0.50	−0.50	−0.50
TURB	5SP	−1.00	−1.00	−1.00	−1.00	−1.00
TURB	CVT	−1.00	−1.00	−1.00	−1.00	−1.00
TURB	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
TURB	6SP	−0.50	−0.50	−0.50	−0.50	−0.50
TURB	6MAN	−0.50	−0.50	−0.50	−0.50	−0.50
E25	5SP	0.50	0.50	0.50	0.50	0.50
E25	6MAN	0.50	0.50	0.50	0.50	0.50
E25	ISGO	−0.50	−0.50	−0.50	−0.50	−0.50
ISGO	IACC	−0.50	−0.50	−0.50	−0.50	−0.50
ISGO	EPS	−1.00	−1.00	−1.00	−1.00	−1.00
ISGO	42V	−1.00	−1.00	−1.00	−1.00	−1.00
DSLT	5SP	0.50	0.50	0.50	0.50	0.50
DSLT	CVT	0.50	0.50	0.50	0.50	0.50
DSLT	ISGO	0.50	0.50	0.50	0.50	0.50
DSLT	ASL	0.50	0.50	0.50	0.50	0.50
DSLH	5SP	0.50	0.50	0.50	0.50	0.50
DSLH	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
DSLH	6SP	−0.50	−0.50	−0.50	−0.50	−0.50

[In percent]

Synergies		Synergy values by vehicle class Positive values are synergies, negative values are dissynergies.				
Technology A	Technology B	SUV-Small	SUV-Mid	SUV-Large	Minivan	Pickup-Small
DSLH	6MAN	0.50	0.50	0.50	0.50	0.50
DSLH	ISGO	0.50	0.50	0.50	0.50	0.50
DSLS	5SP	−0.50	−0.50	−0.50	−0.50	−0.50
DSLS	CVT	−2.50	−2.50	−2.50	−2.50	−2.50
DSLS	6SP	−1.00	−1.00	−1.00	−1.00	−1.00
DSLS	6MAN	−0.50	−0.50	−0.50	−0.50	−0.50
DSLS	ISGO	0.50	0.50	0.50	0.50	0.50

[In percent]

Synergies		Synergy values by vehicle class. Positive values are synergies, negative values are dissynergies.				
Technology A	Technology B	Pickup-Large	Subcompact	Compact	Midsize	Large
VVTI	5SP	−0.50	−0.50	−0.50	−0.50	−0.50
VVTI	ISGO	−0.50	−0.50	−0.50	−0.50	−0.50
VVTC	5SP	−0.50	−0.50	−0.50	−0.50	−0.50
VVTC	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
VVTC	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
DISP	5SP	−1.00	−1.00	−1.00	−1.00	−1.00
DISP	CVT	−1.00	−1.00	−1.00	−1.00	−1.00
DISP	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
DISP	ISGO	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTC	5SP	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTC	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTC	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTC	6MAN	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTD	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTD	6SP	−0.50	−0.50	−0.50	−0.50	−0.50
DISPO	5SP	−1.50	−1.50	−1.50	−1.50	−1.50
DISPO	CVT	−1.00	−1.00	−1.00	−1.00	−1.00
DISPO	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
DISPO	6SP	−0.50	−0.50	−0.50	−0.50	−0.50
DISPO	ISGO	−1.00	−1.00	−1.00	−1.00	−1.00
VVTO	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
VVTO	6MAN	0.50	0.50	0.50	0.50	0.50
DOHC	5SP	−1.00	−1.00	−1.00	−1.00	−1.00
DOHC	CVT	−1.00	−1.00	−1.00	−1.00	−1.00
DOHC	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
DOHC	6SP	−0.50	−0.50	−0.50	−0.50	−0.50
DOHC	6MAN	−0.50	−0.50	−0.50	−0.50	−0.50
DOHC	ISGO	0.50	0.50	0.50	0.50	0.50
VVLTO	5SP	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTO	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
VVLTO	6SP	−0.50	−0.50	−0.50	−0.50	−0.50

[In percent]

Synergies		Synergy values by vehicle class. Positive values are synergies, negative values are dissynergies.				
Technology A	Technology B	Pickup-Large	Subcompact	Compact	Midsize	Large
CVA	5SP	−0.50	−0.50	−0.50	−0.50	−0.50
CVA	CVT	−1.00	−1.00	−1.00	−1.00	−1.00
CVA	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
CVA	6SP	−0.50	−0.50	−0.50	−0.50	−0.50
CVA	6MAN	0.50	0.50	0.50	0.50	0.50
HCCI	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
HCCI	6SP	−0.50	−0.50	−0.50	−0.50	−0.50
TURB	5SP	−1.00	−1.00	−1.00	−1.00	−1.00
TURB	CVT	−1.00	−1.00	−1.00	−1.00	−1.00
TURB	ASL	−0.50	−0.50	−0.50	−0.50	−0.50
TURB	6SP	−0.50	−0.50	−0.50	−0.50	−0.50
TURB	6MAN	−0.50	−0.50	−0.50	−0.50	−0.50
E25	5SP	0.50	0.50	0.50	0.50	0.50
E25	6MAN	0.50	0.50	0.50	0.50	0.50

[In percent]

Synergies		Synergy values by vehicle class. Positive values are synergies, negative values are dissynergies.				
Technology A	Technology B	Pickup-Large	Subcompact	Compact	Midsize	Large
E25	ISGO	−0.50	−0.50	−0.50	−0.50	−0.50
ISGO	IACC	−0.50	−0.50	−0.50	−0.50	−0.50
ISGO	EPS	−1.00	−1.00	−1.00	−1.00	−1.00
ISGO	42V	−1.00	−1.00	−1.00	−1.00	−1.00
DSLT	5SP	0.50	0.50	0.50	0.50	0.50
DSLT	CVT	0.50	0.50	0.50	0.50	0.50
DSLT	ISGO	0.50	0.50	0.50	0.50	0.50
DSLT	ASL	0.50	0.00	0.00	0.50	0.50
DSLH	5SP	0.50	0.50	0.50	0.50	0.50
DSLH	CVT	−0.50	−0.50	−0.50	−0.50	−0.50
DSLH	6SP	−0.50	−0.50	−0.50	−0.50	−0.50
DSLH	6MAN	0.50	0.50	0.50	0.50	0.50
DSLH	ISGO	0.50	0.50	0.50	0.50	0.50
DSLS	5SP	−0.50	−0.50	−0.50	−0.50	−0.50
DSLS	CVT	−2.50	−2.50	−2.50	−2.50	−2.50
DSLS	6SP	−1.00	−1.00	−1.00	−1.00	−1.00
DSLS	6MAN	−0.50	−0.50	−0.50	−0.50	−0.50
DSLS	ISGO	0.50	0.50	0.50	0.50	0.50

b. Technology learning curves

The Volpe model has also been modified to provide the ability to account for cost reductions a manufacturer may realize through learning achieved from experience in actually applying a given technology. Thus, for some of the technologies, we have included a learning factor. Stated another way, the ''learning curve'' describes the reduction in unit production costs as a function of accumulated production volume and small redesigns that reduce costs.

As explained above, a typical learning curve can be described by three parameters: (1) The initial production volume before cost reductions begin to be realized; (2) the rate at which cost reductions occur with increases in cumulative production beyond this initial volume (usually referred to as the ''learning rate''); and (3) the production volume after which costs reach a ''floor,'' and further cost reductions no longer occur. Over the region where costs decline with accumulating production volume, an experience curve can be expressed as $C(Q) = aQ^{-b}$, where a is a constant coefficient, Q represents cumulative production, and b is a coefficient corresponding to the assumed learning rate. In turn, the learning rate L, which is usually expressed as the percent by which average unit cost declines with a doubling of cumulative production, and is related to the value of the coefficient b by $L = 100*(1 - 2^{-b})$.[95]

The new learning curves are described in greater detail above in Section III. We seek comment on the assumptions used to develop the new proposed learning curves.

c. Calibration of reformed CAFE standards

The procedure used by the Volpe model to develop (*i.e.*, calibrate) the initial shape of a reformed standard was also modified. In the version of the model used to analyze NHTSA's April 2006 light truck final rule, the asymptotes for the constrained logistic function defining fuel economy targets were assigned based on the set of vehicles that would have been assigned to the lowest and highest bins defined in that rule's 2005 NPRM. The Volpe model has been modified to accept specified percentages (in terms of either models or sales) of the fleet to include when assigning asymptotes.

The procedure used by the Volpe model to estimate the ''optimized'' stringency of a reformed standard was also modified. In the version of the model used to analyze the 2006 light truck final rule, the shape of the function (*i.e.*, the constrained logistic function) defining fuel economy targets was recalibrated every model year and then shifted up and down to estimate the stringency at which marginal costs begin to exceed marginal benefits or, equivalently, the point at which net societal benefits are maximized. However, analysis conducted by the agency to prepare for the current rulemaking revealed several opportunities to refine the procedure described above before applying it to an action that spans several model years. The first refinement is a method for gradually transforming the shape of the continuous function between model years and guarding against erratic fluctuations in the shape (though not necessarily the stringency) of the continuous function. The second is the implementation of several anti-backsliding measures that prevents the average required CAFE level from falling between model years and prevents the continuous function for a given model from crossing or falling below that of the preceding model year. The third, applied to passenger cars only, is an option to specify a fixed relationship between the function's midpoint and width coefficients. These refinements are discussed in greater detail in Section V.B below.

6. What manufacturer information does the Volpe model use?

For purposes of determining and analyzing CAFE standards, NHTSA has historically made significant use of detailed product plan information provided to the agency by individual manufacturers, supplementing this information where appropriate with information from other sources, such as data submitted to the agency in relation to CAFE compliance. Such information is considered confidential business

[95] *See, e.g.*, Robert H. Williams, ''Toward Cost Buydown via Learning-by-Doing for Environmental Energy Technologies,'' paper presented at Workshop on Learning-by-Doing in Energy Technologies, Resources for the Future, Washington, DC, June 17–18, 2003, pp. 1–2. Another common but equivalent formulation of the relationship between L and b is $(1-L) = 2^{-b}$, where (1-L) is referred to as the progress ratio; *see* Richard P. Rumelt, ''Note on Strategic Cost Dynamics,'' POL 2001–1.1, Anderson School of Business, University of California, Los Angeles, California, 2001, pp. 4–5.

information (CBI) under federal law. Although NHTSA shares the information with other agencies (Volpe, EPA, and DOE) involved in CAFE activities, neither NHTSA nor any other agency may release the information to the public.

Consistent with this practice, the Volpe model uses detailed representations of (*i.e.*, model-by-model, linked to specific engines and transmissions) the fleets manufacturers are expected to produce for sale in the U.S. In preparation for today's action, the agency issued in the spring of 2006 a request that manufacturers provide updated product plans for passenger cars and light trucks.

NHTSA received product plan information from Chrysler, Ford, GM, Honda, Nissan, Mitsubishi, Porsche and Toyota. The agency did not receive any product plan information from BMW, Ferrari, Hyundai, Mercedes or VW.

Chrysler, Ford, GM, Honda, Nissan, Mitsubishi, Porsche and Toyota provided information covering multiple model years. However, only Chrysler and Mitsubishi provided us with product plans that showed differing production quantities, vehicle introductions, vehicle redesigns/refreshes changes, without any carryover production quantities, from MY 2007 to MY 2015. The agency incorporated their product plan information as part of the input file to the model without the need to project or carryover any vehicle production data.

For the other companies that provided data, the agency carried over production quantities for their vehicles, allowing for growth, starting with the year after their product plan data showed changes in production quantities or showed the introduction or redesign/refresh of vehicles. Product plan information was provided until MY 2013 for Ford and Toyota, thus the first year that we started to carry over production quantities for those companies was MY 2014. Product plan information was provided until MY 2012 for GM and Nissan, thus the first year that we started to carry over production quantities for those companies was MY 2013. Product plan information was provided by Honda until MY 2008. Honda asked the agency to carry over those plans and also provided data for the last redesign of a vehicle and asked us to carry them forward.

Product plan information was provided until MY 2008 for Porsche, thus the first year that we started to carry over production quantities for Porsche was MY 2009.

For Hyundai, given that it is one of the largest 7 manufacturers, the agency used the mid-year 2007 data contained in the agency's CAFE database to establish the baseline models and production quantities for their vehicles. For the other manufacturers, because of the time constraint the agency was under to meet the statutory deadline, we used the 2005 information from our database, which is the latest information used in the current analysis. To the extent possible, because, the CAFE database does not capture all of the product plan data that we request from companies, we supplemented the CAFE database information with information on public Web sites, from commercial information sources and for Hyundai, from the MY 2008–2011 light truck rule.

In all cases, manufacturers' respective sales volumes were normalized to produce passenger car and light truck fleets that reflected manufacturers' MY2006 market shares and to reflect passenger car and light truck fleets of projected aggregate volume consistent with forecasts in the EIA's 2007 Annual Energy Outlook. The agency requests comment on whether alternative methods should be used to estimate manufacturers' market shares and the overall sizes of the future passenger car and light truck fleets.

In a companion notice, the agency is requesting updated product plan information from all companies, and as in previous fuel economy rulemakings, we will be using those plans for the final rule. These plans will impact the standards for the final rule. To that end, the agency is requesting that these plans be as detailed and as accurate as possible.

7. What economic information does the Volpe model use?

NHTSA's preliminary analysis of alternative CAFE standards for the model years covered by this proposed rulemaking relies on a range of information, economic estimates, and input parameters. This section describes this information and each assumption and specific parameter values, and discusses the rationale for tentatively choosing each one. Like the product plan information, these economic assumptions play a role in the determination of the level of the standards, with some having greater impacts than others. The cost of technologies and as discussed below, the price of gasoline and discount rate used for discounting future benefits have the greatest influence over the level of the standards. The agency seeks comment on the economic assumptions presented below. On the first question, based on the comparisons of the side cases to the base case that Jim did on Friday, the order of impact for the economic assumptions is: (1) Technology cost and effectiveness; (2) fuel prices; (3) discount rate; (4) oil import externalities; (5) rebound effect; (6) criteria air pollutant damage costs; (7) carbon costs. This reflects the base case assumptions, and could change slightly if we used different assumptions to start, but 1st through 3rd should stay the same.

For the reader's reference, Table V–3 below summarizes the values used to calculate the impacts of each scenario:

TABLE V–3.—ECONOMIC VALUES FOR BENEFITS COMPUTATIONS (2006$)

Rebound Effect (VMT Elasticity w/respect to Fuel Cost per Mile)	−0.15
Discount Rate Applied to Future Benefits	7%
Payback Period (years)	5.0
"Gap" between Test and On-Road mpg	20%
Value of Travel Time per Vehicle ($/hour)	$24.00
Economic Costs of Oil Imports ($/gallon)	
"Monopsony" Component	$0.176
Price Shock Component	$0.109
Military Security Component	$—
Total Economic Costs ($/gallon)	$0.285
Total Economic Costs ($/BBL)	$11.97
External Costs from Additional Automobile Use Due to "Rebound" Effect ($/vehicle-mile)	
Congestion	$0.047
Accidents	$0.025
Noise	$0.001
External Costs from Additional Light Truck Use Due to "Rebound" Effect ($/vehicle-mile)	

TABLE V–3.—ECONOMIC VALUES FOR BENEFITS COMPUTATIONS (2006$)—Continued

Congestion	$0.052
Accidents	$0.023
Noise	$0.001
Emission Damage Costs	
Carbon Monoxide ($/ton)	$—
Volatile Organic Compounds ($/ton)	$1,700
Nitrogen Oxides ($/ton)	$3,900
Particulate Matter ($/ton)	$164,000
Sulfur Dioxide ($/ton)	$16,000
Carbon Dioxide ($/metric ton)	$7.00
Annual Increase in CO^2 Damage Cost	2.4%

a. Costs of Fuel Economy Technologies

We developed detailed estimates of the costs of applying fuel economy-improving technologies to vehicle models for use in analyzing the impacts of alternative standards considered in this rulemaking. The estimates were based on those reported by the 2002 NAS Report analyzing costs for increasing fuel economy, but were modified for purposes of this analysis as a result of extensive consultations among engineers from NHTSA, EPA, and the Volpe Center. As part of this process, the agency also developed varying cost estimates for applying certain fuel economy technologies to vehicles of different sizes and body styles. We may adjust these cost estimates based on comments received to this NPRM.

The technology cost estimates used in this analysis are intended to represent manufacturers' direct costs for high-volume production of vehicles with these technologies and sufficient experience with their application so that all cost reductions due to ''learning curve'' effects have been fully realized. However, NHTSA recognizes that manufacturers' actual costs for applying these technologies to specific vehicle models are likely to include additional outlays for accompanying design or engineering changes to each model, development and testing of prototype versions, recalibrating engine operating parameters, and integrating the technology with other attributes of the vehicle. Manufacturers may also incur additional corporate overhead, marketing, or distribution and selling expenses as a consequence of their efforts to improve the fuel economy of individual vehicle models and their overall product lines.

In order to account for these additional costs, NHTSA applies an indirect cost multiplier of 1.5 to the estimate of the vehicle manufacturers' direct costs for producing or acquiring each fuel economy-improving/CO_2 emission-reducing technology. Historically, NHTSA has used an almost identical multiplier, 1.51, for the markup from variable costs or direct manufacturing costs to consumer costs. This markup takes into account fixed costs, burden, manufacturer's profit, and dealers' profit. NHTSA's methodology for determining this markup was recently peer reviewed.[96]

This estimate was confirmed by Argonne National Laboratory in a recent review of vehicle manufacturers' indirect costs. The Argonne study was specifically intended to improve the accuracy of future cost estimates for production of vehicles that achieve high fuel economy/low CO_2 emissions by employing many of the same advanced technologies considered in our analysis.[97] Thus, we believe that its recommendation that a multiplier of 1.5 be applied to direct manufacturing costs to reflect manufacturers' increased indirect costs for deploying advanced fuel economy technologies is appropriate for use in the analysis for this rulemaking.

b. Potential Opportunity Costs of Improved Fuel Economy

An important concern is whether achieving the fuel economy improvements required by alternative CAFE standards would require manufacturers to compromise the performance, carrying capacity, safety, or comfort of their vehicle models. If it did so, the resulting sacrifice in the value of these attributes to consumers would represent an additional cost of achieving the required improvements in fuel economy, and thus of manufacturers' compliance with stricter CAFE standards. While exact dollar values of these attributes to consumers are difficult to infer from vehicle purchase prices, changing vehicle attributes can affect the utility that vehicles provide to their owners, and thus their value to potential buyers.

NHTSA has approached this potential problem by developing tentative cost estimates for fuel economy-improving technologies that include any additional manufacturing costs that would be necessary to maintain the product plan levels of performance, comfort, capacity, or safety of any light-duty vehicle model to which those technologies are applied. In doing so, we primarily followed the precedent established by the 2002 NAS Report, although we updated its assumptions as necessary for the purposes of the current rulemaking. The NAS study estimated ''constant performance and utility'' costs for fuel economy technologies, and NHTSA has used these as the basis for their further efforts to develop the technology costs employed in analyzing manufacturer's costs for complying with alternative light truck standards.

NHTSA acknowledges the difficulty of estimating technology costs that include costs for the accompanying changes in vehicle design that are necessary to maintain performance, capacity, and utility. However, we believe that our tentative cost estimates for fuel economy/CO_2 emission-reduction technologies should be generally sufficient to prevent significant reductions in consumer welfare provided by vehicle models to which manufacturers apply those technologies. Nevertheless, we seek comments on alternative ways to deal with these issues.

c. The On-Road Fuel Economy ''Gap''

Actual fuel economy levels achieved by light-duty vehicles in on-road driving fall somewhat short of their levels measured under the laboratory-like test conditions used by EPA to establish its published fuel economy ratings for different models. In analyzing the fuel savings from alternative CAFE standards, NHTSA has previously adjusted the actual fuel economy performance of each light truck model downward from its rated value to reflect the expected size of this on-road fuel

[96] *See* Docket No. NHTSA–2007–27454, Item 4.

[97] Vyas, Anant, Dan Santini, and Roy Cuenca, *Comparison of Indirect Cost Multipliers for Vehicle Manufacturing*, Center for Transportation Research, Argonne National Laboratory, April 2000. *Available at http://www.transportation.anl.gov/pdfs/TA/57.pdf* (last accessed April 20, 2008).

economy ''gap.'' On December 27, 2006, EPA adopted changes to its regulations on fuel economy labeling, which were intended to bring vehicles' rated fuel economy levels closer to their actual on-road fuel economy levels.[98]

In its Final Rule, EPA estimated that actual on-road fuel economy for light-duty vehicles averages 20 percent lower than published fuel economy levels. For example, if the overall EPA fuel economy rating of a light truck is 20 mpg, the on-road fuel economy actually achieved by a typical driver of that vehicle is expected to be 16 mpg (20*.80). NHTSA has employed EPA's revised estimate of this on-road fuel economy gap in its analysis of the fuel savings resulting from alternative CAFE standards proposed in this rulemaking.

d. Fuel Prices and the Value of Saving Fuel

Projected future fuel prices are a critical input into the preliminary economic analysis of alternative CAFE standards, because they determine the value of fuel savings both to new vehicle buyers and to society. NHTSA relied on the most recent fuel price projections from the U.S. Energy Information Administration's (EIA) *Annual Energy Outlook* (AEO) for this analysis. Specifically, we used the AEO 2008 Early Release forecasts of inflation-adjusted (constant-dollar) retail gasoline and diesel fuel prices, which represent the EIA's most up-to-date estimate of the most likely course of future prices for petroleum products.[99] Federal government agencies generally use EIA's projections in their assessments of future energy-related policies.

The retail fuel price forecasts presented in AEO 2008 span the period from 2008 through 2030. Measured in constant 2006 dollars, the Reference Case forecast of retail gasoline prices during calendar year 2020 is $2.36 per gallon, rising gradually to $2.51 by the year 2030 (these values include federal, state and local taxes). However, valuing fuel savings over the 36-year maximum lifetime of light trucks assumed in this analysis requires fuel price forecasts that extend through 2050, the last year during which a significant number of MY 2015 vehicles will remain in service.[100] To obtain fuel price forecasts for the years 2031 through 2050, the agency assumes that retail fuel prices forecast in the Reference Case for 2030 will remain constant (in 2006 dollars) through 2050.

The value of fuel savings resulting from improved fuel economy/reduced CO_2 emissions to buyers of light-duty vehicles is determined by the retail price of fuel, which includes federal, state, and any local taxes imposed on fuel sales. Total taxes on gasoline averaged $0.47 per gallon during 2006, while those levied on diesel averaged $0.53. State fuel taxes are weighted by sales. Because fuel taxes represent transfers of resources from fuel buyers to government agencies, however, rather than real resources that are consumed in the process of supplying or using fuel, their value must be deducted from retail fuel prices to determine the value of fuel savings resulting from more stringent CAFE standards to the U.S. economy as a whole.

In estimating the economy-wide or ''social'' value of fuel savings of increasing CAFE/reducing CO_2 emissions levels, NHTSA assumes that current fuel taxes will remain constant in real or inflation-adjusted terms over the lifetimes of the vehicles proposed to be regulated. In effect, this assumes that the average value per gallon of taxes on gasoline and diesel fuel levied by all levels of government will rise at the rate of inflation over that period. This value is deducted from each future year's forecast of retail gasoline and diesel prices reported in AEO 2008 to determine the social value of each gallon of fuel saved during that year as a result of improved fuel economy/reduced CO_2 emissions. Subtracting fuel taxes results in a projected value for saving gasoline of $1.83 per gallon during 2020, rising to $2.02 per gallon by the year 2030.

In conducting the preliminary uncertainty analysis of benefits and costs from alternative CAFE standards, as required by OMB, NHTSA also considered higher and lower forecasts of future fuel prices. The results of the sensitivity runs can be found in the PRIA. EIA includes ''High Price Case'' and ''Low Price Case'' in AEO analyses that reflect uncertainties regarding future levels of oil production, but those cases are not meant to be probabilistic, and simply illustrate the range of uncertainty that exists. Because AEO 2008 Early Release included only a Reference Case of forecast of fuel prices and did not include the High and Low Price cases, the agency estimated high and low fuel prices corresponding to the AEO 2008 Reference Case forecast by assuming that high and low price forecasts would bear the same relationship to the Reference Case forecast as reported in AEO 2007.[101] These alternative scenarios project retail gasoline prices that range from a low of $1.94 per gallon to a high of $3.26 per gallon during 2020, and from $2.03 to $3.70 per gallon during 2030. In conjunction with our assumption that fuel taxes will remain constant in real or inflation-adjusted terms over this period, these forecasts imply social values of saving fuel ranging from $1.47 to $2.79 per gallon during 2020, and from $1.56 to $3.23 per gallon in 2030.

EIA is widely-recognized as an impartial and authoritative source of analysis and forecasts of U.S. energy production, consumption, and prices. The agency has published annual forecasts of energy prices and consumption levels for the U.S. economy since 1982 in its *Annual Energy Outlook* (AEO). These forecasts have been widely relied upon by federal agencies for use in regulatory analysis and for other purposes. Since 1994, EIA's annual forecasts have been based upon the agency's National Energy Modeling System (NEMS), which includes detailed representation of supply pathways, sources of demand, and their interaction to determine prices for different forms of energy.

From 1982 through 1993, EIA's forecasts of world oil prices—the primary determinant of prices for gasoline, diesel, and other transportation fuels derived from petroleum—consistently overestimated actual prices during future years, often very significantly. Of the total of 119 forecasts of future world oil prices for the years 1985 through 2005 that EIA reported in its 1982–1993 editions of *AEO*, 109 overestimated the subsequent actual values for those years, on average exceeding their corresponding actual values by 75 percent.

Since that time, however, EIA's forecasts of future world oil prices show a more mixed record for accuracy. The 1994–2005 editions of *AEO* reported 91 separate forecasts of world oil prices for the years 1995–2005, of which 33 have subsequently proven too high while the

[98] 71 FR 77871 (Dec. 27, 2006).

[99] Energy Information Administration, *Annual Energy Outlook 2008, Early Release*, Reference Case Table 12. Available at *http://www.eia.doe.gov/oiaf/aeo/pdf/aeotab_12.pdf* (last accessed April 20, 2008). EIA says that it will release the complete version of AEO 2008—including the High and Low Price and other side cases—at the end of April. The agency will use those figures for the final rule.

[100] The agency defines the maximum lifetime of vehicles as the highest age at which more than 2 percent of those originally produced during a model year remain in service. In the case of light-duty trucks, for example, this age has typically been 36 years for recent model years.

[101] Energy Information Administration, *Annual Energy Outlook 2007*, High Price Case, Table 12, *http://www.eia.doe.gov/oiaf/aeo/pdf/aeohptab_12.pdf* (last accessed April 20, 2008) and Energy Information Administration, *Annual Energy Outlook 2007* Low Price Case, Table 12, *http://www.eia.doe.gov/oiaf/aeo/pdf/aeolptab_12.pdf* (last accessed April 20, 2008).

remaining 58 have underestimated actual prices. The average absolute error (i.e., regardless of its direction) of these forecasts has been 21 percent, but over- and underestimates have tended to offset one another, so that on average EIA's more recent forecasts have underestimated actual world oil prices by 7 percent. Although both its overestimates and underestimates of future world oil prices for recent years have often been large, the most recent editions of AEO have significantly underestimated petroleum prices during those years for which actual prices are now available.

However, NHTSA does not regard EIA's recent tendency to underestimate future prices for petroleum and refined products or the high level of current fuel prices as adequate justification to employ forecasts that differ from the Reference Case forecast presented in EIA's *Annual Energy Outlook 2008* Revised Early Release. This is particularly the case because this forecast has been revised upward significantly since the initial release of *AEO 2008*, which in turn represented a major upward revision from EIA's fuel price forecast reported previously in AEO 2007. NHTSA also notes that retail gasoline prices across the U.S. have averaged $2.94 per gallon (expressed in 2005 dollars) for the first three months of 2008, slightly *below* EIA's recently revised forecast that gasoline prices will average $2.98 per gallon (also in 2005 dollars) throughout 2008.

Comparing different forecasts of world oil prices also shows that EIA's Reference Case forecast reported in Annual Energy Outlook 2007 (AEO 2007) was actually the *highest* of all six publicly-available forecasts of world oil prices over the 2010–30 time horizon.[102] Because world petroleum prices are the primary determinant of retail prices for refined petroleum products such as transportation fuels, this suggests that the Reference Case forecast of U.S. fuel prices reported in AEO 2007 is likely to be the highest of those projected by major forecasting services. Further, as indicated above, EIA's most recent fuel price forecasts have been revised significantly upward from those previously projected in AEO 2007.

e. Consumer Valuation of Fuel Economy and Payback Period

In estimating the value of fuel economy improvements that would result from alternative CAFE standards to potential vehicle buyers, NHTSA assumes that buyers value the resulting fuel savings over only part of the expected lifetime of the vehicles they purchase. Specifically, we assume that buyers value fuel savings over the first five years of a new vehicle's lifetime, and that buyers behave as if they do not discount the value of these future fuel savings. The five-year figure represents the current average term of consumer loans to finance the purchase of new vehicles. We recognize that the period over which individual buyers finance new vehicle purchases may not correspond to the time horizons they apply in valuing fuel savings from higher fuel economy. However, NHTSA believes that five years represents a reasonable estimate of the average period over which buyers who finance their purchases of new vehicle receive—and thus must recognize—the monetary value of future fuel savings resulting from higher fuel economy.

The value of fuel savings over the first five years of a vehicle model's lifetime that would result under each alternative fuel economy standard is calculated using the projections of retail fuel prices described above. It is then deducted from the technology costs incurred by its manufacturer to produce the improvement in that model's fuel economy estimated for each alternative standard, to determine the increase in the ''effective price'' to buyers of that vehicle model. The Volpe model uses these estimates of effective costs for increasing the fuel economy of each vehicle model to identify the order in which manufacturers would be likely to select models for the application of fuel economy-improving technologies in order to comply with stricter standards. The average value of the resulting increase in effective cost from each manufacturer's simulated compliance strategy is also used to estimate the impact of alternative standards on its total sales for future model years.

However, it is important to recognize that NHTSA estimates the aggregate value to the U.S. economy of fuel savings resulting from alternative standards—or their ''social'' value—over the *entire* expected lifetimes of vehicles manufactured under those standards, rather than over this shorter ''payback period'' we assume for their buyers. This is discussed directly below in section f on ''Vehicle survival and use assumptions.'' As indicated previously, the maximum vehicle lifetimes used to analyze the effects of alternative fuel economy standards are estimated to be 25 years for automobiles and 36 years for light trucks.

f. Vehicle Survival and Use Assumptions

NHTSA's preliminary analysis of fuel/CO_2 emissions savings and related benefits from adopting alternative standards for MY 2011–2015 passenger cars and light trucks is based on estimates of the resulting changes in fuel use over their entire lifetimes in the U.S. vehicle fleet. The first step in estimating lifetime fuel consumption by vehicles produced during a model year is to calculate the number that is expected to remain in service during each future year after they are produced and sold.[103] This number is calculated by multiplying the number of vehicles originally produced during a model year by the proportion expected to remain in service at the age they will have reached during each subsequent year, often referred to as a ''survival rate.''

The agency relies on projections of the number of passenger cars and light trucks that will be produced during future years reported by the EIA in its AEO Reference Case forecast.[104] It uses updated values of age-specific survival rates for cars and light trucks estimated from yearly registration data for vehicles produced during recent model years, to ensure that forecasts of the number of vehicles in use reflect recent increases in the durability and expected life spans of cars and light trucks.[105]

The next step in estimating fuel use is to calculate the total number of miles that the cars and light trucks produced in each model year affected by the proposed CAFE standards will be driven during each year of their lifetimes. To

[102] See *http://www.eia.doe.gov/oiaf/archive/aeo07/pdf/forecast.pdf*, Table 19, p. 106.

[103] Vehicles are defined to be of age 1 during the calendar year corresponding to the model year in which they are produced; thus for example, model year 2000 vehicles are considered to be of age 1 during calendar year 2000, age 1 during calendar year 2001, and to reach their maximum age of 26 years during calendar year 2025. NHTSA considers the maximum lifetime of vehicles to be the age after which less than 2% of the vehicles originally produced during a model year remain in service. Applying these conventions to vehicle registration data indicates that passenger cars have a maximum age of 26 years, while light trucks have a maximum lifetime of 36 years. *See* Lu, S., NHTSA, Regulatory Analysis and Evaluation Division, ''Vehicle Survivability and Travel Mileage Schedules,'' DOT HS 809 952, 8–11 (January 2006). *Available at http://www-nrd.nhtsa.dot.gov/pdf/nrd-30/NCSA/Rpts/2006/809952.pdf* (last accessed April 20, 2008).

[104] The most recent edition is Energy Information Administration, *Annual Energy Outlook 2008: Early Release. Available at http://www.eia.doe.gov/oiaf/aeo/index.html* (last accessed April 20, 2008).

[105] Lu, S., NHTSA, Regulatory Analysis and Evaluation Division, ''Vehicle Survivability and Travel Mileage Schedules,'' DOT HS 809 952, 8–11 (January 2006). *Available at http://www-nrd.nhtsa.dot.gov/pdf/nrd-30/NCSA/Rpts/2006/809952.pdf* (last accessed April 20, 2008). These updated survival rates suggest that the expected lifetimes of recent-model passenger cars and light trucks are 13.8 and 14.5 years.

estimate total miles driven, the number of cars and light trucks projected to remain in use during each future year (calculated as described above) is multiplied by the average number of miles they are expected to be driven at the age they will have reached in that year. The agency estimated the average number of miles driven annually by cars and light trucks of each age using data from the Federal Highway Administration's 2001 National Household Transportation Survey (NHTS).[106]

Finally, fuel consumption during each year of a model year's lifetime is estimated by dividing the total number of miles its surviving vehicles are driven by the fuel economy they are expected to achieve under each alternative CAFE standard. Each model year's total lifetime fuel consumption is the sum of fuel use by the cars or light trucks produced during that model year that are projected to remain in use during each year of their maximum life spans. In turn, the *savings* in a model year's lifetime fuel use that will result from each alternative CAFE standard is the difference between its lifetime fuel use at the fuel economy level it attains under the Baseline alternative, and its lifetime fuel use at the higher fuel economy level it is projected to achieve under that alternative standard.

To illustrate these calculations, the most recent edition of the AEO projections that 8.52 million light trucks will be produced during 2012, and the agency's updated survival rates show that slightly more than half of these —50.1 percent, or 4.27 million—are projected to remain in service during the year 2027, when they will have reached an age of 14 years. At that age, light trucks achieving the fuel economy level required under the Baseline alternative are driven an average of about 10,400 miles, so model year 2012 light trucks will be driven a total of 44.4 billion miles (= 4.27 million surviving vehicles × 10,400 miles per vehicle) during 2027. Summing the results of similar calculations for each year of their 36-year maximum lifetime, model year 2012 light trucks will be driven a total of 1,502 billion miles under the Baseline alternative. Under that alternative, they are projected to achieve a test fuel economy level of 23.8 mpg, which corresponds to actual on-road fuel economy of 19.0 mpg (= 23.8 mpg × 80 percent). Thus their lifetime fuel use under the Baseline alternative is projected to be 79.0 billion gallons (= 1,502 billion miles divided by 19.0 miles per gallon).

g. Growth in Total Vehicle Use

By assuming that the annual number of miles driven by cars and light trucks at any age will remain constant over the future, NHTSA's procedure for estimating the number of miles driven by cars and light trucks over their lifetimes in effect assumes that all future growth in total vehicle-miles driven stems from increases in the *number* of vehicles in service, rather than from increases in the average number of miles they are driven each year. Similarly, because the survival rates used to estimate the number of cars and light trucks remaining in service to various ages are assumed to remain fixed for future model years, growth in the total number of cars and light trucks in use is effectively assumed to result only from increasing sales of new vehicles. In order to determine the validity of these assumptions, the agency conducted a detailed analysis of the causes of recent growth in car and light truck use.

From 1985 through 2005, the total number of miles driven (usually referred to as vehicle-miles traveled, or VMT) by passenger cars increased 35 percent, equivalent to a compound annual growth rate of 1.5 percent.[107] During that time, the total number of passenger cars registered for in the U.S. grew by about 0.3 percent annually, almost exclusively as a result of increasing sales of new cars.[108] Thus growth in the average number of miles automobiles are driven each year accounted for the remaining 1.2 percent (= 1.5 percent—0.3 percent) annual growth in total automobile use.[109]

Over this same period, total VMT by light trucks increased much faster, growing at an annual rate of 5.1 percent. In contrast to the causes of growth in automobile use, however, nearly all growth in light truck use over these two decades was attributable to rapid increases in the *number* of light trucks in use.[110] In turn, growth in the size of the nation's light truck fleet has resulted almost exclusively from rising sales of new light trucks, since the fraction of new light trucks remaining in service to various ages has remained stable or even declined slightly over the past two decades.[111]

On the basis of this analysis, the agency tentatively concludes that its projections of future growth in light truck VMT account fully for the primary cause of its recent growth, which has been the rapid increase in sales of new light trucks during recent model years. However, the assumption that average annual use of passenger cars will remain fixed over the future appears to ignore an important source of recent growth in their total use, the gradual increase in the average number of miles they are driven. To the extent that this factor continues to represent a significant source of growth in future passenger car use, the agency's analysis is likely to *underestimate* the reductions in fuel use and related environmental impacts resulting from stricter CAFE standards for passenger cars.[112] The agency plans to account explicitly for potential future growth in average annual use of *both* cars and light trucks in the analysis accompanying its Final Rule establishing CAFE standards for model years 2011–15.

h. Accounting for the Rebound Effect of Higher Fuel Economy

The rebound effect refers to the tendency for owners to increase the number of miles they drive a vehicle in response to an increase in its fuel economy, as would result from more stringent fuel economy standards. The rebound effect occurs because an increase in a vehicle's fuel economy reduces its owner's fuel cost for driving each mile, which is typically the largest

[106] For a description of the Survey, *see http://nhts.ornl.gov/quickStart.shtml* (last accessed April 20, 2008).

[107] Calculated from data reported in FHWA, Highway Statistics, Summary to 1995, Table vm201at *http://www.fhwa.dot.gov/ohim/summary95/vm201a.xlw*, (last accessed April 20, 2008).and annual editions 1996–2005, Table VM–1 at *http://www.fhwa.dot.gov/policy/ohpi/hss/hsspubs.htm* (last accessed April 20, 2008).

[108] A slight increase in the fraction of new passenger cars remaining in service beyond age 10 has accounted for a small share of growth in the U.S. automobile fleet. The fraction of new automobiles remaining in service to various ages was computed from R.L. Polk vehicle registration data for 1977 through 2005 by the agency's Center for Statistical Analysis.

[109] *See supra* note [2 above here]

[110] FHWA data show that growth in total miles driven by ''Two-axle, four-tire trucks,'' a category that includes most or all light trucks used as passenger vehicles, averaged 5.1% annually from 1985 through 2005. However, the number of miles light trucks are driven each year averaged 11,114 during 2005, almost unchanged from the average figure of 11,016 miles during 1985. *Id.*

[111] Unpublished analysis of R.L. Polk vehicle registration data conducted by NHTSA Center for Statistical Analysis, 2005.

[112] Assuming that average annual miles driven per automobile will continue to increase over the future would increase the agency's estimates of total lifetime mileage for MY 2011–18 passenger cars. Their estimated lifetime fuel use would also increase under each alternative standard considered in this analysis, but in inverse relation to their fuel economy. Thus lifetime fuel use will increase by more under the No Increase alternative than under any of the alternatives that would increase passenger car CAFE standards, and by progressively less for the alternatives that impose stricter standards. Taking account of this factor would thus increase the agency's estimates of fuel savings for those alternatives, and omitting it will cause the agency's analysis to underestimate those fuel savings.

single component of the cost of operating a vehicle. Even with the vehicle's higher fuel economy, this additional driving uses some fuel, so the rebound effect will reduce the net fuel savings that result when the fuel economy standards require manufacturers to increase fuel economy. The rebound effect is usually expressed as the percentage by which annual vehicle use increases when average fuel cost per mile driven decreases in response to a change in the marginal cost of driving an extra mile, due either an increase in fuel economy or a reduction in the price of fuel.

The magnitude of the rebound effect is one of the determinants of the actual fuel savings that are likely to result from adopting stricter standards, and thus an important parameter affecting NHTSA's evaluation of alternative standards for future model years. The rebound effect can be measured directly by estimating the elasticity of vehicle use with respect to fuel economy itself, or indirectly by the elasticity of vehicle use with respect to fuel cost per mile driven.[113] When expressed as a positive percentage, either of these parameters gives the fraction of fuel savings that would otherwise result from adopting stricter standards, but is offset by the increase in fuel consumption that results when vehicles with increased fuel economy are driven more.

Research on the magnitude of the rebound effect in light-duty vehicle use dates to the early 1980s, and almost unanimously concludes that a statistically significant rebound effect occurs when vehicle fuel efficiency improves.[114] The most common approach to estimating its magnitude has been to analyze statistically household survey data on vehicle use, fuel consumption, fuel prices (often obtained from external sources), and other determinants of household travel demand to isolate the response of vehicle use to higher fuel economy. Other studies have relied on econometric analysis of annual U.S. data on vehicle use, fuel economy, fuel prices, and other variables to identify the response of total or average vehicle use to changes in fleet-wide average fuel economy and its effect of fuel cost per mile driven. Two recent studies analyzed yearly variation in vehicle ownership and use, fuel prices, and fuel economy among individual states over an extended time period in order to measure the response of vehicle use to changing fuel economy.[115]

An important distinction among studies of the rebound effect is whether they assume that the effect is constant, or varies over time in response to the absolute levels of fuel costs, personal income, or household vehicle ownership. Most studies using aggregate annual data for the U.S. assume a constant rebound effect, although some of these studies test whether the effect can vary as changes in retail fuel prices or average fuel economy alter fuel cost per mile driven. Many studies using household survey data estimate significantly different rebound effects for households owning varying numbers of vehicles, although they arrive at differing conclusions about whether the rebound effect is larger among households that own more vehicles. One recent study using state-level data concludes that the rebound effect varies directly in response to changes in personal income and the degree of urbanization of U.S. cities, as well as fuel costs.

In order to arrive at a preliminary estimate of the rebound effect for use in assessing the fuel savings, emissions reductions, and other impacts of alternative standards, NHTSA reviewed 22 studies of the rebound effect conducted from 1983 through 2005. We then conducted a detailed analysis of the 66 separate estimates of the long-run rebound effect reported in these studies, which is summarized in the table below.[116] As the table indicates, these 66 estimates of the long-run rebound effect range from as low as 7 percent to as high as 75 percent, with a mean value of 23 percent.

Limiting the sample to 50 estimates reported in the 17 published studies of the rebound effect yields the same range but a slightly higher mean (24 percent), while focusing on the authors' preferred estimates from published studies narrows this range and lowers its average only slightly. The median estimate of the rebound effect in all three samples, which is generally regarded as a more reliable indicator of their central tendency than the average because it is less influenced by unusually small and large estimates, is 22 percent. As Table V–4 indicates, approximately two-thirds of all estimates reviewed, of all published estimates, and of authors' preferred estimates fall in the range of 10–30 percent.

TABLE V–4.—SUMMARY OF REBOUND EFFECT ESTIMATES

Category of estimates	Number of studies	Number of estimates	Range		Distribution		
			Low	High	Median	Mean	Std. Dev.
All Estimates	22	66	7%	75%	22%	23%	14%
Published Estimates	17	50	7%	75%	22%	24%	14%
Authors' Preferred Estimates	17	17	9%	75%	22%	22%	15%
U.S. Time-Series Estimates	7	34	7%	45%	14%	18%	9%
Household Survey Estimates	13	23	9%	75%	31%	31%	16%
Pooled U.S. State Estimates	2	9	8%	58%	22%	25%	14%
Constant Rebound Effect (1)	15	37	7%	75%	20%	23%	16%
Variable Rebound Effect: (1).							
Reported Estimates	10	29	10%	45%	23%	23%	10%
Updated to 2006 (2)	10	29	6%	46%	16%	19%	12%

(1) Three studies estimate both constant and variable rebound effects.

[113] Fuel cost per mile is equal to the price of fuel in dollars per gallon divided by fuel economy in miles per gallon, so this figure declines when a vehicle's fuel economy increases.

[114] Some studies estimate that the long-run rebound effect is significantly larger than the immediate response to increased fuel efficiency. Although their estimates of the adjustment period required for the rebound effect to reach its long-run magnitude vary, this long-run effect is most appropriate for evaluating the fuel savings and emissions reductions resulting from stricter standards that would apply to future model years.

[115] In effect, these studies treat U.S. states as a data ''panel'' by applying appropriate estimation procedures to data consisting of each year's average values of these variables for the separate states.

[116] In some cases, NHTSA derived estimates of the overall rebound effect from more detailed results reported in the studies. For example, where studies estimated different rebound effects for households owning different numbers of vehicles but did not report an overall value, we computed a weighted average of the reported values using the distribution of households among vehicle ownership categories.

(2) Reported estimates updated to reflect 2006 values of vehicle use, fuel prices, fleet fuel efficiency, household income, and household vehicle ownership.

The type of data used and authors' assumption about whether the rebound effect varies over time have important effects on its estimated magnitude. The 34 estimates derived from analysis of U.S. annual time-series data produce a median estimate of 14 percent for the long-run rebound effect, while the median of 23 estimates based on household survey data is more than twice as large (31 percent), and the median of 9 estimates based on pooled state data matches that of the entire sample (22 percent). The 37 estimates assuming a constant rebound effect produce a median of 20 percent, while the 29 originally reported estimates of a variable rebound effect have a slightly higher median value (23 percent).

In selecting a single value for the rebound effect to use in analyzing alternative standards for future model years, NHTSA tentatively attaches greater significance to studies that allow the rebound effect to vary in response to changes in the various factors that have been found to affect its magnitude. However, it is also important to update authors' originally-reported estimates of variable rebound effects to reflect current conditions. Recalculating the 29 original estimates of variable rebound effects to reflect current (2006) values for retail fuel prices, average fuel economy, personal income, and household vehicle ownership reduces their median estimate to 16 percent.[117] NHTSA also tentatively attaches greater significance to the recent study by Small and Van Dender (2005), which finds that the rebound effect tends to decline as average fuel economy, personal income, and suburbanization of U.S. cities increase, but—in accordance with previous studies—rises with increasing fuel prices.[118]

Considering the empirical evidence on the rebound effect as a whole, but according greater importance to the updated estimates from studies allowing the rebound effect to vary—particularly the Small and Van Dender study—NHTSA has selected a rebound effect of 15 percent to evaluate the fuel savings and other effects of alternative standards for the time period covered by this rulemaking. However, we do not believe that evidence of the rebound effect's dependence on fuel prices or household income is sufficiently convincing to justify allowing its future value to vary in response to forecast changes in these variables. A range extending from 10 percent to at least 20 percent—and perhaps as high as 25 percent—appears to be appropriate for the required analysis of the uncertainty surrounding these estimates. While the agency selected 15 percent, it also ran sensitivity analyses at 10 and 20 percent. The results are shown in the PRIA.

i. Benefits From Increased Vehicle Use

The increase in vehicle use from the rebound effect provides additional benefits to their owners, who may make more frequent trips or travel farther to reach more desirable destinations. This additional travel provides benefits to drivers and their passengers by improving their access to social and economic opportunities away from home. As evidenced by their decisions to make more frequent or longer trips when improved fuel economy reduces their costs for driving, the benefits from this additional travel exceed the costs drivers and passengers incur in making more frequent or longer trips.

The amount by which the benefits from this additional travel exceed its costs (for fuel and other operating expenses) measures the net benefits that drivers receive from the additional travel, usually referred to as increased consumer surplus. NHTSA's analysis estimates the economic value of the increased consumer surplus provided by added driving using the conventional approximation, which is one half of the product of the decline in vehicle operating costs per vehicle-mile and the resulting increase in the annual number of miles driven. The magnitude of these benefits represents a small fraction of the total benefits from the alternative fuel economy standards considered.

j. Added Costs From Congestion, Crashes and Noise

Although it provides some benefits to drivers, increased vehicle use associated with the rebound effect also contributes to increased traffic congestion, motor vehicle accidents, and highway noise. Depending on how the additional travel is distributed over the day and on where it takes place, additional vehicle use can contribute to traffic congestion and delays by increasing traffic volumes on facilities that are already heavily traveled during peak periods. These added delays impose higher costs on drivers and other vehicle occupants in the form of increased travel time and operating expenses. Because drivers do not take these added costs into account in deciding when and where to travel, they must be accounted for separately as a cost of the added driving associated with the rebound effect.

Increased vehicle use due to the rebound effect may also increase the costs associated with traffic accidents. Drivers may take account of the potential costs they (and their passengers) face from the possibility of being involved in an accident when they decide to make additional trips. However, they probably do not consider all of the potential costs they impose on occupants of other vehicles and on pedestrians when accidents occur, so any increase in these ''external'' accident costs must be considered as another cost of additional rebound-effect driving. Like increased delay costs, any increase in these external accident costs caused by added driving is likely to depend on the traffic conditions under which it takes place, since accidents are more frequent in heavier traffic (although their severity may be reduced by the slower speeds at which heavier traffic typically moves).

Finally, added vehicle use from the rebound effect may also increase traffic noise. Noise generated by vehicles

[117] As an illustration, Small and Van Dender (2005) allow the rebound effect to vary over time in response to changes in real per capita income as well as average fuel cost per mile driven. While their estimate for the entire interval (1966–2001) they analyze is 22 percent, updating this estimate using 2006 values of these variables reduces the rebound effect to approximately 10 percent. Similarly, updating Greene's 1992 original estimate of a 15 percent rebound effect to reflect 2006 fuel prices and average fuel economy reduces it to 6 percent. *See* David L. Greene, ''Vehicle Use and Fuel Economy: How Big is the Rebound Effect?'' The Energy Journal, 13:1 (1992), 117–143. In contrast, the distribution of households among vehicle ownership categories in the data samples used by Hensher *et al.* (1990) and Greene *et al.* (1999) are nearly identical to the most recent estimates for the U.S., so updating their original estimates to current U.S. conditions changes them very little. *See* David A. Hensher, Frank W. Milthorpe, and Nariida C. Smith, ''The Demand for Vehicle Use in the Urban Household Sector: Theory and Empirical Evidence,'' Journal of Transport Economics and Policy, 24:2 (1990), 119–137; and David L. Greene, James R. Kahn, and Robert C. Gibson, ''Fuel Economy Rebound Effect for Household Vehicles,'' The Energy Journal, 20:3 (1999), 1–21.

[118] In the most recent light truck CAFE rulemaking, NHTSA chose not to preference the Small and Van Dender study over other published estimates of the value of the rebound effect, stating that since it ''remains an unpublished working paper that has not been subjected to formal peer review, ''the agency does not yet consider the estimates it provides to have the same credibility as the published and widely-cited estimates it relied upon.'' *See* 71 FR 17633 (Apr. 6, 2006). The study has subsequently been published and peer-reviewed, so NHTSA is now prepared to ''consider it in developing its own estimate of the rebound effect for use in subsequent CAFE rulemakings.''

causes inconvenience, irritation, and potentially even discomfort to occupants of other vehicles, to pedestrians and other bystanders, and to residents or occupants of surrounding property. Because these effects are unlikely to be taken into account by the drivers whose vehicles contribute to traffic noise, they represent additional externalities associated with motor vehicle use. Although there is considerable uncertainty in measuring their value, any increase in the economic costs of traffic noise resulting from added vehicle use must be included together with other increased external costs from the rebound effect.

NHTSA relies on estimates of congestion, accident, and noise costs caused by automobiles and light trucks developed by the Federal Highway Administration to estimate the increased external costs caused by added driving due to the rebound effect.[119] These estimates are intended to measure the increases in costs from added congestion, property damages and injuries in traffic accidents, and noise levels caused by automobiles and light trucks that are borne by persons other than their drivers (or ''marginal'' external costs). Updated to 2006 dollars, FHWA's ''Middle'' estimates for marginal congestion, accident, and noise costs caused by automobile use amount to 5.2 cents, 2.3 cents, and 0.1 cents per vehicle-mile (for a total of 7.6 cents per mile), while those for pickup trucks and vans are 4.7 cents, 2.5 cents, and 0.1 cents per vehicle-mile (for a total of 7.3 cents per mile).[120, 121] These costs are multiplied by the annual increases in automobile and light truck use from the rebound effect to yield the estimated increases in congestion, accident, and noise externality costs during each future year.

[119] These estimates were developed by FHWA for use in its 1997 *Federal Highway Cost Allocation Study; see http://www.fhwa.dot.gov/policy/hcas/final/index.htm* (last accessed April 20, 2008).

[120] *See* Federal Highway Administration, 1997 *Federal Highway Cost Allocation Study*, *http://www.fhwa.dot.gov/policy/hcas/final/index.htm*, Tables V–22, V–23, and V–24 (last accessed April 20, 2008).

[121] The Federal Highway Administration's estimates of these costs agree closely with some other recent estimates. For example, recent published research conducted by Resources for the Future (RFF) estimates marginal congestion and external accident costs for increased light-duty vehicle use in the U.S. to be 3.5 and 3.0 cents per vehicle-mile in year-2002 dollars. *See* Ian W.H. Parry and Kenneth A. Small, ''Does Britain or the U.S. Have the Right Gasoline Tax?'' Discussion Paper 02–12, Resources for the Future, 19 and Table 1 (March 2002). *Available at http://www.rff.org/rff/Documents/RFF–DP–02–12.pdf* (last accessed April 20, 2008).

k. Petroleum Consumption and Import Externalities

U.S. consumption and imports of petroleum products also impose costs on the domestic economy that are not reflected in the market price for crude petroleum, or in the prices paid by consumers of petroleum products such as gasoline. In economics literature on this subject, these costs include (1) higher prices for petroleum products resulting from the effect of U.S. oil import demand on the world oil price; (2) the risk of disruptions to the U.S. economy caused by sudden reductions in the supply of imported oil to the U.S.; and (3) expenses for maintaining a U.S. military presence to secure imported oil supplies from unstable regions, and for maintaining the strategic petroleum reserve (SPR) to cushion against resulting price increases.[122] Higher U.S. imports of crude oil or refined petroleum products increase the magnitude of these external economic costs, thus increasing the true economic cost of supplying transportation fuels above the resource costs of producing them. Conversely, reducing U.S. imports of crude petroleum or refined fuels or reducing fuel consumption can reduce these external costs. Any reduction in their total value that results from improved light truck fuel economy represents an economic benefit of setting more stringent CAFE standards in addition to the value of fuel savings and emissions reductions itself.

Increased U.S. oil imports can impose higher costs on all purchasers of petroleum products, because the U.S. is a sufficiently large purchaser of foreign oil supplies that changes in U.S. demand can affect the world price. The effect of U.S. petroleum imports on world oil prices is determined by the degree of OPEC monopoly power over global oil supplies, and the degree of monopsony power over world oil demand exerted by the U.S. The combination of these two factors means that increases in domestic demand for petroleum products that are met through higher oil imports can cause the price of oil in the world market to rise, which imposes economic costs on all other purchasers in the global petroleum market in excess of the higher prices paid by U.S. consumers.[123] Conversely, reducing U.S. oil imports can lower the world petroleum price, and thus generate benefits to other oil purchasers by reducing these ''monopsony costs.''

Although the degree of current OPEC monopoly power is subject to debate, the consensus appears to be that OPEC remains able to exercise some degree of control over the response of world oil supplies to variation in world oil prices, so that the world oil market does not behave completely competitively.[124] The extent of U.S. monopsony power is determined by a complex set of factors including the relative importance of U.S. imports in the world oil market, and the sensitivity of petroleum supply and demand to its world price among other participants in the international oil market. Most evidence appears to suggest that variation in U.S. demand for imported petroleum continues to exert some influence on world oil prices, although this influence appears to be limited.[125]

The second component of external economic costs imposed by U.S. petroleum imports arises partly because an increase in oil prices triggered by a disruption in the supply of imported oil reduces the level of output that the U.S. economy can produce. The reduction in potential U.S. economic output depends on the extent and duration of the increases in petroleum product prices that result from a disruption in the supply of imported oil, as well as on whether and how rapidly these prices return to pre-disruption levels. Even if prices for imported oil return completely to their original levels, however, economic output will be at least temporarily reduced from the level that would have been possible without a disruption in oil supplies.

Because supply disruptions and resulting price increases tend to occur

[122] *See*, *e.g.*, Bohi, Douglas R. and W. David Montgomery (1982). Oil Prices, Energy Security, and Import Policy Washington, DC: Resources for the Future, Johns Hopkins University Press; Bohi, D. R., and M. A. Toman (1993). ''Energy and Security: Externalities and Policies,'' Energy Policy 21:1093–1109; and Toman, M. A. (1993). ''The Economics of Energy Security: Theory, Evidence, Policy,'' in A. V. Kneese and J. L. Sweeney, eds. (1993). Handbook of Natural Resource and Energy Economics, Vol. III. Amsterdam: North-Holland, pp. 1167–1218.

[123] For example, if the U.S. imports 10 million barrels of petroleum per day at a world oil price of $20 per barrel, its total daily import bill is $200 million. If increasing imports to 11 million barrels per day causes the world oil price to rise to $21 per barrel, the daily U.S. import bill rises to $231 million. The resulting increase of $31 million per day ($231 million minus $200 million) is attributable to increasing daily imports by only 1 million barrels. This means that the incremental cost of importing each additional barrel is $31, or $10 more than the newly-increased world price of $21 per barrel. This additional $10 per barrel represents a cost imposed on all other purchasers in the global petroleum market by U.S. buyers, in excess of the price they pay to obtain those additional imports.

[124] For a summary *see* Leiby, Paul N., Donald W. Jones, T. Randall Curlee, and Russell Lee, *Oil Imports: An Assessment of Benefits and Costs,* ORNL–6851, Oak Ridge National Laboratory, November 1, 1997, 17. *Available at http://pzl1.ed.ornl.gov/ORNL6851.pdf* (last accessed April 20, 2008).

[125] *Id.* 18–19.

suddenly rather than gradually, they can also impose costs on businesses and households for adjusting their use of petroleum products more rapidly than if the same price increase had occurred gradually over time. These adjustments impose costs because they temporarily reduce economic output even below the level that would ultimately be reached once the U.S. economy completely adapted to higher petroleum prices. The additional costs to businesses and households reflect their inability to adjust prices, output levels, and their use of energy and other resources quickly and smoothly in response to rapid changes in prices for petroleum products.

Since future disruptions in foreign oil supplies are an uncertain prospect, each of these disruption costs must be adjusted by the probability that the supply of imported oil to the U.S. will actually be disrupted. The ''expected value'' of these costs— the product of the probability that an oil import disruption will occur and the costs of reduced economic output and abrupt adjustment to sharply higher petroleum prices—is the appropriate measure of their magnitude. Any reduction in these expected disruption costs resulting from a measure that lowers U.S. oil imports represents an additional economic benefit beyond the direct value of savings from reduced purchases of petroleum products.

While the vulnerability of the U.S. economy to oil price shocks is widely thought to depend on total petroleum consumption rather than on the level of oil imports, variation in imports is still likely to have some effect on the magnitude of price increases resulting from a disruption of import supply. In addition, changing the quantity of petroleum imported into the U.S. may also affect the probability that such a disruption will occur. If either the size of the likely price increase or the probability that U.S. oil supplies will be disrupted is affected by oil imports, the expected value of the costs from a supply disruption will also depend on the level of imports.

Businesses and households use a variety of market mechanisms, including oil futures markets, energy conservation measures, and technologies that permit rapid fuel switching to ''insure'' against higher petroleum prices and reduce their costs for adjusting to sudden price increases. While the availability of these market mechanisms has likely reduced the potential costs of disruptions to the supply of imported oil, consumers of petroleum products are unlikely to take account of costs they impose on others, so these costs are probably not reflected in the price of imported oil. Thus changes in oil import levels probably continue to affect the expected cost to the U.S. economy from potential oil supply disruptions, although this component of oil import costs is likely to be significantly smaller than estimated by studies conducted in the wake of the oil supply disruptions during the 1970s.

The third component of the external economic costs of importing oil into the U.S. includes government outlays for maintaining a military presence to secure the supply of oil imports from potentially unstable regions of the world and to protect against their interruption. Some analysts also include outlays for maintaining the U.S. Strategic Petroleum Reserve (SPR), which is intended to cushion the U.S. economy against the consequences of disruption in the supply of imported oil, as additional costs of protecting the U.S. economy from oil supply disruptions.

NHTSA believes that while costs for U.S. military security may vary over time in response to long-term changes in the actual level of oil imports into the U.S., these costs are unlikely to decline in response to any reduction in U.S. oil imports resulting from raising future CAFE standards for passenger cars and light trucks. U.S. military activities in regions that represent vital sources of oil imports also serve a broader range of security and foreign policy objectives than simply protecting oil supplies, and as a consequence are unlikely to vary significantly in response to changes in the level of oil imports prompted by higher standards.

Similarly, while the optimal size of the SPR from the standpoint of its potential influence on domestic oil prices during a supply disruption may be related to the level of U.S. oil consumption and imports, its actual size has not appeared to vary in response to recent changes in oil imports. Thus while the budgetary costs for maintaining the Reserve are similar to other external costs in that they are not likely to be reflected in the market price for imported oil, these costs do not appear to have varied in response to changes in oil import levels.

In analyzing benefits from its recent actions to increase light truck CAFE standards for model years 2005–07 and 2008–11, NHTSA relied on a 1997 study by Oak Ridge National Laboratory (ORNL) to estimate the value of reduced economic externalities from petroleum consumption and imports.[126] More recently, ORNL updated its estimates of the value of these externalities, using the analytic framework developed in its original 1997 study in conjunction with recent estimates of the variables and parameters that determine their value.[127] These include world oil prices, current and anticipated future levels of OPEC petroleum production, U.S. oil import levels, the estimated responsiveness of oil supplies and demands to prices in different regions of the world, and the likelihood of oil supply disruptions. ORNL prepared its updated estimates of oil import externalities for use by EPA in evaluating the benefits of reductions in U.S. oil consumption and imports expected to result from its Renewable Fuel Standard Rule of 2007 (RFS).[128]

The updated ORNL study was subjected to a detailed peer review by experts selected by EPA, and its estimates of the value of oil import externalities were subsequently revised to reflect their comments and recommendations.[129] Specifically, reviewers recommended that ORNL increase its estimates of the sensitivity of oil supply by non-OPEC producers and oil demand by nations other than the U.S. to changes in the world oil price, as well as reduce its estimate of the sensitivity of U.S. gross domestic product (GDP) to potential sudden increases in world oil prices.

After making the revisions recommended by peer reviewers, ORNL's updated estimates of the monopsony cost associated with U.S. oil imports range from $5.22 to $9.68 per barrel, with a most likely estimate of $7.41 per barrel. These estimates imply that each gallon of fuel saved as a result of adopting higher CAFE standards will reduce the monopsony costs of U.S. oil imports by $0.124 to $0.230 per gallon, with the actual value most likely to be $0.176 per gallon saved. ORNL's updated and revised estimates of the increase in the expected costs associated with oil supply disruptions to the U.S. and the resulting rapid increase in prices for petroleum products amount to $4.54 to $5.84 per barrel, although its

[126] Leiby, Paul N., Donald W. Jones, T. Randall Curlee, and Russell Lee, *Oil Imports: An Assessment of Benefits and Costs*, ORNL–6851, Oak Ridge National Laboratory, November 1, 1997. *Available at http://pzl1.ed.ornl.gov/ORNL6851.pdf (last accessed April 20, 2008).*

[127] Leiby, Paul N. ''Estimating the Energy Security Benefits of Reduced U.S. Oil Imports,'' Oak Ridge National Laboratory, ORNL/TM–2007/028, Revised July 23, 2007. *Available at http://pzl1.ed.ornl.gov/energysecurity.html* (click on link below ''Oil Imports Costs and Benefits'') (last accessed April 20, 2008).

[128] 72 FR 23899 (May 1, 2007).

[129] *Peer Review Report Summary: Estimating the Energy Security Benefits of Reduced U.S. Oil Imports,* ICF, Inc., September 2007.

most likely estimate of $4.59 per barrel is very close to the lower end of this range. According to these estimates, each gallon of fuel saved will reduce the expected costs disruptions to the U.S. economy by $0.108 to $0.139, with the actual value most likely to be $0.109 per gallon.

The updated and revised ORNL estimates suggest that the combined reduction in monopsony costs and expected costs to the U.S. economy from oil supply disruptions resulting from lower fuel consumption total $0.232 to $0.370 per gallon, with a most likely estimate of $0.286 per gallon. This represents the additional economic benefit likely to result from each gallon of fuel saved by higher CAFE standards, *beyond* the savings in resource costs for producing and distributing each gallon of fuel saved. NHTSA employs this midpoint estimate in its analysis of the benefits from fuel savings projected to result from alternative CAFE standards for model years 2011–15. It also analyzes the effect on these benefits estimates from variation in this value over the range from $0.232 to $0.370 per gallon of fuel saved.

NHTSA's analysis of benefits from alternative CAFE standards does not include cost savings from either reduced outlays for U.S. military operations or maintaining a smaller SPR among the external benefits of reducing gasoline consumption and petroleum imports by means of tightening future standards. This view concurs with that of both the original ORNL study of economic costs from U.S. oil imports and its recent update, which conclude that savings in government outlays for these purposes are unlikely to result from reductions in consumption of petroleum products and oil imports on the scale of those likely to result from the alternative increases in CAFE standards considered for model years 2011–15.

l. Air Pollutant Emissions

(i) Impacts on Criteria Air Pollutant Emissions

While reductions in domestic fuel refining and distribution that result from lower fuel consumption will reduce U.S. emissions of criteria pollutants, additional vehicle use associated with the rebound effect from higher fuel economy will increase emissions of these pollutants. Thus the net effect of stricter CAFE standards on emissions of each criteria pollutant depends on the relative magnitudes of its reduced emissions in fuel refining and distribution, and increases in its emissions from vehicle use. Because the relationship between emissions rates (emissions per gallon refined of fuel or mile driven) in fuel refining and vehicle use is different for each criteria pollutant, the net effect of fuel savings from the proposed standards on total emissions of each pollutant is likely to differ. Criteria air pollutants emitted by vehicles and during fuel production include carbon monoxide (CO), hydrocarbon compounds (usually referred to as ''volatile organic compounds,'' or VOC), nitrogen oxides (NO_X), fine particulate matter (PM2.5), and sulfur oxides (SO_X).

The increase in emissions of these pollutants from additional vehicle use due to the rebound effect is estimated by multiplying the increase in total miles driven by vehicles of each model year and age by age-specific emission rates per vehicle-mile for each pollutant. NHTSA developed these emission rates using EPA's MOBILE6.2 motor vehicle emissions factor model.[130] Emissions of these pollutants also occur during crude oil extraction and transportation, fuel refining, and fuel storage and distribution. The reduction in total emissions from each of these sources thus depends on the extent to which fuel savings result in lower imports of refined fuel, or in reduced domestic fuel refining. To a lesser extent, they also depend on whether any reduction in domestic gasoline refining is translated into reduced imports of crude oil or reduced domestic extraction of petroleum.

Based on analysis of changes in U.S. gasoline imports and domestic gasoline consumption forecast in AEO's 2008 Early Release, NHTSA tentatively estimates that 50 percent of fuel savings resulting from higher CAFE standards will result in reduced imports of refined gasoline, while the remaining 50 percent will reduce domestic fuel refining.[131] The reduction in domestic refining is assumed to leave its sources of crude petroleum unchanged from the mix of 90 percent imports and 10 percent domestic production projected by AEO.

NHTSA proposes to estimate reductions in criteria pollutant emissions from gasoline refining and distribution using emission rates obtained from Argonne National Laboratories' Greenhouse Gases and Regulated Emissions in Transportation (GREET) model.[132] The GREET model provides separate estimates of air pollutant emissions that occur in four phases of fuel production and distribution: crude oil extraction, crude oil transportation and storage, fuel refining, and fuel distribution and storage.[133] We tentatively assume that reductions in imports of refined fuel would reduce criteria pollutant emissions during fuel storage and distribution only. Reductions in domestic fuel refining using imported crude oil as a feedstock are tentatively assumed to reduce emissions during crude oil transportation and storage, as well as during gasoline refining, distribution, and storage, because less of each of these activities would be occurring. Similarly, reduced domestic fuel refining using domestically-produced crude oil is tentatively assumed to reduce emissions during all phases of gasoline production and distribution.[134]

The net changes in emissions of each criteria pollutant are calculated by adding the increases in their emissions that result from increased vehicle use and the reductions that result from lower domestic fuel refining and distribution. The net change in emissions of each criteria pollutant is converted to an economic value using estimates of the economic costs per ton emitted (which result primarily from damages to human health) developed by EPA and submitted to the federal Office of Management and Budget for review. For certain criteria pollutants, EPA estimates different per-ton costs for emissions from vehicle use than for emissions of the same pollutant during fuel production, reflecting differences in their typical geographic distributions,

[130] U.S. Environmental Protection Agency, MOBILE6 Vehicle Emission Modeling Software, *available at http://www.epa.gov/otaq/m6.htm#m60* (last accessed April 20, 2008).

[131] Estimates of the response of gasoline imports and domestic refining to fuel savings from stricter standards are variable and highly uncertain, but our preliminary analysis indicates that under any reasonable assumption about these responses, the magnitude of the net change in criteria pollutant emissions (accounting for both the rebound effect and changes in refining emissions) is extremely low relative to their current total.

[132] Argonne National Laboratories, *The Greenhouse Gas and Regulated Emissions from Transportation (GREET) Model*, Version 1.8, June 2007, *available at http://www.transportation.anl.gov/software/GREET/index.html* (last accessed April 20, 2008).

[133] Emissions that occur during vehicle refueling at retail gasoline stations (primarily evaporative emissions of volatile organic compounds, or VOCs) are already accounted for in the ''tailpipe'' emission factors used to estimate the emissions generated by increased light truck use. GREET estimates emissions in each phase of gasoline production and distribution in mass per unit of gasoline energy content; these factors are then converted to mass per gallon of gasoline using the average energy content of gasoline.

[134] In effect, this assumes that the distances crude oil travels to U.S. refineries are approximately the same regardless of whether it travels from domestic oilfields or import terminals, and that the distances that gasoline travels from refineries to retail stations are approximately the same as those from import terminals to gasoline stations.

contributions to ambient pollution levels, and resulting population exposure.

(ii) Reductions in CO_2 Emissions

Fuel savings from stricter CAFE standards also result in lower emissions of carbon dioxide (CO_2), the main greenhouse gas emitted as a result of refining, distribution, and use of transportation fuels.[135] Lower fuel consumption reduces carbon dioxide emissions directly, because the primary source of transportation-related CO_2 emissions is fuel combustion in internal combustion engines. NHTSA tentatively estimates reductions in carbon dioxide emissions resulting from fuel savings by assuming that the entire carbon content of gasoline, diesel, and other fuels is converted to carbon dioxide during the combustion process.[136]

Reduced fuel consumption also reduces carbon dioxide emissions that result from the use of carbon-based energy sources during fuel production and distribution.[137] NHTSA currently estimates the reductions in CO_2 emissions during each phase of fuel production and distribution using CO_2 emission rates obtained from the GREET model, using the previous assumptions about how fuel savings are reflected in reductions in each phase. The total reduction in CO_2 emissions from the improvement in fuel economy under each alternative CAFE standard is the sum of the reductions in emissions from reduced fuel use and from lower fuel production and distribution.

NHTSA has not attempted to estimate changes in emissions of other greenhouse gases, in particular methane, nitrous oxide, and hydrofluorocarbons. The agency invites comment on the importance and potential implications of doing so under NEPA.

(iii) Economic value of reductions in CO_2 emissions

NHTSA has taken the economic benefits of reducing CO_2 emission into account in this rulemaking, both in developing proposed CAFE standards and in assessing the economic benefits of each alternative that was considered. As noted above, the Ninth Circuit found in *CBD* that NHTSA had been arbitrary and capricious in deciding not to monetize the benefit of reducing CO_2 emissions, saying that the agency had not substantiated the conclusion in its April 2006 final rule that the appropriate course was not to monetize (*i.e.*, quantify the value of) carbon emissions reduction at all.

To this end, NHTSA reviewed published estimates of the ''social cost of carbon emissions'' (SCC). The SCC refers to the marginal cost of additional damages caused by the increase in expected climate impacts resulting from the emission of each additional metric ton of carbon, which is emitted in the form of CO_2.[138] It is typically estimated as the net present value of the impact over some time period (100 years or longer) of one additional ton of carbon emitted into the atmosphere. Because accumulated concentrations of greenhouse gases in the atmosphere and the projected impacts on global climate are increasing over time, the economic damages resulting from each additional ton of CO_2 emissions in future years are believed to be greater as a result. Thus estimates of the SCC are typically reported for a specific year, and these estimates are generally larger for emissions in more distant future years.

There is substantial variation among different authors' estimates of the SCC, much of which can be traced to differences in their underlying assumptions about several variables. These include the sensitivity of global temperatures and other climate attributes to increasing atmospheric concentrations of greenhouse gases, discount rates applied to future economic damages from climate change, whether damages sustained by developing regions of the globe should be weighted more heavily than damages to developed nations, how long climate changes persist once they occur, and the economic valuation of specific climate impacts.[139]

Taken as a whole, recent estimates of the SCC may underestimate the true damage costs of carbon emissions because they often exclude damages caused by extreme weather events or climate response scenarios with low probabilities but potentially extreme impacts, and may underestimate the climate impacts and damages that could result from multiple stresses on the global climatic system. At the same time, however, many studies fail to consider potentially beneficial impacts of climate change, and do not adequately account for how future development patterns and adaptations could reduce potential impacts from climate change or the economic damages they cause.

Given the uncertainty surrounding estimates of the SCC, the use of any single study may not be advisable since its estimate of the SCC will depend on many assumptions made by its authors. The Working Group II's contribution to the Fourth Assessment Report of the United Nations Intergovernmental Panel on Climate Change (IPCC)[140] notes that:

> The large ranges of SCC are due in the large part to differences in assumptions regarding climate sensitivity, response lags, the treatment of risk and equity, economic and non-economic impacts, the inclusion of potentially catastrophic losses, and discount rates.

[135] For purposes of this rulemaking, NHTSA estimated emissions of vehicular CO_2 emissions, but did not estimate vehicular emissions of methane, nitrous oxide, and hydroflourocarbons. Methane and nitrous oxide account for less than 3 percent of the tailpipe GHG emissions from passenger cars and light trucks, and CO_2 emissions accounted for the remaining 97 percent. Of the total (including non-tailpipe) GHG emissions from passenger cars and light trucks, tailpipe CO_2 represents about 93.1 percent, tailpipe methane and nitrous oxide represent about 2.4 percent, and hydroflourocarbons (*i.e.*, air conditioner leaks) represent about 4.5 percent. Calculated from U.S CO_2. EPA, Inventory of U.S> Greenhouse Gas Emissions and Sinks 1990–2006, EPA430–R–08–05, April 15, 2008. *Available at http://www.epa.gov/climatechange/emissions/downloads/08_CR.pdf*, Table 215. (Last accessed April 20, 2008.)

[136] This assumption results in a slight overestimate of carbon dioxide emissions, since a small fraction of the carbon content of gasoline is emitted in the forms of carbon monoxide and unburned hydrocarbons. However, the magnitude of this overestimate is likely to be extremely small. This approach is consistent with the recommendation of the Intergovernmental Panel on Climate Change for ''Tier 1'' national greenhouse gas emissions inventories. *Cf.* Intergovernmental Panel on Climate Change, *2006 Guidelines for National Greenhouse Gas Inventories,* Volume 2, Energy, p. 3.16.

[137] NHTSA did not, for purposes of this proposed rulemaking, attempt to estimate changes in ''upstream'' emissions of greenhouse gases (GHGs) other than CO_2. This was because carbon dioxide from final combustion itself accounts for nearly 97 percent of the total CO_2-equivalent emissions from petroleum production and use, even with other GHGs that result from those activities (principally methane and nitrous oxide) weighted by their higher global warming potentials (GWPs) relative to CO_2. Calculated from U.S. EPA, Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990–2006, EPA430–R–08–05, April 15, 2008. *Available at http://epa.gov/climatechange/emissions/downloads/08_CR.pdf*, Tables 3–3, 3–39, and 3–41. (Last accessed April 20, 2008.)

[138] Carbon itself accounts for 12/44, or about 27%, of the mass of carbon dioxide (12/44 is the ratio of the molecular weight of carbon to that of carbon dioxide). Thus each ton of carbon emitted is associated with 44/12, or 3.67, tons of carbon dioxide emissions. Estimates of the SCC are typically reported in dollars per ton of carbon, and must be divided by 3.67 to determine their equivalent value per ton of carbon dioxide emissions.

[139] For a discussion of these factors, see Yohe, G.W., R.D. Lasco, Q.K. Ahmad, N.W. Arnell, S.J. Cohen, C. Hope, A.C. Janetos and R.T. Perez, 2007: Perspectives on climate change and sustainability. Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, M.L. Parry, O.F. Canziani, J.P. Palutikof, P.J. van der Linden and C.E. Hanson, Eds., Cambridge University Press, Cambridge, UK, pp. 821–824.

[140] Climate Change 2007—Impacts, Adaptation and Vulnerability, Contribution of Working Group II to the Fourth Assessment Report of the IPCC, 17. Available at *http://www.ipcc-wg2.org* (last accessed <Feb. 4, 2008>).

Although the IPCC does not recommend a single estimate of the SCC, it does cite the Tol (2005) study on four separate occasions (pages 17, 65, 813, 822) as the only available survey of the peer-reviewed literature that has itself been subjected to peer review. Tol developed a probability function using the SCC estimates of the peer reviewed literature and found estimates ranging from less than zero to over $200 per metric ton of carbon. In an effort to resolve some of the uncertainty in reported estimates of climate damage costs from carbon emissions, Tol (2005) reviewed and summarized one hundred and three estimates of the SCC from 28 published studies. He concluded that when only peer-reviewed studies published in recognized journals are considered, ''* * * climate change impacts may be very uncertain but is unlikely that the marginal damage costs of carbon dioxide emissions exceed $50 per [metric] ton carbon [about $14 per metric ton of CO_2].'' [141] He also concluded that the costs may be less than $14.

Because of the number of assumptions required by each study, the wide range of uncertainty surrounding these assumptions, and their critical influence on the resulting estimates of climate damage costs, some studies have undoubtedly produced estimates of the SCC that are unrealistically high, while others are likely to have estimated values that are improbably low. Using a value for the SCC that reflects the central tendency of estimates drawn from many studies reduces the chances of relying on a single estimate that subsequently proves to be biased.

It is important to note that estimates of the SCC almost invariably include the value of worldwide damages from potential climate impacts caused by carbon dioxide emissions, and are not confined to damages likely to be suffered within the U.S. In contrast, the other estimates of costs and benefits of increasing fuel economy included in this proposal include only the economic values of impacts that occur within the U.S. For example, the economic value of reducing criteria air pollutant emissions from overseas oil refineries is not counted as a benefit resulting from this rule, because any reduction in damages to health and property caused by overseas emissions are unlikely to be experienced within the U.S.

In contrast, the reduced value of transfer payments from U.S. oil purchasers to foreign oil suppliers that results when lower U.S. oil demand reduces the world price of petroleum (the reduced ''monopsony effect'') is counted as a benefit of reducing fuel use.[142] If the agency's analysis was conducted from a worldwide rather than a U.S. perspective, however, the benefit from reducing air pollution overseas would be included, while reduced payments from U.S. oil consumers to foreign suppliers would not.

In order to be consistent with NHTSA's use of exclusively domestic costs and benefits in prior CAFE rulemakings, the appropriate value to be placed on changes climate damages caused by carbon emissions should be one that reflects the change in damages to the United States alone. Accordingly, NHTSA notes that the value for the benefits of reducing CO_2 emissions might be restricted to the fraction of those benefits that are likely to be experienced within the United States.

Although no estimates of benefits to the U.S. itself that are likely to result from reducing CO_2 emissions are currently available, NHTSA expects that if such values were developed, the agency would employ those rather than global benefit estimates in its analysis. NHTSA also anticipates that if such values were developed, they would be lower than comparable global values, since the U.S. is likely to sustain only a fraction of total global damages resulting from climate change.

In the meantime, the agency has elected to use the IPCC estimate of $43 per metric ton of carbon as an upper bound on the benefits resulting from reducing each metric ton of U.S. emissions.[143] This corresponds to approximately $12 per metric ton of CO_2 when expressed in 2006 dollars. This estimate is based on the 2005 Tol study.[144] The Tol study is cited repeatedly as an authoritative survey in various IPCC reports, which are widely accepted as representing the general consensus in the scientific community on climate change science. Since the IPCC estimate includes the worldwide costs of potential damages from carbon dioxide emissions, NHTSA has elected to employ it as an upper bound on the estimated value of the reduction in U.S. domestic damage costs that is likely to result from lower CO_2 emissions.[145]

The IPCC Working Group II Fourth Assessment Report (2007, p. 822) further suggests that the SCC of carbon is growing at an annual 2.4 percent growth rate, based on estimated increases in damages from future emissions reported in published studies. NHTSA has also elected to apply this growth rate to Tol's original 2005 estimate. Thus by 2011, the agency estimates that the upper bound on the benefits of reducing CO_2 emissions will have reached about $14 per metric ton of CO_2, and will continue to increase by 2.4 percent annually thereafter.

In setting a lower bound, the agency agrees with the IPCC Working Group II (2007) report that ''significant warming across the globe and the locations of significant observed changes in many systems consistent with warming is very unlikely to be due solely to natural variability of temperatures or natural variability of the systems'' (pp. 9). Although this finding suggests that the *global* value of economic benefits from reducing carbon dioxide emissions is unlikely to be zero, it does not necessarily rule out low or zero values for the benefit to the U.S. itself from reducing emissions.

For most of the analysis it performed to develop this proposal, NHTSA required a single estimate for the value of reducing CO_2 emissions. The agency thus elected to use the midpoint of the range from $0 to $14 (or $7.00) per metric ton of CO_2 as the initial value for the year 2011, and assumed that this value would grow at 2.4 percent annually thereafter. This estimate is employed for the analyses conducted using the Volpe CAFE model to support development of the proposed standards. The agency also conducted sensitivity analyses of the benefits from reducing CO_2 emissions using both the upper ($14 per metric ton) and lower ($0 per metric ton) bounds of this range.

NHTSA seeks comment on its tentative conclusions for the value of

[141] Tol, Richard. The marginal damage costs of carbon dioxide emissions: an assessment of the uncertainties. Energy Policy 33 (2005) 2064–2074, 2072. The summary SCC estimates reported by Tol are assumed to be denominated in U.S. dollars of the year of publication, 2005.

[142] The reduction in payments from U.S. oil purchasers to domestic petroleum producers is not included as a benefit, since it represents a transfer that occurs entirely within the U.S. economy.

[143] The estimate of $43 per ton of carbon emissions is reported by Tol (p. 2070) as the mean of the ''best'' estimates reported in peer-reviewed studies (see fn. 144). It thus differs from the mean of all estimates reported in the peer-reviewed studies surveyed by Tol. The $43 per ton value is also attributed to Tol by IPCC Working Group II (2007), p. 822.

[144] Tol's more recent (2007) and inclusive survey has been published online with peer-review comments. The agency has elected not to rely on the estimates it reports, but will consider doing so in its analysis of the final rule if the survey has been published, and will also consider any other newly-published evidence.

[145] For purposes of comparison, we note that in the rulemaking to establish CAFE standards for MY 2008–11 light trucks, NRDC recommended a value of $10 to $25 per ton of CO_2 emissions reduced by fuel savings and both Environmental Defense and Union of Concerned Scientists recommended a value of $50 per ton of carbon (equivalent to about $14 per ton of CO_2 emissions).

the SCC, the use of a domestic versus global value for the economic benefit of reducing CO_2 emissions, the rate at which the value of the SCC grows over time, the desirability of and procedures for incorporating benefits from reducing emissions of greenhouse gases other than CO_2, and any other aspects of developing a reliable SCC value for purposes of establishing CAFE standards.

m. The Value of Increased Driving Range

Improving vehicles' fuel economy may also increase their driving range before they require refueling. By reducing the frequency with which drivers typically refuel their vehicles, and by extending the upper limit of the range they can travel before requiring refueling, improving fuel economy thus provides some additional benefits to their owners. (Alternatively, if manufacturers respond to improved fuel economy by reducing the size of fuel tanks to maintain a constant driving range, the resulting cost saving will presumably be reflected in lower vehicle sales prices.)

No direct estimates of the value of extended vehicle range are readily available, so NHTSA's analysis calculates the reduction in the annual number of required refueling cycles that results from improved fuel economy, and applies DOT-recommended values of travel time savings to convert the resulting time savings to their economic value.[146] As an illustration of how the value of extended refueling range is estimated, a typical small light truck model has an average fuel tank size of approximately 20 gallons. Assuming that drivers typically refuel when their tanks are 20 percent full (*i.e.*, 4 gallons in reserve), increasing this model's actual on-road fuel economy from 24 to 25 mpg would extend its driving range from 384 miles (= 16 gallons × 24 mpg) to 400 miles (= 16 gallons × 25 mpg). Assuming that it is driven 12,000 miles/year, this reduces the number of times it needs to be refueled each year from 31.3 (= 12,000 miles per year/384 miles per refueling) to 30.0 (= 12,000 miles per year/400 miles per refueling), or by 1.3 refuelings per year.

Weighted by the nationwide mix of urban (about 2/3) and rural (about 1/3) driving and average vehicle occupancy for all driving trips (1.6 persons), the DOT-recommended value of travel time per vehicle-hour is $24.00 (in 2006 dollars).[147] Assuming that locating a station and filling up requires ten minutes, the annual value of time saved as a result of less frequent refueling amounts to $5.20 (calculated as $10/60 \times 1.3 \times \$24.00$). This calculation is repeated for each future calendar year that vehicles of each model year affected by the alternative CAFE standards proposed in this rule would remain in service. Like fuel savings and other benefits, however, the value of this benefit declines over a model year's lifetime, because a smaller number of vehicles originally produced during that model year remain in service each year, and those remaining in service are driven fewer miles.

n. Discounting Future Benefits and Costs

Discounting future fuel savings and other benefits is intended to account for the reduction in their value to society when they are deferred until some future date rather than received immediately. The discount rate expresses the percent decline in the value of these benefits—as viewed from today's perspective—for each year they are deferred into the future. NHTSA uses a rate of 7 percent per year to discount the value of future fuel savings and other benefits to analyze the potential impacts of alternative CAFE standards. However, the agency also performed an alternative analysis of benefits from alternative increases in CAFE standards using a 3 percent discount rate, and seeks comment on whether the standards should be set using a 3 percent rate instead of a 7 percent rate.

There are several reasons that NHTSA relies primarily on 7 percent as the appropriate rate for discounting future benefits from increased CAFE standards. First, OMB Circular A–4 indicates that this rate reflects the economy-wide opportunity cost of capital.[148] It also states that this "is the appropriate discount rate whenever the main effect of a regulation is to displace or alter the use of capital in the private sector."[149] We believe that a substantial portion of the cost of this regulation may come at the expense of other investments the auto manufacturers might otherwise make. Several large manufacturers are resource-constrained with respect to their engineering and product-development capabilities. As a result, other uses of these resources will be foregone while they are required to be applied to technologies that improve fuel economy.

Second, 7 percent also appears to be an appropriate rate to the extent that the costs of the regulation come at the expense of consumption as opposed to investment. NHTSA believes that financing rates on vehicle loans represent an appropriate discount rate, because they reflect the opportunity costs faced by consumers when buying vehicles with greater fuel economy and a higher purchase price. Most new and used vehicle purchases are financed, and because most of the benefits from higher fuel economy standards accrue to vehicle purchasers in the form of fuel savings, the appropriate discount rate is the interest rate buyers pay on loans to finance their vehicle purchases.[150]

According to the Federal Reserve, the interest rate on new car loans made through commercial banks has closely tracked the rate on 10-year treasury notes, but exceeded it by about 3 percent.[151] The official Administration forecast is that real (or inflation-adjusted) interest rates on 10-year treasury notes will average about 3 percent through 2016, implying that 6 percent is a reasonable forecast for the real interest rate on new car loans.[152] In turn, the interest rate on used car loans

[146] *See* Department of Transportation, Guidance Memorandum, "The Value of Saving Travel Time: Departmental Guidance for Conducting Economic Evaluations," Apr. 9, 1997. *Available at http://ostpxweb.dot.gov/policy/Data/VOT97guid.pdf* (last accessed October 20, 2007); update *available at http://ostpxweb.dot.gov/policy/Data/VOTrevision1_2-11-03.pdf* (last accessed October 20, 2007).

[147] The hourly wage rate during 2006 is estimated to be $24.00. Personal travel (94.4 percent of urban travel) is valued at 50 percent of the hourly wage rate. Business travel (5.6 percent or urban travel) is valued at 100 percent of the hourly wage rate. For intercity travel, personal travel (87 percent) is valued at 70 percent of the wage rate, while business travel (13 percent) is valued at 100 percent of the wage rate. The resulting values of travel time are $12.67 for urban travel and $17.66 for intercity travel, and must be multiplied by vehicle occupancy (1.6) to obtain the estimate value of time per vehicle hour.

[148] Office of Management and Budget, Circular A–4, "Regulatory Analysis," September 17, 2003, 33. *Available at http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf* (last accessed Feb. 14, 2008).

[149] Id.

[150] Some empirical evidence also demonstrates that used car purchasers are willing to pay higher prices for greater fuel economy; see, e.g., James A. Kahn, "Gasoline Price Expectations and the Used Automobile Market: A Rational Expectations Asset Price Approach," *Quarterly Journal of Economics*, Vol. 101 (May 1986), 323–339.

[151] *See* Federal Reserve Bank, Statistical Release H.15, Selected Interest Rates (Weekly) (click on "Historical Data," then "Treasury constant maturities," then "10-year, monthly"), *available at http://www.federalreserve.gov/Releases/H15/data/Monthly/H15_TCMNOM_Y10.txt* (last accessed February 13, 2008); and Federal Reserve Bank, Statistical Release G.19, Consumer Credit, (click on "Historical Data," then "Terms of Credit") *available at http://www.federalreserve.gov/releases/g19/hist/cc_hist_tc.html* (last accessed February 13, 2008).

[152] See The White House, Joint Press Release of the Council of Economic Advisors, the Department of the Treasury, and the Office of Management and Budget, November 29, 2007, *available at http://www.whitehouse.gov/news/releases/2007/11/20071129-4.html* (last accessed February 13, 2008).

made through automobile financing companies has closely tracked the rate on new car loans made through commercial banks, but exceeded it by about 3 percent.[153] (We consider rates on loans that finance used car purchases, because some of the fuel savings resulting from improved fuel economy accrue to used car buyers.) Given the 6 percent estimate for new car loans, a reasonable forecast for used car loans is thus 9 percent.

Because the benefits of fuel economy accrue to both new and used car owners, a discount rate between 6 percent and 9 percent is thus appropriate for evaluating future benefits resulting from more stringent fuel economy standards. Assuming that new car buyers discount fuel savings at 6 percent for 5 years (the average duration of a new car loan) [154] and that used car buyers discount fuel savings at 9 percent for 5 years (the average duration of a used car loan), [155] the single constant discount rate that yields equivalent present value fuel savings is very close to 7 percent.

However, NHTSA also seeks comment on whether a discount rate of 3 percent would be more appropriate for this proposed rulemaking. OMB Circular A–4 also states that when regulation primarily and directly affects private consumption (*e.g.*, through higher consumer prices for goods and services), instead of primarily affecting the allocation of capital, a lower discount rate may be appropriate. The alternative discount rate that is most appropriate in this case is the social rate of time preference, which refers to the rate at which society discounts future consumption to determine its value at the present time. The rate that savers are willing to accept to defer consumption into the future when there is no risk that borrowers will fail to pay them back offers one possible measure of the social rate of time preference. As noted above, the real rate of return on long-term government debt, which has averaged around 3 percent over the last 30 years, provides a reasonable estimate of this value.

In the context of CAFE standards for motor vehicles, the appropriate discount rate depends on one's view of how the costs and benefits of more stringent standards are distributed between vehicle manufacturers and consumers. Given that the discount rate plays a significant role in determining the level of the standards under a ''social optimization'' context, NHTSA conducted an analysis of what the standards and associated costs and benefits would be if the future benefits were discounted at 3 percent. The results of this analysis can be found in the PRIA. We estimated that following the same methods and criteria discussed below, but applying a 3 percent discount rate rather than a 7 percent discount rate, would suggest standards reaching about 33.6 mpg (average required fuel economy among both passenger cars and light trucks) in MY2015, 2 mpg higher than the 31.6 mpg average resulting from the standards we are proposing based on a 7 percent discount rate. The more stringent standards during MY2011–MY2015 would reduce CO_2 emissions by 672 million metric tons (mmt), or 29 percent more than the 521 mmt achieved by the proposed standards. On the other hand, we estimated that standards increasing at this pace would require about $85b in technology outlays during MY2011–MY2015, or 89 percent more than the $45b in technology outlays associated with the standards proposed today.

Thus, although our proposed standards are based on a 7 percent discount rate, NHTSA seeks comment on whether it should set standards based on discount rate assumptions of 3 percent, instead of 7 percent.

o. Accounting for Uncertainty in Benefits and Costs

In analyzing the uncertainty surrounding its estimates of benefits and costs from alternative CAFE standards, NHTSA has considered alternative estimates of those assumptions and parameters likely to have the largest effect. These include the projected costs of fuel economy-improving technologies and their expected effectiveness in reducing vehicle fuel consumption, forecasts of future fuel prices, the magnitude of the rebound effect, the reduction in external economic costs resulting from lower U.S. oil imports, the value to the U.S. economy of reducing carbon dioxide emissions, and the discount rate applied to future benefits and costs. The range for each of these variables employed in the uncertainty analysis is presented in the section of this document discussing each variable.

The uncertainty analysis was conducted by assuming independent normal probability distributions for each of these variables, using the low and high estimates for each variable as the values below which 5 percent and 95 percent of observed values are believed to fall. Each trial of the uncertainty analysis employed a set of values randomly drawn from each of these probability distributions, assuming that the value of each variable is independent of the others. Benefits and costs of each alternative standard were estimated using each combination of variables. A total of 1,000 trials were used to establish the likely probability distributions of estimated benefits and costs for each alternative standard.

B. How Has NHTSA Used the Volpe Model To Select the Proposed Standards?

1. Establishing a Continuous Function Standard

NHTSA's analysis supporting determination of the proposed continuous function standard builds on the analysis that supported the determination of the standards in NHTSA's 2006 light truck final rule. That process involved three steps.[156]

In ''phase one,'' NHTSA added fuel saving technologies to each manufacturer's fleet, model by model, for a model year until the net benefit from doing so reached its maximum value (*i.e.*, until the incremental cost of improving its fuel economy further just equals the incremental value of fuel savings and other benefits from doing so). This was done for each of the seven largest manufacturers. Data points representing each vehicle's size and ''optimized'' fuel economy from the light truck fleets of those manufacturers were then combined into a single data set.

In ''phase two,'' a preliminary continuous function was statistically fitted through these data points, subject to constraints at the upper and lower ends of the footprint range.

Once a preliminary continuous function was statistically fitted to the data for a model year, ''phase three'' was performed. In that phase, the level of the function was adjusted to maximize net benefits, that is, the preliminary continuous function was raised or lowered until industry-wide (limited to the seven largest manufacturers) benefits were maximized.

For NHTSA's 2006 light truck rulemaking, the optimization procedure was applied in its entirety only for MY 2011. The levels of the functions for MYs 2008–2010 were set at levels producing incremental costs approximately equivalent to those produced by the alternative Unreformed

[153] See supra [2 above here] and Federal Reserve Bank, Statistical Release G.20, Finance Companies, (click on ''Historical Data,'' then ''Terms of Credit'') *available at http://www.federalreserve.gov/releases/g20/hist/fc_hist_tc.html* (last accessed February 13, 2008).

[154] *Id.*

[155] *Id.*

[156] *See* 71 FR 17596–97 (Apr. 6, 2006) for a more complete discussion of this process.

CAFE standards promulgated for those model years in the same rulemaking.

Analysis conducted by NHTSA to prepare for the current proposed rulemaking revealed several opportunities to refine the procedure described above before applying it to this action, which spans several model years. The resultant procedure is described below.

2. Calibration of Initial Continuous Function Standards

For the optimized standards, the first step in the current procedure involves all three phases described above. Separately, for each of the seven largest manufacturers, the agency determined the level of additional technology that would maximize net benefits. The agency then combined the resultant fleets and used standard statistical analysis procedures to specify a continuous function (*i.e.*, a function without abrupt changes) with asymptotes [157] set at the average fuel economy levels of the smallest and largest vehicles in this ''optimized'' fleet.[158]

In the 2006 light truck final rule, NHTSA created an attribute-based fuel economy standard based upon a continuous function using a logistic curve. The 2006 rulemaking, and its antecedent advanced notice of proposed rulemaking, contain an extended discussion of alternative approaches, including a bin-based system and different potential curves. As discussed below, that final rule explains NHTSA's decision to promulgate a standard based on a logistic (''S shaped'') curve with constrained asymptotes (upper and lower limits).

Although we did not explicitly discuss it in the MY 2008–2011 light truck rulemaking, NHTSA now wishes to explain that any continuous function with lower asymptotes, as was promulgated in the last rulemaking and is proposed in this rulemaking, provides an absolute lower fuel economy level which guards against manufacturers having an unlimited economic incentive to upsize their vehicles in order to lower their fuel economy requirement. As vehicle footprint continues to increase, decreases in the corresponding fuel economy target become progressively smaller, such that the target approaches but never reaches the value of the lower asymptote. Because the required level of CAFE is the harmonic average of targets applicable to a manufacturer's vehicle models, the value of the standard can approach but will never fall to the value of this lower asymptote, no matter how far the manufacturer's product mix shifts toward larger vehicles. This will limit any loss of fuel savings due to manufacturer decisions to upsize their vehicles.

In a perfect world, NHTSA would develop the continuous functions for setting passenger car and light truck standards by letting the vehicle attribute (footprint) completely control the shape of the curves used for the functions in a way that provides the clearest observed relationship between this attribute and its fuel economy. But, NHTSA must balance many real world practical and public policy aspects in order to ensure that the standards are achieving the purpose set forth by EPCA and EISA. In developing the Agency's last light truck rule, the curve used to fit the data (attribute versus fuel economy) was a sales-weighted least-squares logistic curve. During this rulemaking, as NHTSA continued to look for ways to improve its standard setting methodology, consideration was given to other methods that could be used to develop the continuous functions. One such method that NHTSA explored and is using in this proposal is unweighted analysis of the data using the Mean Absolute Deviation (MAD) statistical procedure. Unweighted regression involves counting each vehicle model once, rather than as many times as vehicles included in that model are to be produced. MAD involves weighting deviations from predicted values based on their absolute rather than squared magnitude. As discussed below, NHTSA has tentatively concluded that, compared to sales-weighted least-squares analysis, unweighted MAD is better suited to data with wide disparities in weight (*i.e.*, sales volumes) and with many outliers.

In establishing footprint-based CAFE standards, the agency does not have the sole objective of seeking to reflect a clear engineering relationship between footprint and fuel economy. Attributes other than footprint would be more closely correlated with fuel economy. The agency's objective is to make CAFE regulations more consistent with public policy goals, in particular (1) a rebalancing of requirements such that full-line manufacturers are not disproportionately burdened and (2) the establishment of an incentive that discourages manufacturers from responding to CAFE standards in ways that could compromise occupant protection and highway safety. While it is helpful that the attribute—in this case footprint—has an observed relationship to fuel economy, it is not necessary that this relationship be isolated from accompanying relationships (*e.g.*, between weight and fuel economy) that can be better related to estimable physical processes. Similarly, it is more important that the functional form for the attribute-based standard yield desirable outcomes than that it singly seek a clear foundation in estimable physical processes.

In general, public policy considerations and available vehicle data combine to suggest that the fuel economy standard should be generally downward sloping (on a fuel economy basis) with respect to NHTSA's chosen attribute, vehicle footprint. The arguments that favor an attribute-based system (maintaining consumer choice, protecting safety, more equitable distribution of costs, reducing the cost of regulation) all argue for a downward sloping curve. Larger vehicles should, in principle, have higher drag, weigh more, and therefore have greater inertia than otherwise identical smaller vehicles. Hence, all other factors remaining equal, larger vehicles should have lower fuel economy than smaller vehicles. Therefore, the selection of vehicle footprint as the reference attribute should produce downward sloping curves. Also, the tendency of larger vehicles to have lower fuel economy than smaller vehicles should provide some disincentive to shift to larger vehicles rather than adding technology; although doing so would tend to reduce the required CAFE level, it would also tend to reduce the achieved CAFE level.

However, vehicle data, by itself, does not necessarily define what functional form that the curve ought to take. In the 2006 light truck rulemaking, NHTSA considered linear, quadratic, exponential, unconstrained logistic, and constrained logistic functions as possible alternatives. For light trucks, the various approaches produced broadly similar standards through the most commonly used vehicle sizes, but drastically different standards at the high and low ends of the range.

- Linear functions produced very high fuel economy standards for the

[157] Some functions are not bounded. For example, a line that is not flat will increase in one direction without limit and will, in the other direction, decrease without limit. The continuous function applied by the agency is of a form with upper and lower boundaries. Even as vehicle footprint declines or increases, the function's value (in mpg or grams/mile) will never exceed or fall below a specific value. These upper and lower limits are called asymptotes.

[158] Consistent with EPCA, the passenger car and light truck fleets were analyzed separately. For passenger cars, the agency determined the asymptotes of the continuous function by calculating the average fuel economy of the smallest 8 percent and the largest 5 percent of the fleet. For light trucks, the agency considered the smallest 11 percent and the largest 10 percent of the fleet. These cohorts were determined by identifying gaps in the distribution of vehicles according to footprint.

smallest vehicles, and low standards for the largest vehicles.

• The quadratic function generated a minimum at about 75 square feet, and then perversely turned upward for vehicles with larger footprints. The standard for very small vehicles was unreasonably high.

• The exponential and unconstrained logistic functions produced unreasonably high standards for small vehicles, but flattened out for larger vehicles.

• The constrained logistic function provided a broadly linear downward-sloping through the most commonly used vehicle sizes, along with basically flat standards for very large and very small vehicles.

On this basis, NHTSA believed that, while the data did not dictate a particular functional form, public policy considerations made the constrained logistic function particularly attractive. The considerations include:

• A relatively flat standard for larger vehicles acts as a de facto 'backstop' for the standard in the event that future market conditions encourage manufacturers to build very large vehicles. Nothing prevents manufacturers from building larger vehicles. With a logistic curve, however, vehicles upsizing beyond some limit face a flat standard that is increasingly difficult to meet.

• A constrained logistic curve doesn't impose unachievable fuel economy standards on vehicles that have unusually small footprints, thus continuing to keep manufacturing fuel-efficient small vehicles available as a compliance option.

• A curve fitted without upper and lower constraints could reach very high fuel economy levels for small vehicles and very low fuel economy vehicles for large vehicles. While such a curve might produce similar required CAFE levels for the industry as a whole, it could have a particular adverse impact on manufacturers that specialize in very small vehicles, for example, two-seater sports cars. By the same token, it could require little or nothing of manufacturers specializing in very large vehicles.

• The transition from the 'flat' portions of the curve to the 'slope' portions of the curve is smooth and gradual, reducing the incentive for manufacturers to achieve compliance through marginal changes in vehicle size.

• The inflection points are set by the data and can potentially vary from year to year, rather than being chosen by NHTSA.

On the other hand, a constrained logistic curve shares with other functional forms a risk of an excessively steep or excessively flat slope. The slope of the compliance curve may be considered as 'too steep' for public policy purposes when manufacturers can achieve appreciable reductions in compliance costs by marginally increasing the size of a vehicle's footprint—e.g., the cost of compliance from upsizing is lower than other cost-effective compliance methods open to manufacturers.

A slope is 'too flat' for public policy purposes when it negates the advantages of an attribute-based system: Where the standard doesn't meaningfully vary with respect to changes in the underlying attribute, it cannot be said to be an attribute-based system within the meaning of the statute.

NHTSA chose footprint as the best attribute for an attribute-based standard in part because we believed changing a vehicle's footprint would involve significant costs for manufacturers, probably requiring a redesign of the vehicle.

While ''too steep'' or ''too flat'' inevitably cannot be defined with precision, they need to be kept in mind.

For the proposed standards, the agency defined the continuous function using the following formula:

$$T = \frac{1}{\frac{1}{a} + \left(\frac{1}{b} - \frac{1}{a}\right)\frac{e^{(x-c)/d}}{1+e^{(x-c)/d}}}$$

Where:

T = the fuel economy target (in mpg)

a = the maximum fuel economy target (in mpg)

b = the minimum fuel economy target (in mpg)

c = the footprint value (in square feet) at which the fuel economy target is midway between a and b [159]

d = the parameter (in square feet) defining the rate at which the value of targets decline from the largest to smallest values

e = 2.718[160]

x = footprint (in square feet, rounded to the nearest tenth) of the vehicle model

NHTSA invites comment regarding the relative importance of the curve as a means of (1) providing a basis for describing the observed relationship between footprint and fuel economy, (2) providing a basis for describing a theoretical physical relationship (assuming one can be defined) between footprint and fuel economy, and (3) providing socially desirable incentives to manufacturers. The agency further invites comment on functional forms that would be consistent with each of these purposes.

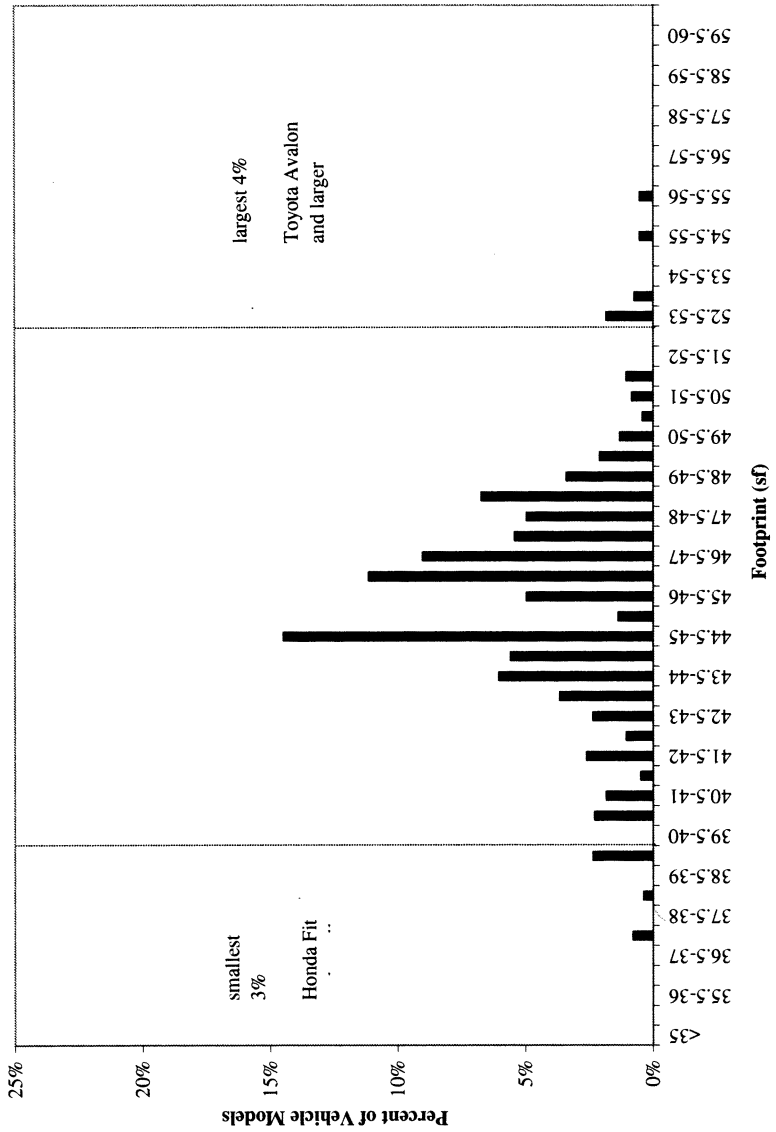
As for analysis of the light truck rule promulgated in 2006, NHTSA constrained this function by determining the maximum and minimum targets (a and b) and then holding those targets constant while using statistical techniques to fit the other two coefficients (c and d) in this equation.

In the current analysis for passenger cars, the upper and lower asymptotes are based on the smallest three percent and largest four percent, respectively, of the fleet. These reflect footprint values defining distinct cohorts outside the bulk of the fleet, and correspond to footprint values of less than 39.5 square feet (*i.e.*, up to the approximate size of a Honda Fit) and greater than 52.5 square feet (*i.e.*, at least as great as the approximate size of a Toyota Avalon), respectively:

[159] That is, the midpoint.

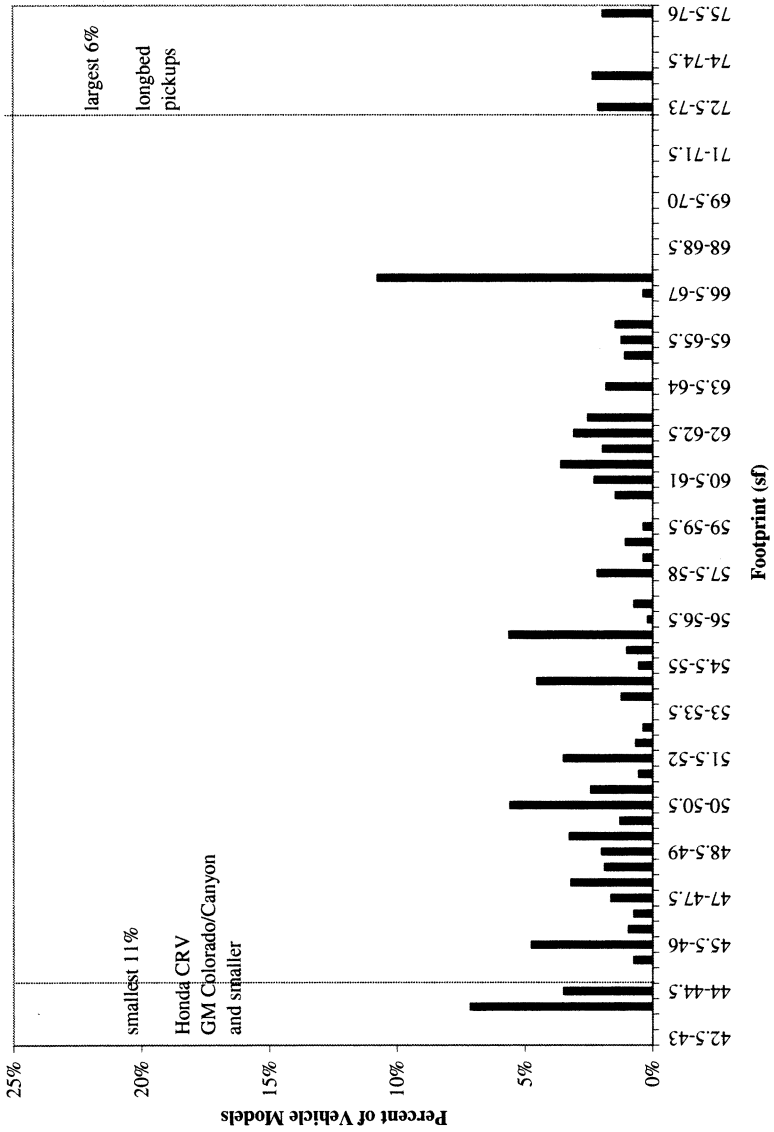
[160] For the purpose of the Reformed CAFE standard, we are carrying *e* out to only three decimal places.

Figure V-5. Passenger Automobile Footprint Distribution



For light trucks, the upper asymptote (*i.e.*, the highest mpg value of the continuous function defining fuel economy targets) is based on the smallest (in terms of footprint) eleven percent of the fleet, and the lower asymptote is based on the largest six percent of the fleet. These cohorts correspond to footprint values of less than 44.5 square feet (*i.e.*, up to the approximate size of a Honda CR–V) and greater than 72.5 square feet (*i.e.*, comprised primarily of extended vans and long-bed pickup trucks), respectively:

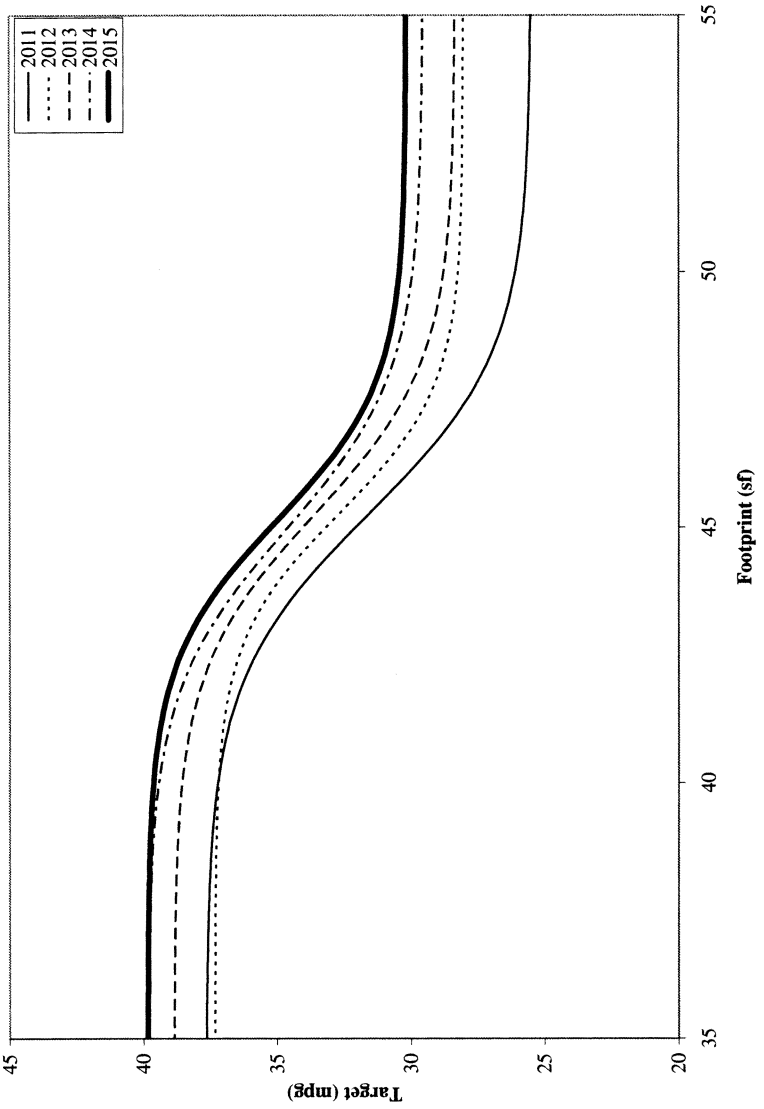
Figure V-6. Light Truck Footprint Distribution



NHTSA invites comment on the identification of vehicle cohorts for purposes of establishing upper and lower limits (asymptotes) bounding the attribute-based standard. After updating its baseline market forecast in consideration of new product plan information from manufacturers, the agency plans to reevaluate these cohorts for both passenger cars and light trucks before promulgating a final rule, and notes that changes in approach could lead to changes in stringency.

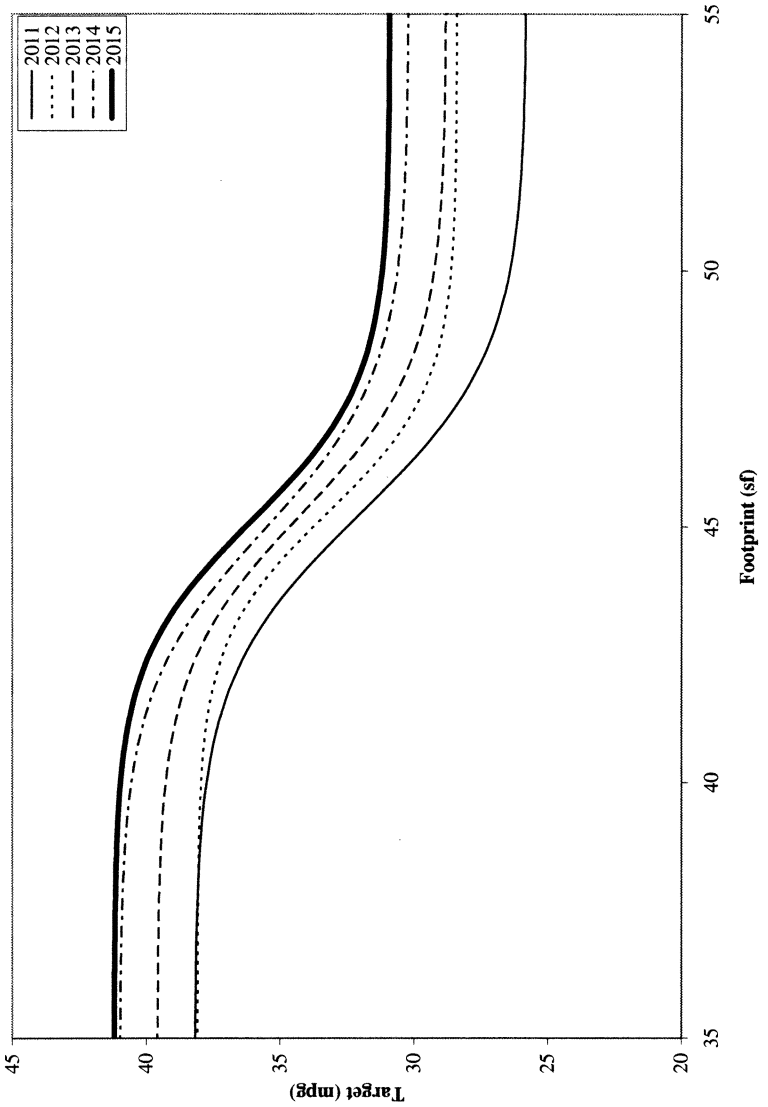
Given the above asymptotes, fitting the above functional form to the ''optimized'' passenger car fleet resulted in the following initial continuous functions:

Figure V-7. Initial Continuous Functions (Passenger Cars), Before Optimization



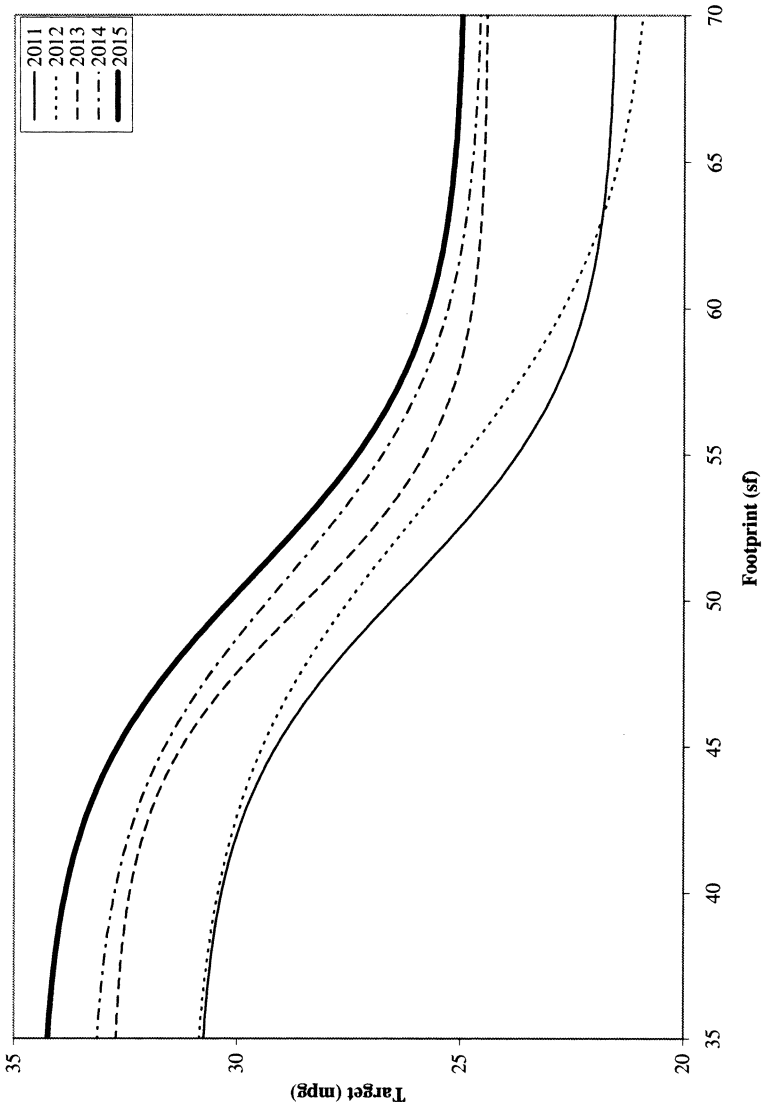
For each model year, NHTSA then raised or lowered the resultant continuous function until net benefits were maximized for the seven largest manufacturers (in total). Without subsequent recalibrations discussed below, this produced the following continuous functions for passenger cars:

Figure V-8. Initial Continuous Functions (Passenger Cars), After Optimization



The agency followed the same procedures for setting light truck standards and doing so resulted in the following continuous functions:

Figure V-9. Initial Continuous Functions (Light Trucks), After Optimization



In fitting the continuous function, NHTSA considered a range of statistical estimation techniques. In the 2006 light truck rulemaking, NHTSA estimated the parameters of the logistic function using fuel consumption (measured in gallons per mile) for each vehicle produced in a particular model year, weighted by sales.

For this rulemaking, we observed that estimated fuel consumption functions for passenger cars were significantly affected by several outliers—a small number of popular vehicles that had significantly higher fuel economy than the fleet as a whole and, even more so, than vehicles of similar footprint. For passenger cars, the function, as estimated by weighted ordinary least squares, was exceptionally steep within the range considered. This observation, in turn, led NHTSA to consider alternative approaches to statistically fitting the continuous function.

Among the options considered by NHTSA were the following: dropping the outlying vehicles from the estimation process, weighted and unweighted ordinary least squares, and weighted and unweighted mean absolute deviation (MAD). MAD is a statistical procedure that has been demonstrated to produce more efficient parameter estimates in the presence of significant outliers.[161] As examples, the following two charts show the MY2015 passenger car and light truck fleets after the application of technologies to each manufacturer's fleet. These charts reveal numerous outliers for the passenger car fleet and, to a lesser extent, the light truck fleet:

[161] In the case of a dataset not drawn from a sample with a Gaussian, or normal, distribution, there is often a need to employ robust estimation methods rather than rely on least-squares approach to curve fitting. The least-squares approach has, as an underlying assumption, that the data are drawn from a normal distribution, and hence fits a curve using a sum-of-squares method to minimize errors. This approach will, in a sample drawn from a non-normal distribution, give excessive weight to outliers by making their presence felt in proportion to the square of their distance from the fitted curve, and, hence, distort the resulting fit. With outliers in the sample, the typical solution is to use a robust method such as a minimum absolute deviation, rather than a squared term, to estimate the fit (*see, e.g.*, ''AI Access: Your Access to Data Modeling,'' at *http://www.aiaccess.net/English/Glossaries/GlosMod/e_gm_O_Pa.htm#Outlier).* The effect on the estimation is to let the presence of each observation be felt more uniformly, resulting in a curve more representative of the data (*see, e.g.*, Peter Kennedy, *A Guide to Econometrics*, 3rd edition, 1992, MIT Press, Cambridge, MA).

Figure V-10 MY2015 Passenger Car Fleet after Technology Application

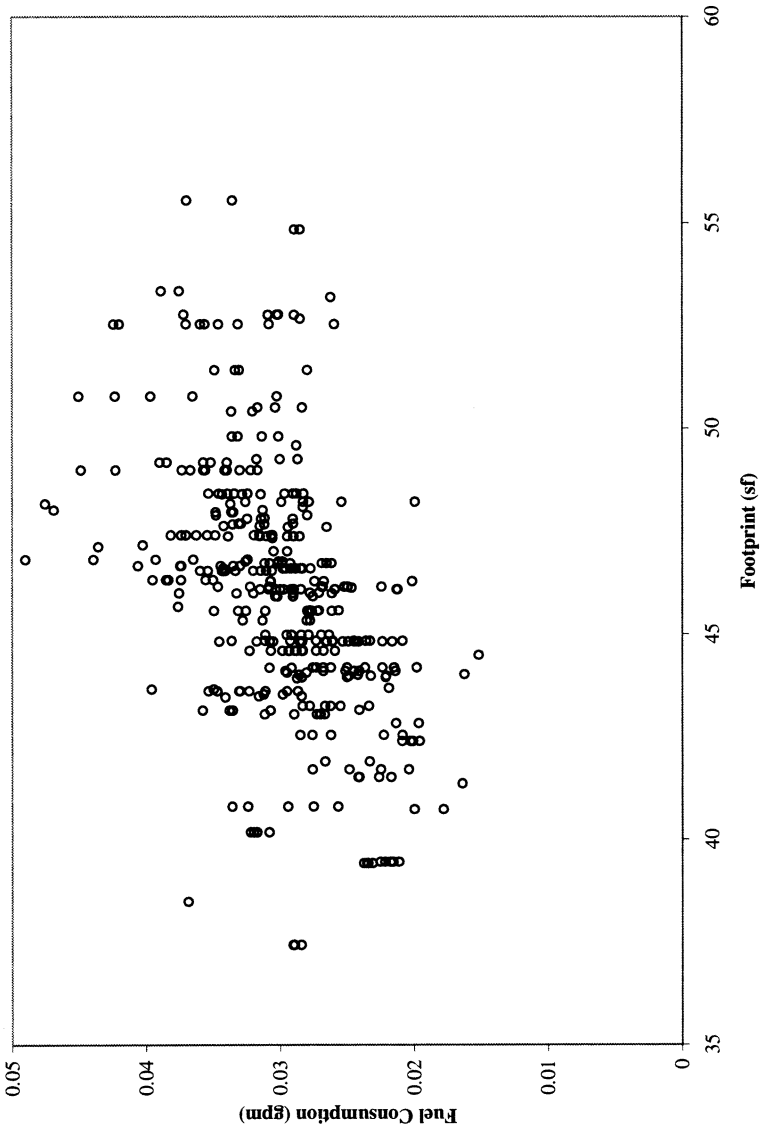
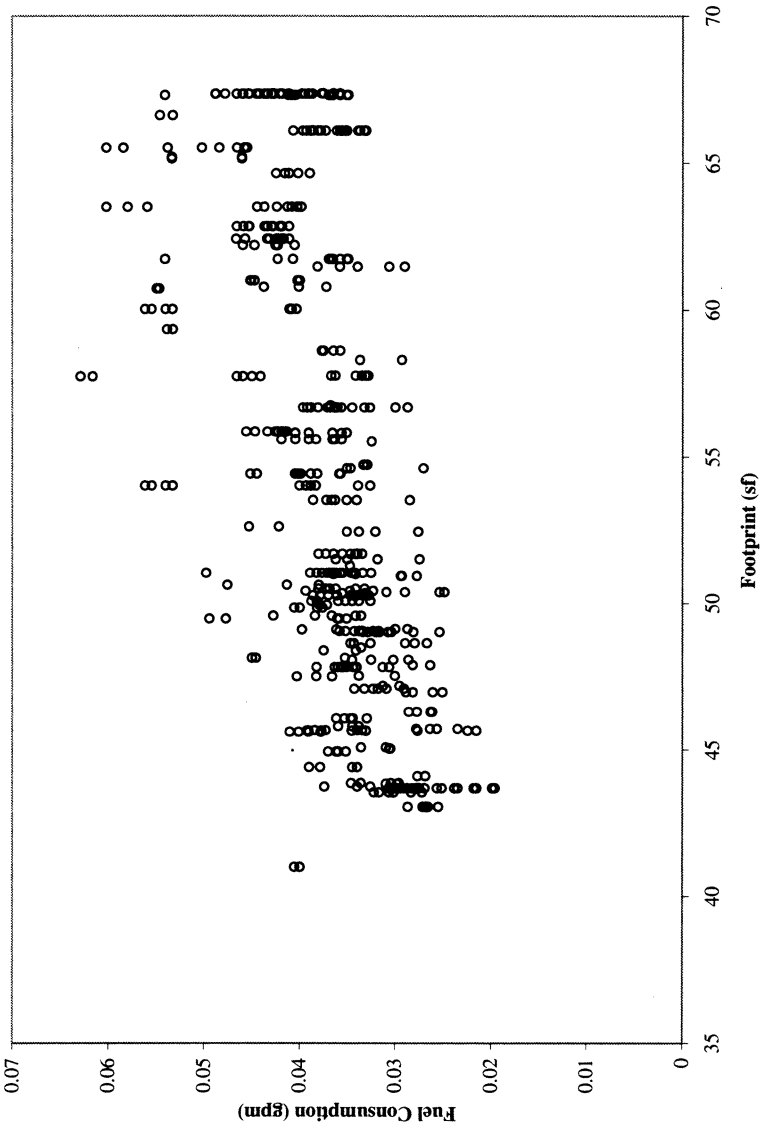


Figure V-11. MY2015 Light Truck Fleet after Technology Application



NHTSA requests comment on the best method for statistically fitting the continuous function.

There are good theoretical arguments for using an unweighted (rather than weighted) analysis. Although the purpose of the attribute-based standard is to discourage downsizing (because of safety implications) and more equitably distribute compliance burdens among manufacturers, we strive to develop the curves based on the observed physical relationship between vehicle size (*i.e.*, footprint) and fuel economy. The curve developed using unweighted sales data better reflects this relationship.

However, the process by which we select the *stringency* (as distinct from the *form*) of the standard must consider sales volumes because the standards are based on sales-weighted average performance. Therefore, even if we use unweighted analysis develop the form of the standard, we would continue to evaluate the standard's stringency (and, therefore, its costs and benefits) based on sales-weighted average calculations done on a manufacturer-by-manufacturer basis.

There is already precedent for using unweighted data to produce curves that are descriptive of engineering relationships. In NHTSA's Preliminary Regulatory Impact Analysis for FMVSS 216 roof crush standards, a series of force-versus-deflection curves were produced for individual vehicle models and then averaged together. In that case, the agency was seeking observed relationships that reflect engineering possibilities, rather than a profile of the existing sales fleet.

In terms of relative emphasis on different vehicle models, the distinction between unweighted and weighted analysis is profound in the light vehicle market, in part because of the way ''models'' are defined for purposes of CAFE. The highest-selling passenger car model represents 356,000 units, and the lowest-selling model represents only 5 units. As a group, the five lowest-selling models represent only 305 units. Thus, weighted analysis places more than 1,000 times the emphasis on the highest-selling model than on the five lowest-selling models, and more than 70,000 times the emphasis than on the single lowest-selling model. The following histograms show the broader distributions of models and sales with respect to model-level sales (first for passenger cars, then for light trucks):

Figure V-12. Passenger Car Model Sales Volumes

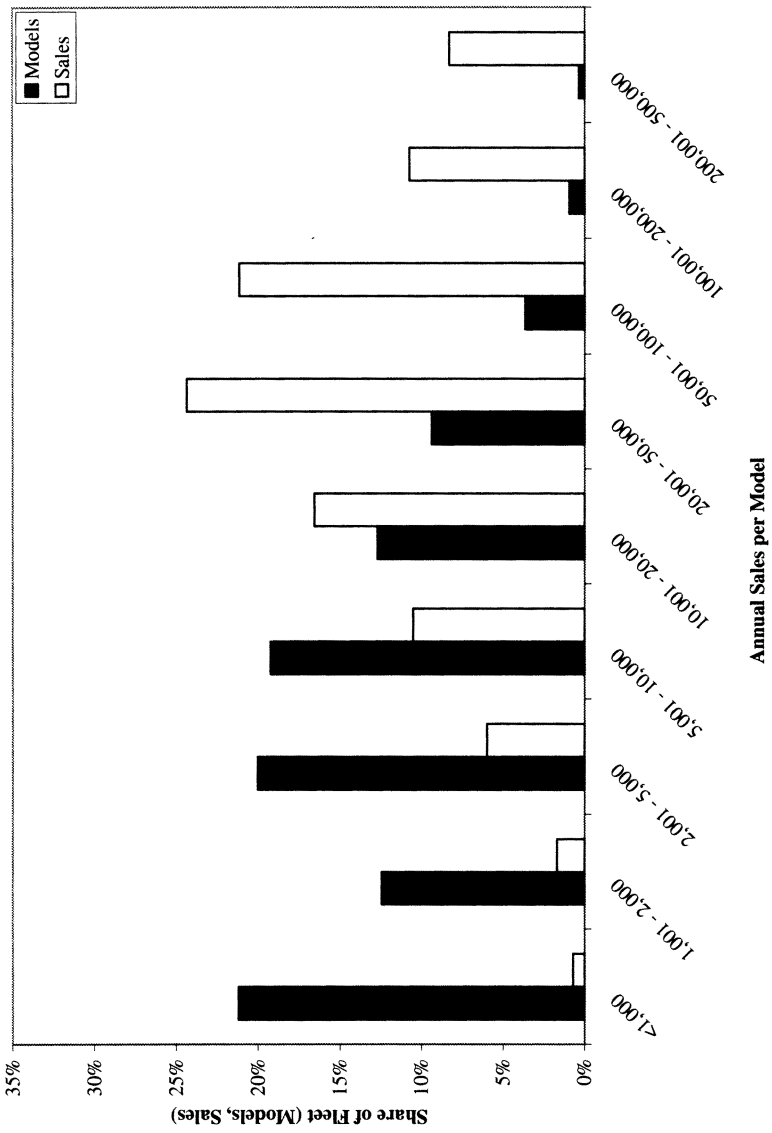
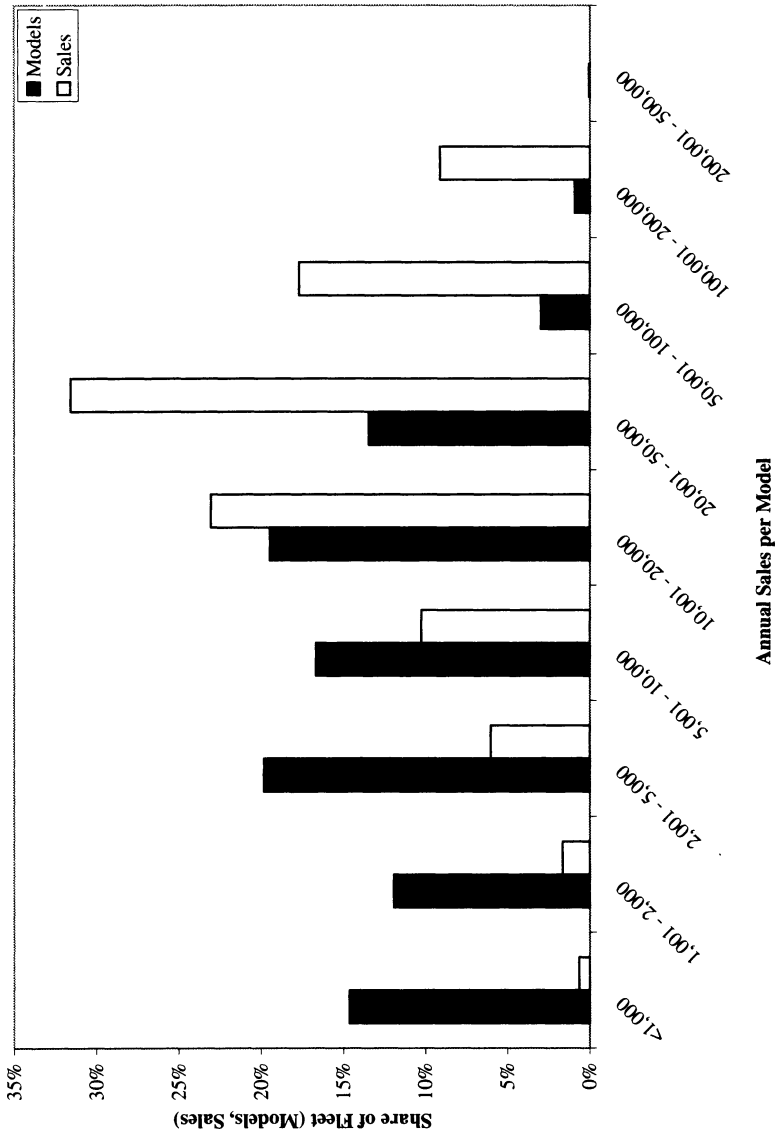


Figure V-13. Light Truck Model Sales Volumes



For purposes of setting the stringency of the corporate average fuel economy standard, this is vital because enforcement is based on the sales-weighted average. However, for purposes of developing a curve intended to represent fuel economy levels achieved at a given footprint, weighted analysis effectively ignores many models.

On the other hand, unweighted estimation is depending on the definition of a ''model''. Manufacturers will sometimes offer substantially similar vehicles with different badges (*i.e.*, Ford Taurus/Mercury Sable) as two different models. The distinction between differing ''options packages'' on a single model and two distinct models is inevitably a bit blurry. When estimating fuel economy standards using a sales-weighted regression, this distinction is not material, since the estimation process will produce substantially the same results independently of the number of distribution of those sales into larger or smaller numbers of models. In unweighted estimation, however, dividing a particular vehicle family into a larger number of distinct models give that family some extra influence in the analysis. Nonetheless, considering that such parsing less than does sales weighting. NHTSA has tentatively concluded that unweighted estimation remains preferable to sales-weighted estimation, but invites comment on whether and, if so how substantially similar vehicles should be combined for purposes of fitting an attribute-based function when using unweighted estimation.

The following charts show, for MY2015 passenger cars and light trucks, how the use of sales-weighted least-squares estimation compares to the proposed approach, which uses unweighted mean absolute deviation. For passenger cars, the curve resulting from proposed approach is somewhat shallower than the curve resulting from sales-weighted least squares estimation. For light trucks, the curve resulting from proposed approach is somewhat steeper:

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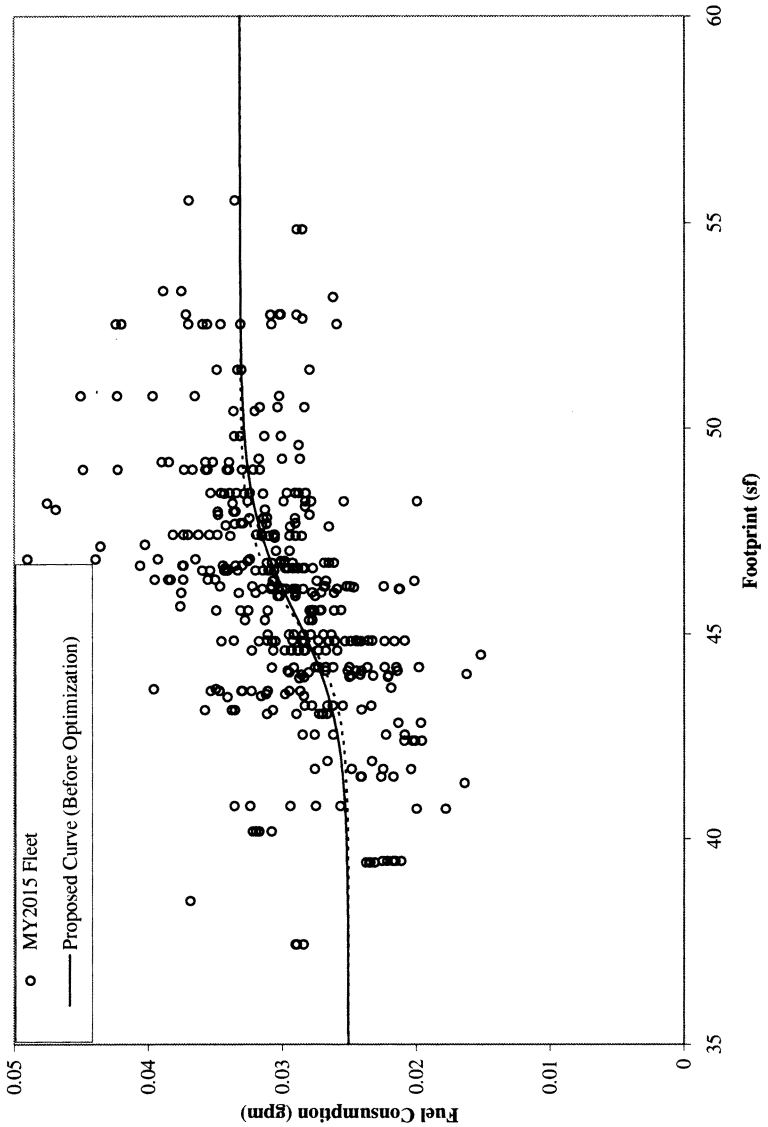
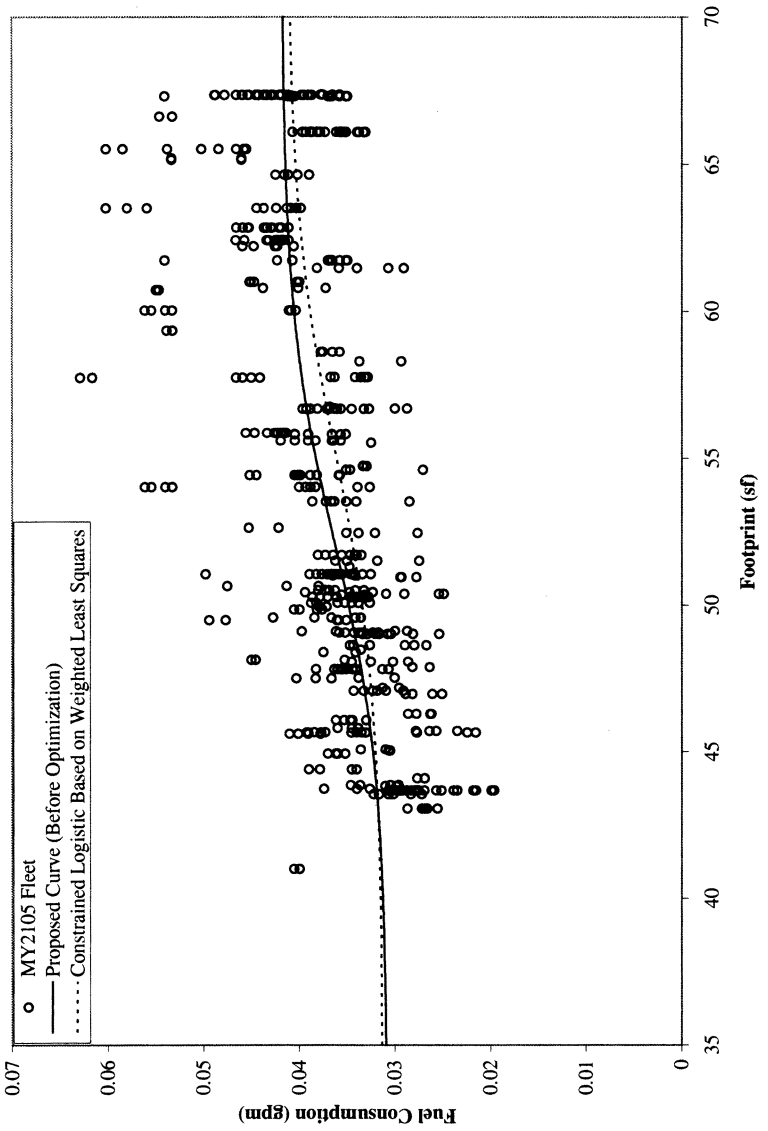
Figure V-14. Weighted Least Squares Regression Compared to Proposed Curve (Using Unweighted Mean Absolute Deviation) for MY2015 Passenger Cars with Technologies



NHTSA invites comment on the relative merits of unweighted and weighted estimation, as well as on the other curve fitting options (*e.g.*, the use of mean absolute deviation) raised here. The agency plans to reevaluate curve fitting approaches for both passenger cars and light trucks before promulgating a final rule, and notes that changes in approach could lead to changes in stringency and impacts on different manufacturers.

Figure V-15. Weighted Least Squares Regression Compared to Proposed Curve (Using Unweighted Mean Absolute Deviation) for MY2015 Light Trucks with Technologies



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3. Adjustments To Address Policy Considerations

NHTSA believes that the resultant curve characteristics discussed above are empirically correct in that they correspond to the footprint and fuel economy values of the fleet obtained by adding fuel saving technologies to each manufacturer's fleet until the net benefit from doing so reached its maximum value.

However, there are three issues (described above) which may tend to reduce the effectiveness of fuel economy regulation over time. These concerns are:

- Curve crossings;
- Excessive steepness of the passenger car curve;
- Risk of upsizing.

In this rule, NHTSA proposes a solution to the curve crossing issue, requests comment on various methods of reducing the steepness of the passenger car, and examines the potential for upsizing generally under the provisions of this proposed rule.

a. Curve Crossings

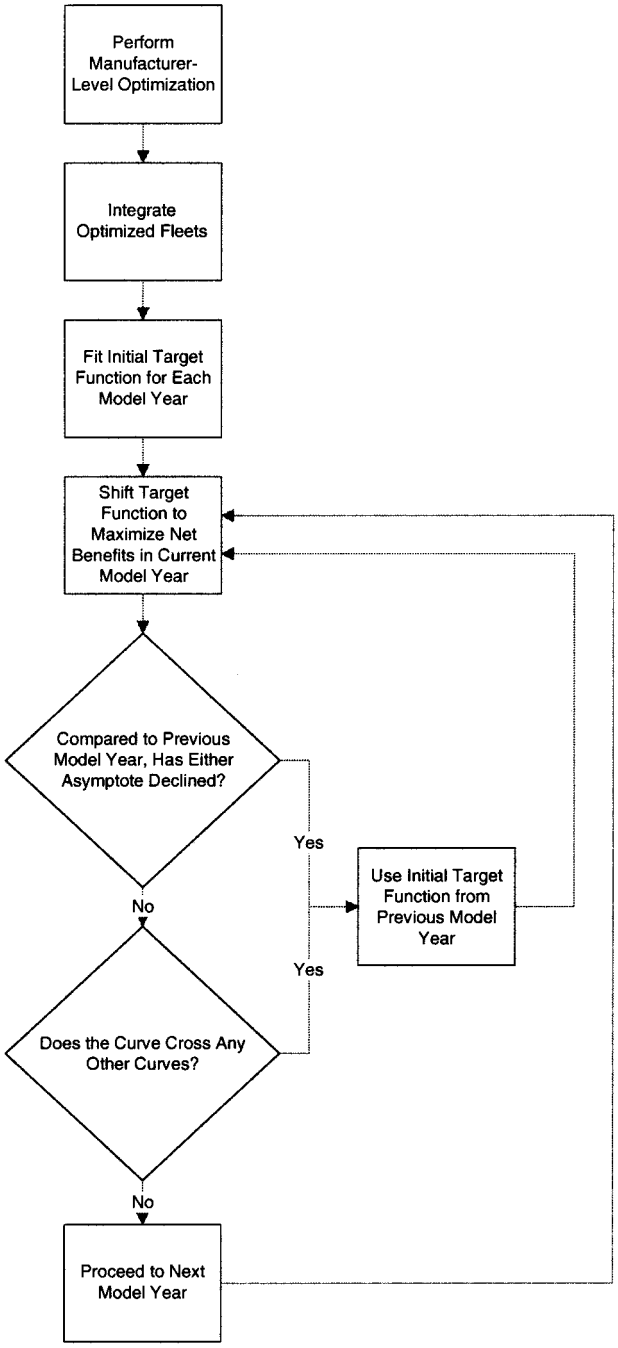
For both passenger cars and light trucks, NHTSA observed some curve crossings from one model year to the next (*i.e.*, for the same footprint, some targets fell below the levels attained in the previous model year), as revealed in the above charts. The upper limit of the MY 2012 passenger car curve falls slightly (about 0.1 mpg) below the MY 2011 value. For light trucks, the lower asymptote in MY 2012 is 0.9 mpg below the lower asymptote in MY 2011. This was not observed during the last round of light truck rulemaking because reformed CAFE was fully implemented only in MY 2011. During the transition period (MYs 2008–2010), the standards were set at levels equivalent in cost to unreformed CAFE. However, for this rulemaking, because the projected fleet composition changes between model years and the fuel economy target function is optimized in every model year, the initial continuous functions do not change monotonically (*i.e.*, in only one direction—increasing) from year to

year at every footprint value. Given the availability of lead time and the importance of improving fuel economy, NHTSA has decided that, in the setting of the standards, we should ensure that the fuel economy targets do not fall from one year to the next at any footprint value.

To address the year-to-year fluctuations in the functions, which may lead to these curve crossings, NHTSA recalibrated each continuous function to prevent it from crossing the continuous function from any previous model year. In doing so, the agency attempted to avoid continuous functions that would artificially encourage the product mix to approximate that of earlier years. Instead, the agency recalibrated by gradually shifting the initial continuous functions for each model year toward the initial continuous function determined above for the product mix for MY 2015. For both passenger cars and light trucks, the agency adjusted each of the four coefficients in the formula determining the continuous function such that regular steps were taken year by year between the values determined above for MY 2011 and those for MY 2015. For example, the inflection point (the coefficient determining the footprint at which the target falls halfway between its minimum and maximum values) defining the light truck target function was increased by 0.034 square feet annually from 51.9 square feet in MY 2011 to 52.1 square feet in MY 2015.

NHTSA also recalibrated the continuous function for each model year by adding, as needed, anti-backsliding constraints that prevent the function from either (a) yielding an industry wide average level of CAFE lower than that for the preceding model year, (b) for a given footprint, having targets that fall below the level of previous year, and (c) having an asymptote lower than that of the preceding model year. The ''decision tree'' for determining for each model year the need for each of these constraints is summarized below in Figure V 16.

Figure V-16. Anti-backsliding Decision Tree



The industry-wide average CAFE is prevented from decreasing between model years in order to prevent standards from falling below the level that was determined to be achievable for the model year before. To allow the industry-wide CAFE level to fall between successive model years would be to promulgate a standard that, notwithstanding maximizing net benefits, falls below what the agency has determined to be feasible in previous years. In a model year in which simple maximization of net benefits would have caused this to occur, NHTSA shifted the resultant curve upward (without changing the curve's shape) in order to produce an industry-wide CAFE equal to that of the preceding model year.

Application of the decision tree shown above results in the following target functions for passenger cars and light trucks, respectively. These target functions are identical to those shown below in Section VI, which discusses the standards proposed today by NHTSA:

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Figure V-17: Passenger Car Target Functions after Application of Anti-Backsliding Measures

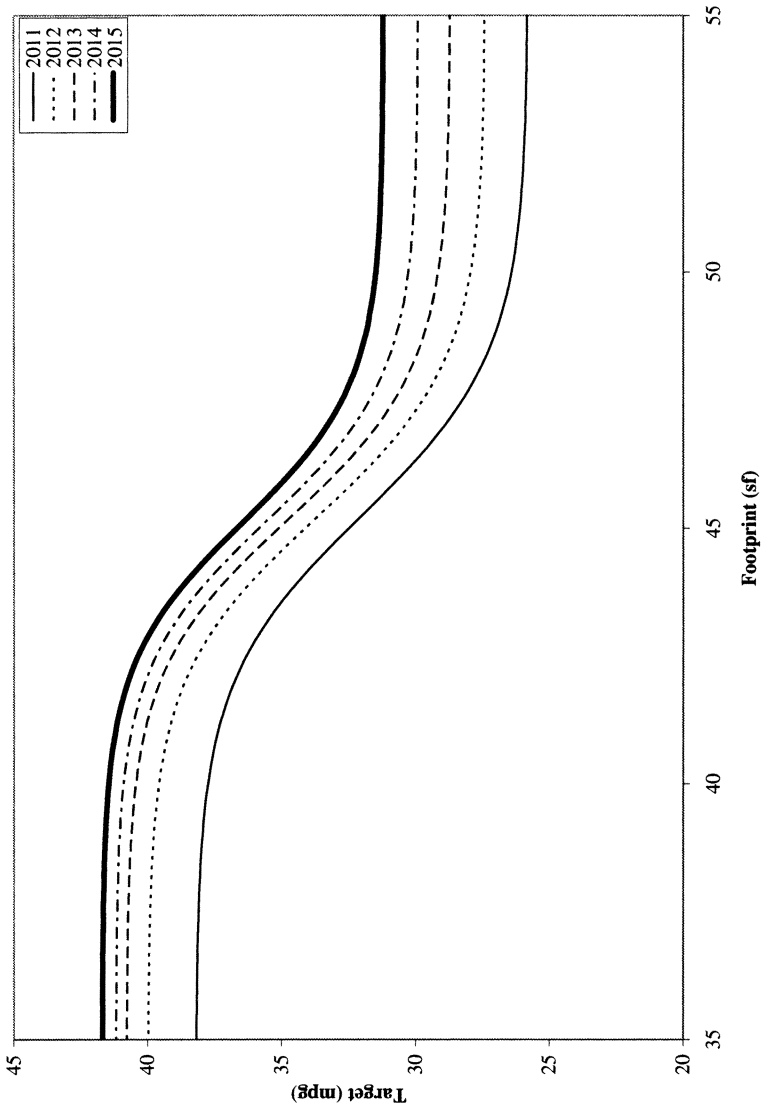
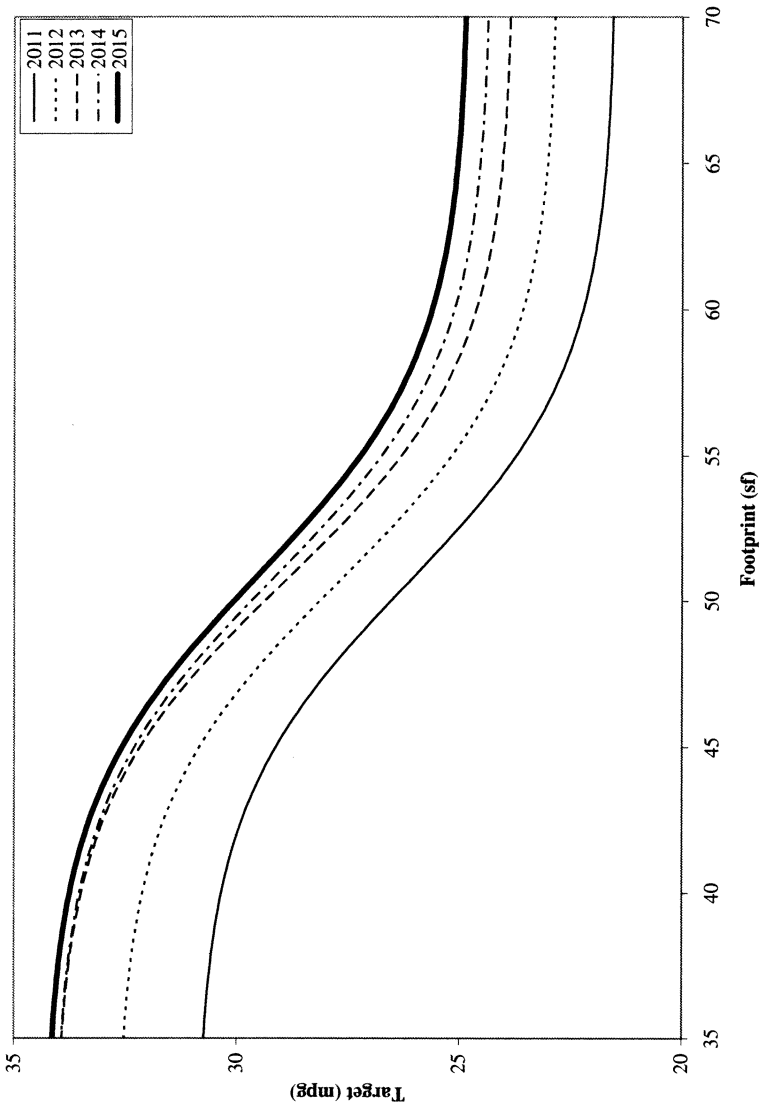


Figure V-18: Light Truck Target Functions after Application of Anti-Backsliding Measures



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b. Steep Curves for Pasenger Cars

NHTSA has developed a set of attribute-based curves for passenger cars for this proposal consistent with the methodology used in the 2008–2011 light duty truck rule. However, unlike the relatively gradually sloped curve related fuel economy to footprint for trucks, our analysis for cars when utilizing a constained logistic curve produces a comparatively steep ''S''-shaped curve for passenger cars. This occurs primarily because—unlike trucks—current passenger car sales include vehicles with a wide range of fuel economy spanning a relatively narrow footprint range. Consequently, there is a relatively steep curve applied to the middle range of footprint values with a more rapid change of slope in the tails to flatten curve and thus satisfy the constrained logistic functional form.

In this rule, NHTSA is proposing a relatively ''steep'' curve. The agency has considered and experimented with several methods of reducing the steepness of the passenger car curve. However, each of these approaches has created challenges that may potentially be worse than the problem they are trying to cure. The Agency is questioning whether the steep slope portion of the curve could potentially motivate vehicle manufacturers to reduce their compliance obligation under the standard by slightly increasing its footprint when they redesign their vehicles. We do not know the extent to which this is a real problem, but the agency has considered this possibility and has worked to minimize steepness of the slope while maintaining the scientific integrity behind our methodology.

However, any attempt to ''fix'' the steepness of the passenger car curve appears to come at a price: First, flattening the curve by any particular method will move the curve away from the actual vehicle data. Second, flatter curves are generally place greater compliance burdens on full-line manufacturers than comparatively stringent (in terms of average require CAFE) standards. Furthermore, NHTSA believes that this could increase the overall costs required to achieve a given amount of fuel savings and societal

benefits, and it increases the risk that NHTSA would need to return to a ''least capable manufacturer'' approach in order to ensure economic practicability. Doing so would likely reduce stringency, and reduce fuel savings. In deciding on a particular approach, NHTSA must balance the certainty of high costs and lost fuel savings through a less ''efficient'' standard against the risk that the steepness of the curve might stimulate manufacturers to evade the standard over time by redesigning their vehicles over time.

In proposing the steep curve for this rule, NHTSA has tentatively decided that the cures that we have identified come at too high a price, i.e., lost stringency or undesirable side effects. However, NHTSA requests comment on these and other potential solutions to reduce the steepness of the proposed car curves for passenger cars.

Some of the approaches considered or tested by NHTSA include:

Linear standards. When the fuel consumption of vehicles with added technologies is plotted against footprint, we note a roughly linear relationship over the existing range of footprint values. Hence, a simple alternative to the current constrained logistic function would be to estimate a linear form of the curve with the sales data. However, NHTSA is concerned that such an approach may result in very low fuel economy standards for the largest footprint vehicles, very high fuel economy standards for the smallest vehicles, and loss of the inherent backstop properties of the constrained logistic function.

In addition, the slope of a line estimated through a ''cloud'' of data may be very sensitive to the exact characteristics of vehicles with the largest and smallest footprints. It may turn out that small changes in vehicle characteristics in the tails could shift the slope of a linear estimate. Further, it may be impossible to materially adjust the slope of a linear standard in future years without accepting curve crossing. The following two charts compare linear regression results for MY2015 to the curves proposed today by NHTSA. The result for passenger cars illustrates the concern regarding behavior at large and small footprints. Over the range of footprints in which light trucks are expected to be offered in MY2015, the result for light trucks shows less difference from the proposed curve.

Figure V-19 Linear Fit to MY2015 Passenger Cars with Technologies

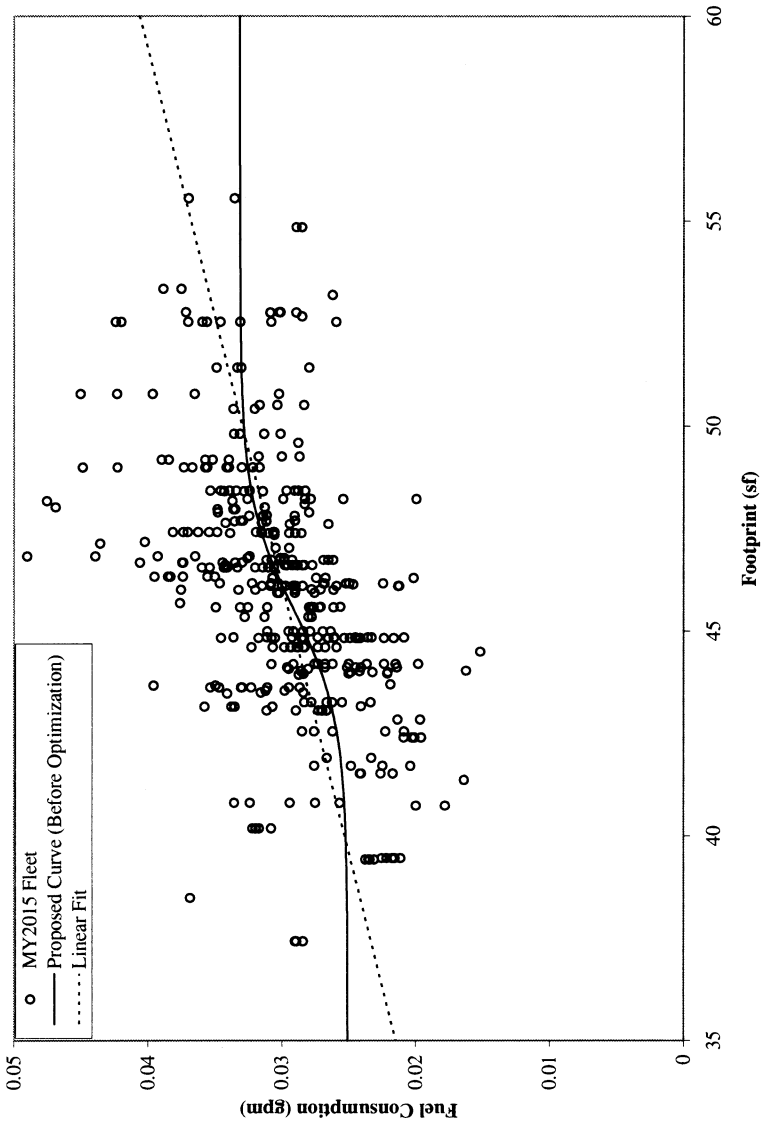
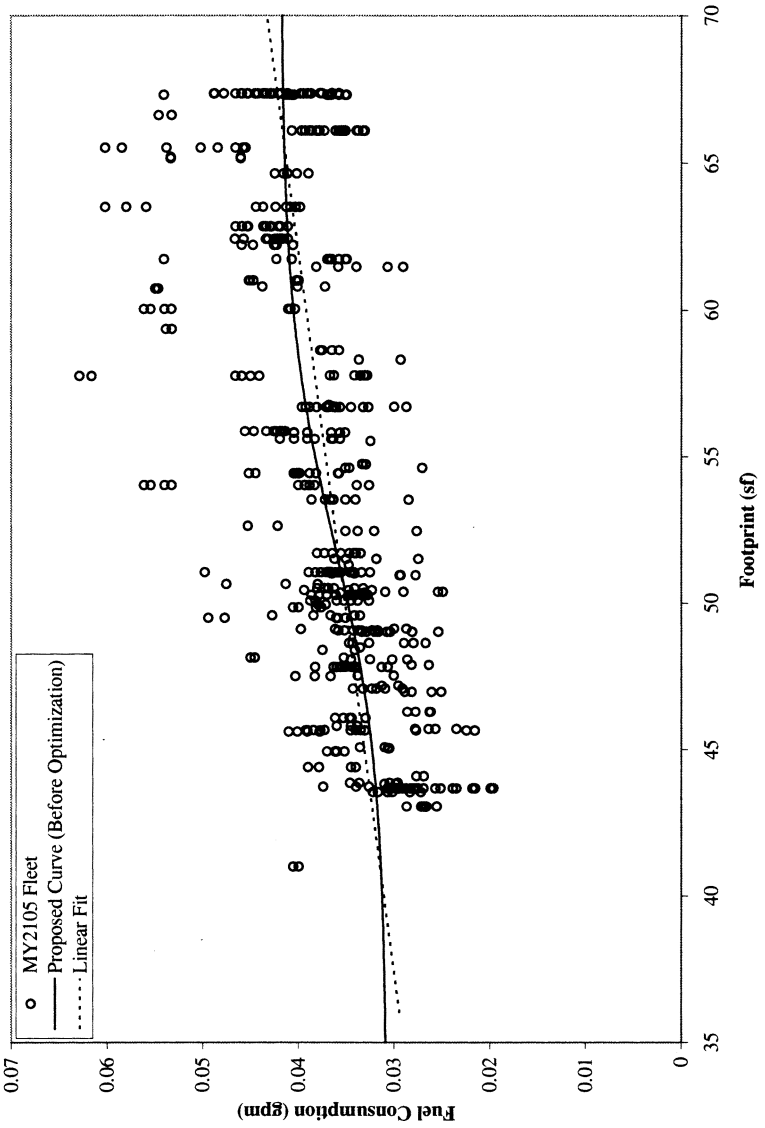


Figure V-20. Linear Fit to MY2015 Light Trucks with Technologies



Constrained linear standards. Another possible approach would be to retain the flattened tails proposed today but reduce the steepness of the middle portion by allowing it to directly reflect a linear relationship. This approach could be likened to a simplification or linearization of the constrained logistic function. The same minima and maxima would be used to bound the vertical extent of the linear form. The following two charts suggest that, at least for the MY2015 passenger car and light truck fleets considered today, a constrained linear standard would, compared to the standard proposed today, likely result in a similar distribution of compliance burdens among manufacturers (because the stringency at each footprint would be similar):

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Figure V-21. Constrained Linear Fit to MY2015 Passenger Cars with Technologies

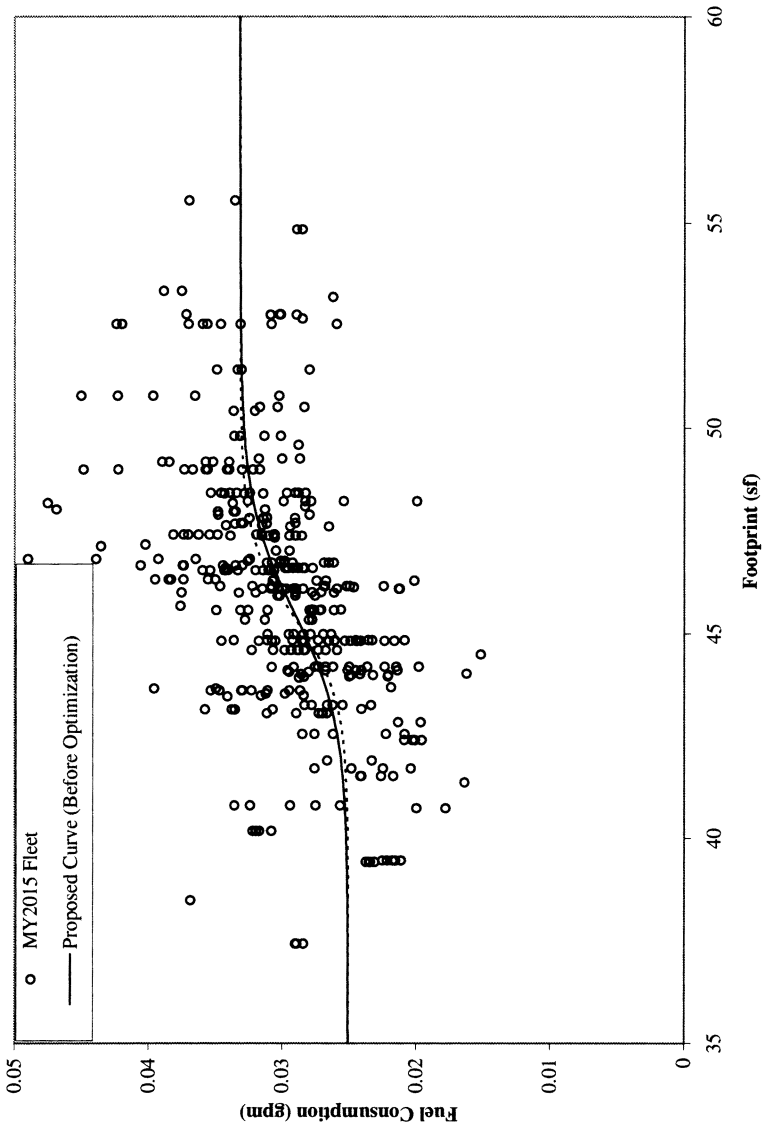
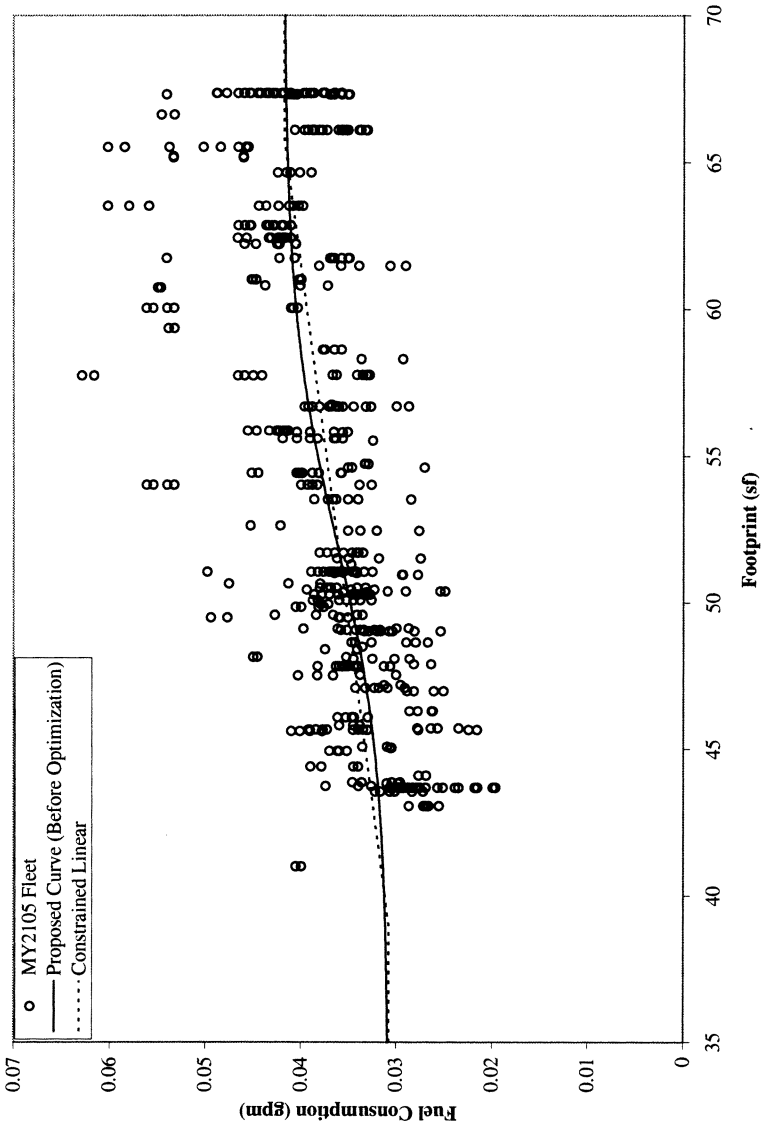


Figure V-22. Constrained Linear Fit to MY2015 Light Trucks with Technologies



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However, the agency remains concerned that the slope could exhibit greater year-to-year variation than the proposed logistic form (although further analysis would be required in order to address this concern). Also, as discussed in the preamble to the 2006 **Federal Register** notice regarding light truck CAFE standards, the agency remains concerned that the upper and lower ''kinks'' in the function could offer unexpected incentives for manufacturers to redesign vehicles with footprints close to the kink-point.

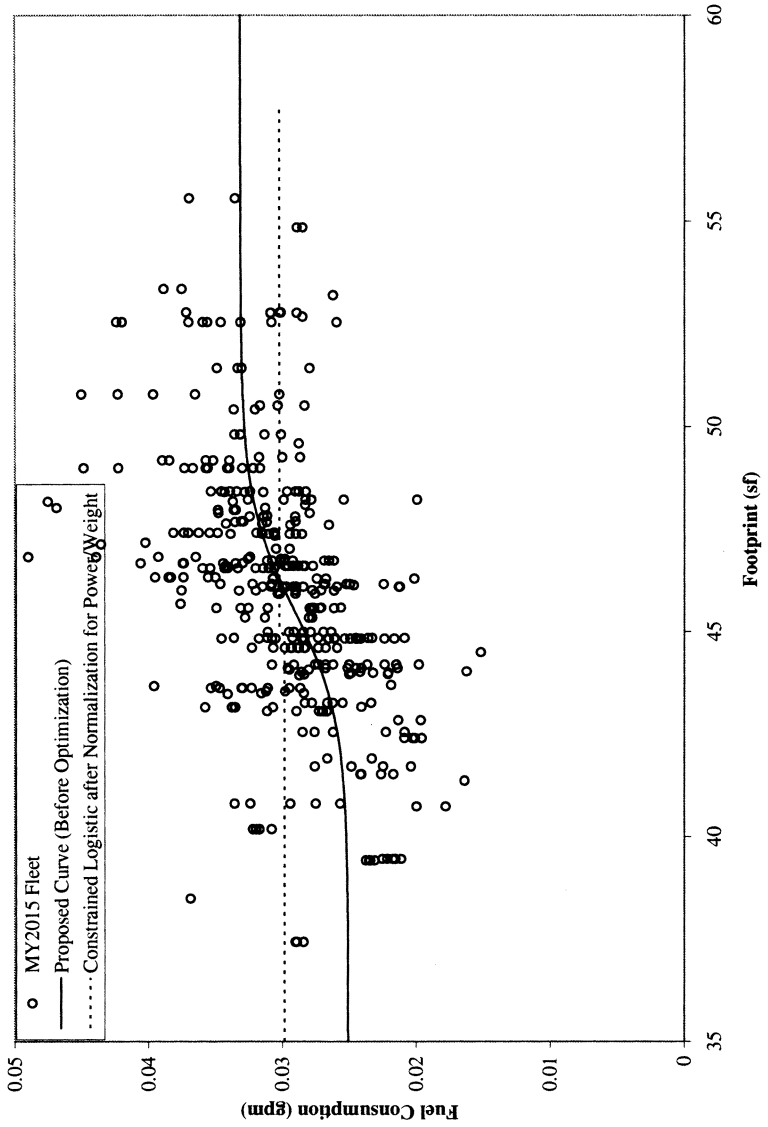
Dual Attribute Approaches. A third possible solution would be to use additional attribute-based information to spread out the distribution of passenger cars across the x-axis. In effect, this approach uses a second attribute to normalize the footprint-fuel economy relationship. This second attribute might be horsepower, weight, or horsepower-to-weight.

In analyzing the expected passenger car market, NHTSA observes that the ratio of engine horsepower to vehicle weight generally increases with increasing footprint. Higher power-to-weight ratios tend to imply lower fuel economy, as the engine is typically larger and operating less efficiently under driving conditions applicable to certification. Thus, the fuel consumption versus footprint curves for passenger cars reflect this relationship. For trucks, there does not appear to be a relationship between footprint and the power-to-weight ratio. For passenger cars, then, adjusting fuel consumption values to normalize for differences in power-to-weight ratio may produce a flatter curve providing less of an upsizing incentive for middle footprint values.

NHTSA has experimented with normalizing footprint by horsepower-to-weight ratio. The result was a nearly flat standard with respect to footprint across the most popular size ranges. This did not appear to deliver the benefits of an attribute-based system. In addition, it involves significant downward adjustments to the fuel economy of hybrid electric vehicles (such as the Toyota Prius), for which the engine is not the sole source of motive power. Also, it involves significant upward adjustments to the fuel economy of

vehicles with high power-to-weight ratios (such as the Chevrolet Corvette). Some of these upward and downward adjustments are large enough to suggest radical changes in the nature of the original vehicles. Furthermore, insofar as such normalization implies that NHTSA should adopt a two-attributed standard (*e.g.*, in which the target depends on footprint and power-to-weight ratio), it may be challenging and time consuming to come up with a sufficiently precise vehicle-by-vehicle definition of horsepower or horsepower-to-weight to be used for regulatory purposes.

Figure V-23 Constrained Logistic Curve after Normalization for Differences in Power-to-Weight Ratio (MY2015 Passenger Cars with Technologies)



Shape Based on Combined Fleet. A fourth possible solution would be to combine the passenger car and light truck fleet to determine the shape of the constrained logistic curve, and then determine the stringency (*i.e.*, height) of that curve separately for each fleet. On one hand, this approach would base the curve's shape on the widest available range of information. On the other, the resultant initial shape for each fleet would be based on vehicles from the other fleet. For example, the initial shape applied to passenger cars would be based, in part, on large SUVs and pickup trucks, and the initial shape applied to light trucks would be based, in part, on subcompact cars. Stringency would still be determined separately for passenger cars and light trucks. NHTSA invites comments on the consistency of this approach with the requirement in EPCA to establish separate standards for passenger cars and light trucks.

NHTSA performed a preliminary analysis of this approach. Considering the very wide range of fuel consumption levels in the combined fleet, NHTSA developed the asymptotes based on the average fuel consumption of all passenger cars and light trucks, respectively, rather than on the smallest passenger cars and the largest light trucks. The resultant MY2015 curve, shown below, is similar in curvature to the proposed curve for passenger cars

and notably steeper than the proposed curve for light trucks.

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Figure V-24. Constrained Logistic Curve Based on Combined Fleet (as Compared to MY2015 Passenger Cars with Technologies)

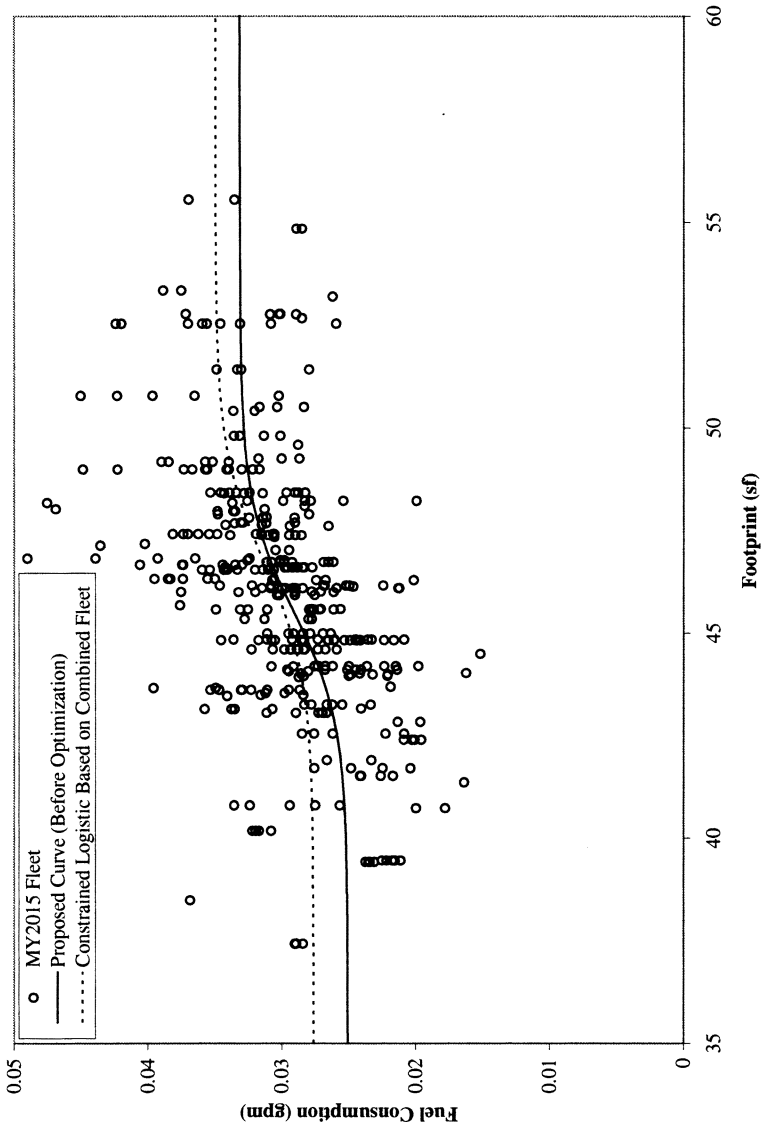
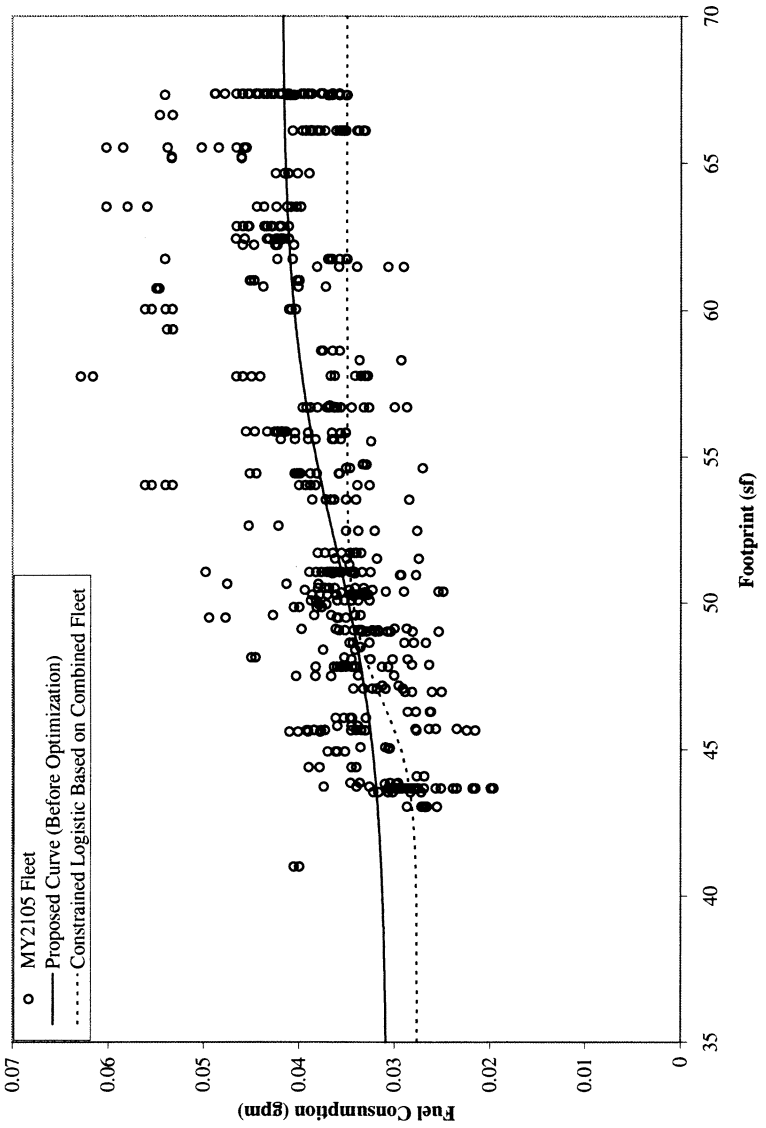


Figure V-25. Constrained Logistic Curve Based on Combined Fleet (as Compared to MY2015 Light Trucks with Technologies)



Ignoring Outliers. A fifth possible solution would be to ignore outliers (data points that are unique and skew the curve). Lacking an objective means of classifying specific vehicle models as outliers that should be excluded from the analysis, NHTSA explored the possibility of excluding all hybrid electric vehicles (HEVs). The Japanese government also excluded HEVs for purposes of developing Japan's light vehicle efficiency standards. However, doing so yields initial curves of shapes similar to those proposed, but displaced slightly in the direction of lower fuel consumption. The similarity of the shapes of these curves suggests that optimization against the full fleet (with HEVs) would produce standards whose stringency is similar to that of those proposed today.

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Figure V-26. Constrained Logistic Curve Based on MY2015 Passenger Car Fleet with Technologies and Excluding HEVs

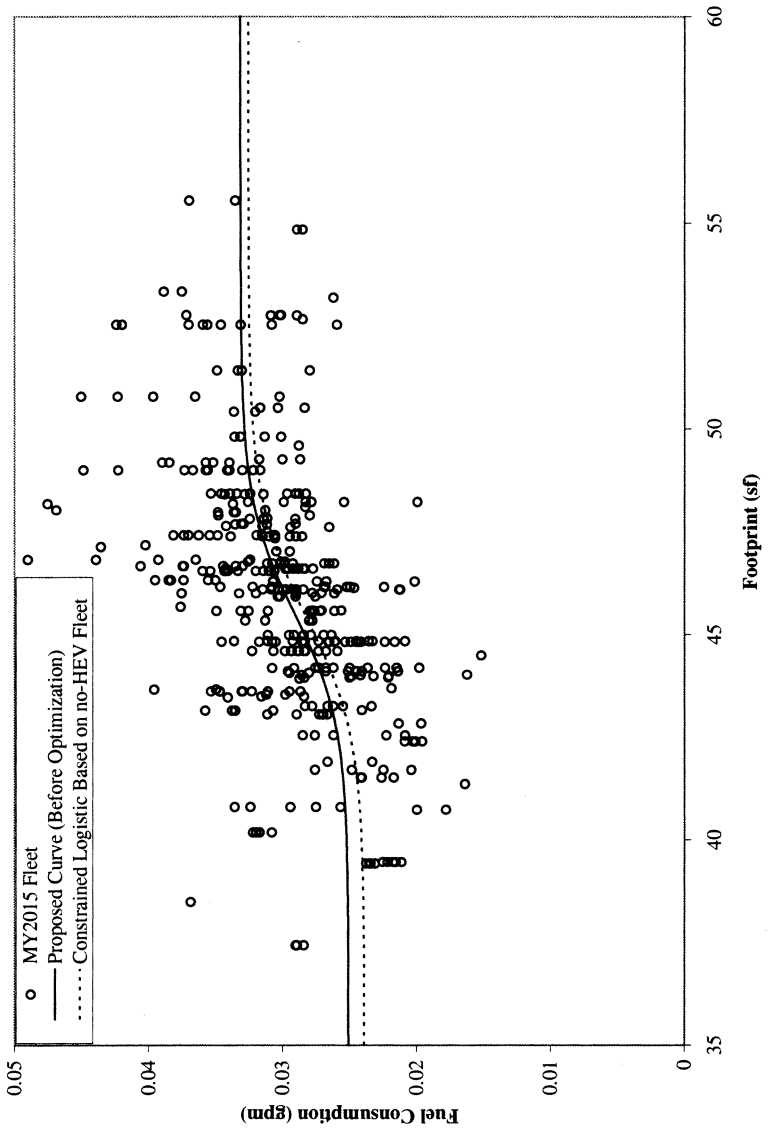
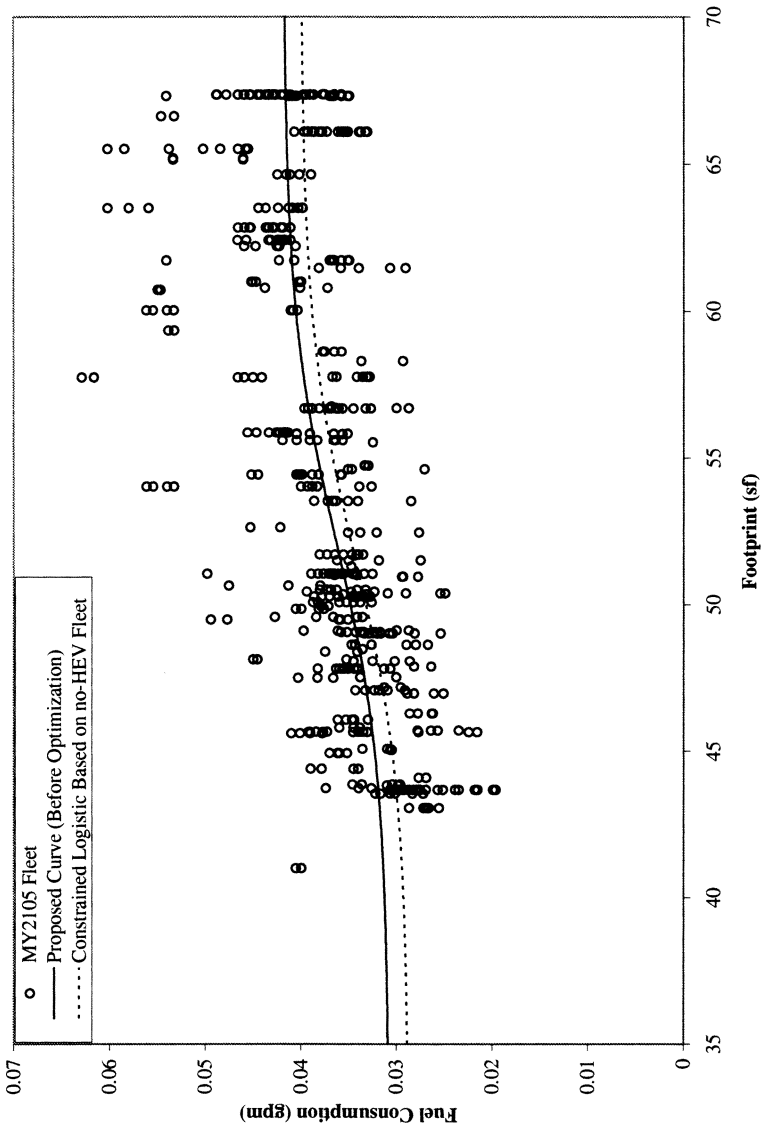


Figure V-27. Constrained Logistic Curve Based on MY2015 Light Truck Fleet with Technologies and Excluding HEVs



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NHTSA invites comments on the importance of addressing the relative steepness of the proposed curves for passenger cars, and on the feasibility of, technical basis for, and implications of any options for doing so. The agency plans to reevaluate standards for both passenger cars and light trucks before promulgating a final rule, and notes that changes in approach—including measures to address the steepness of the passenger car curves—could lead to changes in stringency as well as different impacts on different manufacturers.

c. Risk of Upsizing

The steepness of the proposed curve for passenger cars presents a localized risk that manufacturers will respond in ways that compromise expected fuel savings. That is, although the constrained logistic curve has a steep region, that region does not cover a wide range of footprints. However, any attribute-based system involves the broader risk that manufacturers will shift toward vehicles with the lowest fuel economy targets to the extent that upsizing can be accomplished sufficiently cheaply and without so much weight increase as to nullify the effect of a lower target. As mentioned above, the constrained logistic curve proposed by NHTSA provides an absolute floor. That is, even if manufacturers discontinue all but the very largest known passenger cars and light trucks, they would still be required to meet CAFE standards no lower than the lower asymptote (on an mpg basis) of the constrained logistic curve. Also, for domestic passenger cars, EISA establishes a floor or ''backstop'' equal to 92 percent of the average required CAFE level for passenger cars. This backstop is discussed below in Section VI.

It is difficult to assess the risk that manufacturers may shift the mix of vehicles enough to approach the EISA floor for domestic passenger cars, or to approach the lower asymptotes for light trucks or imported passenger cars. However, considering the footprint distribution of vehicles (as indicated by the various histograms and scatter plots shown above in this section) expected to be covered by the proposed rule,

NHTSA anticipates that manufacturers would not be able to approach these reductions in stringency without dramatically altering product mix. The agency doubts that manufacturers could do so unless consumer preferences for larger vehicles also shift dramatically.

NHTSA also notes that under attribute-based CAFE standards such as the agency is proposing today, shifts in consumer preferences could cause manufacturers' required CAFE levels and, therefore, achieved fuel savings (and perhaps costs) to increase. For example, if changes in fuel prices combine with demographic and/or other factors to cause market preferences to shift significantly toward vehicles with smaller footprints, manufacturers shifting (relative to current estimates) in that direction will face higher required CAFE levels than the agency has estimated.

VI. Proposed Fuel Economy Standards

A. Standards for Passenger Cars and Light Trucks

For both passenger cars and light trucks, the agency is proposing CAFE standards estimated, as for the previously-promulgated reformed MY 2008–2011 light truck standards, to maximize net benefits to society. However, as discussed in Section V, the agency considered and analyzed modified approaches to calibrating the continuous function and fitting the data in order to address characteristics of the data (vehicles with outlying fuel economy, footprint, and or sales), and to address the issues of backsliding, steepness of the curve, and curve crossings from one model year to the next. While the agency is proposing the curves below, we continue to be concerned about the steepness of the passenger car curve and about gaming potential and are seeking comments on different approaches to address the steepness, as discussed in Section V. The proposed curves below and their respective shapes are calibrated using unweighted mean absolute deviation (MAD) regression and determined through a gradual transformation of curves to guard against erratic fluctuations and through a series of anti-backsliding measures that prevents the average required CAFE level from falling between model years and prevents the continuous function for a given model from crossing or falling below that of the preceding model year. These refinements are discussed in greater detail in Section V of the notice.

1. Proposed Passenger Car Standards MY 2011–2015

We have tentatively determined that the proposed standards for MY 2011–2015 passenger cars would result in required fuel economy levels that are technologically feasible, economically practicable, and set by taking into account both the effect of other motor vehicle standards of the Government on fuel economy and the need of the United States to conserve energy. Values for the parameters defining the target functions defining these proposed standards for cars are as follows:

Parameter	Model year				
	2011	2012	2013	2014	2015
a	38.2	40.0	40.8	41.2	41.7
b	25.9	27.4	28.7	29.9	31.2
c	45.9	45.8	45.7	45.6	45.5
d	1.6	1.5	1.5	1.4	1.4

Where, per the adjusted continuous function formula above in Section V:

a = the maximum fuel economy target (in mpg)

b = the minimum fuel economy target (in mpg)

c = the footprint value (in square feet) at which the fuel economy target is midway between a and b

d = the parameter (in square feet) defining the rate at which the value of targets decline from the largest to smallest values

The resultant target functions have the following shapes:

Based on the product plan information provided by manufacturers in response to the February 2007 request for information and the incorporation of publicly available supplemental data and information, NHTSA has estimated the required average fuel economy levels under the proposed adjusted standards for MYs 2011–2015 as follows:

Figure VI-1. Passenger Car Curve Target Functions

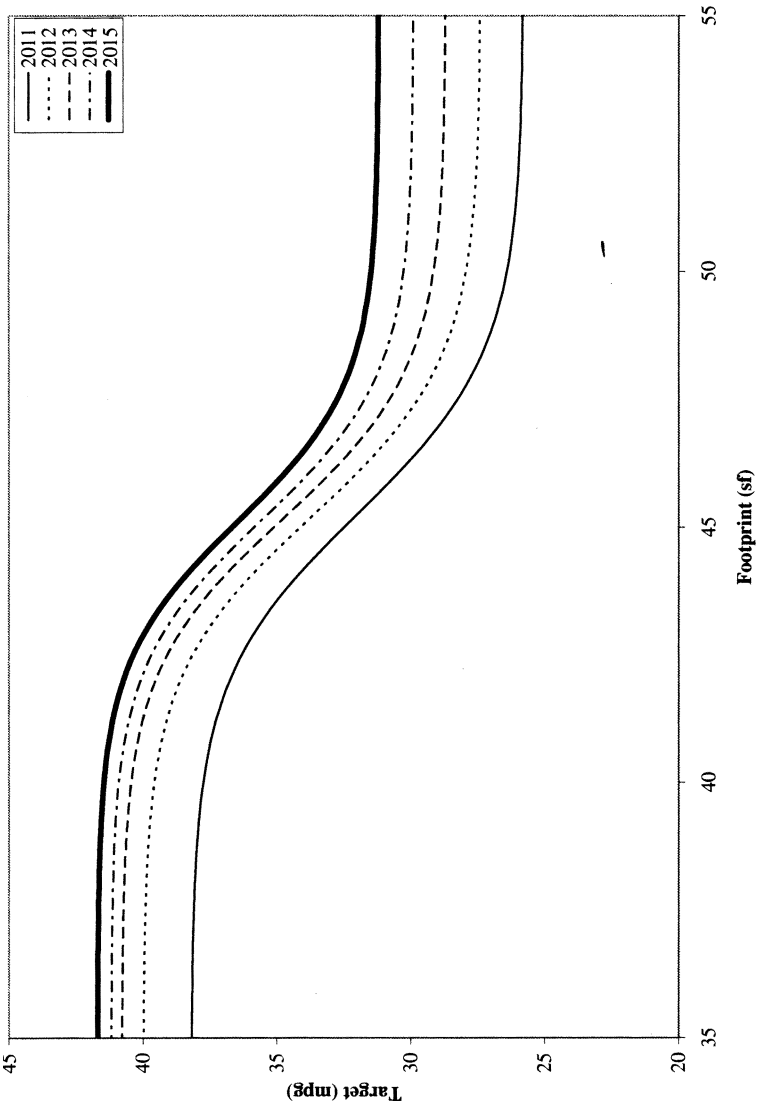


TABLE VI–1.—REQUIRED CAFE LEVELS (MPG) FOR PASSENGER CARS

Manufacturer	MY 2011	MY 2012	MY 2013	MY 2014	MY 2015
BMW	33.3	35.0	36.0	36.8	37.7
Chrysler	28.7	29.3	32.2	32.6	33.6
Ferrari	30.4	32.0	33.1	33.9	34.9
Ford	31.0	32.7	33.7	34.5	35.5
Fuji (Subaru)	36.9	38.7	39.6	40.1	40.8
General Motors	30.0	31.7	32.8	33.7	34.7
Honda	32.1	33.8	34.8	35.5	36.4
Hyundai	33.4	35.1	36.0	36.7	37.5
Lotus	38.1	40.0	40.8	41.2	41.7
Maserati	28.9	30.6	31.8	32.8	34.0
Mercedes	31.7	33.3	34.4	35.3	36.2
Mitsubishi	33.0	35.1	35.9	37.0	37.9
Nissan	31.2	33.2	34.2	35.0	35.9
Porsche	37.6	39.4	40.3	40.7	41.3
Suzuki	37.3	39.2	40.1	40.6	41.2
Toyota	30.1	31.5	32.7	33.6	34.6
Volkswagen	35.4	37.2	38.2	38.8	39.5
Total/Average	31.2	32.8	34.0	34.8	35.7

2. Proposed Standards for Light Trucks MY 2011–2015

NHTSA is proposing light truck fuel economy standards for MYs 2011 through 2015. In taking a fresh look at what truck standard should be established for MY 2011, as required by EISA, NHTSA used the newer set of assumptions that it had developed for the purpose of this rulemaking. These assumptions differ from those used by the agency in setting the MY 2008–2011 light truck standards in early 2006, and result in an increase in the projected overall average fuel economy for MY 2011. The agency used the most up-to-date EIA projections for available gasoline prices. These projections are, on average, at approximately $0.25 per gallon higher than the projections used in the last light truck rulemaking. Other differences in assumptions include more current product plan information (*i.e.*, spring 2007 product plans reflecting persistently higher fuel prices, instead of the fall 2005 plans used in the 2006 final rule), an updated technology list and updated costs estimates and penetration rates for technologies, and updated values for externalities such as energy security and placing a value of carbon dioxide emission reductions.

NHTSA is proposing ''optimized'' standards for MY 2011–2015 light trucks, the process for establishing which is described at length above, but which may be briefly described as maximizing net social benefits plus anti-backsliding measures. We have tentatively determined that the proposed light truck standards for MYs 2011–2015 represent the maximum feasible fuel economy level for that approach. In reaching this tentative conclusion, we have balanced the express statutory factors and other relevant considerations, such as safety and effects on employment, and we will also consider our NEPA analysis in the agency's final action.

The proposed standards are determined by a continuous function specifying fuel economy targets applicable at different vehicle footprint sizes, the equation for which is given above in Section V Values for the parameters defining the target functions defining these proposed standards for light trucks are as follows:

Parameter	Model year				
	2011	2012	2013	2014	2015
A	30.9	32.7	34.1	34.1	34.3
B	21.5	22.8	23.8	24.3	24.8
C	51.9	52.0	52.0	52.1	52.1
D	3.8	3.8	3.8	3.9	3.9

Where:

a = the maximum fuel economy target (in mpg)

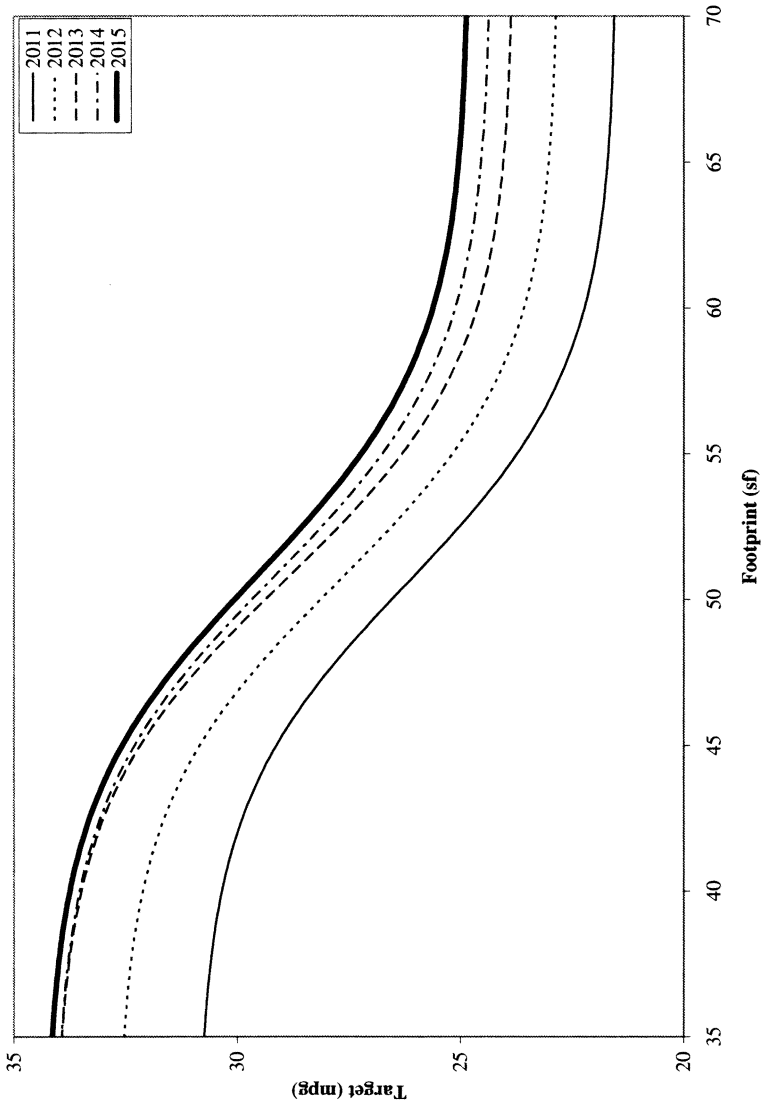
b = the minimum fuel economy target (in mpg)

c = the footprint value (in square feet) at which the fuel economy target is midway between *a* and *b*

d = the parameter (in square feet) defining the rate at which the value of targets decline from the largest to smallest values

The resultant target functions have the following shapes:

Figure VI-2 Light Truck Curve Target Functions



Based on the product plans provided by manufacturers in response to the February 2007 request for information and the incorporation of publicly available supplemental data and information, the agency has estimated the required average fuel economy levels under the proposed optimized standards for MYs 2011–2015 as follows:

TABLE VI–2.—REQUIRED CAFE LEVELS (MPG) FOR LIGHT TRUCKS

Manufacturer	MY 2011	MY 2012	MY 2013	MY 2014	MY 2015
BMW	28.2	29.9	31.2	31.4	31.7
Chrysler	25.2	26.6	28.0	28.5	29.1
Ford	24.7	26.1	28.0	28.3	28.8
Fuji (Subaru)	30.0	31.7	33.1	33.2	33.4
General Motors	23.9	25.4	26.5	27.0	27.4
Honda	26.1	27.7	28.9	29.2	29.6
Hyundai	27.5	29.1	30.4	30.6	31.0
Mercedes	28.4	30.1	31.4	31.6	31.9
Mitsubishi	29.4	30.8	32.2	32.3	32.6
Nissan	24.9	26.2	27.3	27.7	28.2
Porsche	25.9	27.4	28.7	29.0	29.4
Suzuki	30.3	32.1	33.5	33.5	33.7
Toyota	24.9	26.0	27.2	27.6	28.0
Volkswagen	26.2	27.8	29.0	29.3	29.7

TABLE VI–2.—REQUIRED CAFE LEVELS (MPG) FOR LIGHT TRUCKS—Continued

Manufacturer	MY 2011	MY 2012	MY 2013	MY 2014	MY 2015
Total/Average	25.0	26.4	27.8	28.2	28.6

We recognize that the manufacturer product plans that we used in developing the manufacturers' required fuel economy levels for both passenger cars and light trucks will be updated in some respects before the final rule is published. To that end, the agency is publishing a separate request for product plans at the same time as this NPRM to obtain whatever updates have been made already. Further, we note that a manufacturer's required fuel economy level for a model year under the adjusted standards would be based on its actual production numbers in that model year. Therefore, its official required fuel economy level would not be known until the end of that model year. However, because the targets for each vehicle footprint would be established in advance of the model year, a manufacturer should be able to estimate its required level accurately and develop a product plan that would comply with that level.

3. Energy and Environmental Backstop

EISA requires each manufacturer to meet a minimum fuel economy standard for domestically manufactured passenger cars in addition to meeting the standards set by NHTSA. The minimum standard ''shall be the greater of (A) 27.5 miles per gallon; or (B) 92 percent of the average fuel economy projected by the Secretary for the combined domestic and non-domestic passenger automobile fleets manufactured for sale in the United States by all manufacturers in the model year. * * *'' [162] The agency must publish the projected minimum standards in the **Federal Register** when the passenger car standards for the model year in question are promulgated.

NHTSA calculated 92 percent of the proposed projected passenger car standards as the minimum standard, which is presented below. The calculated minimum standards will be updated for the final rule to reflect any changes in the projected passenger car standards.

Model year	Minimum standard
2011	28.7
2012	30.2
2013	31.3
2014	32.0
2015	32.9

[162] 49 U.S.C. 32902(b)(4).

The agency would like to note that EISA requires the minimum domestic passenger car standard to be the *greater of* 27.5 mpg or the calculated 92 percent, the calculated minimum standard. In all five model years, the percentage-based value exceeded 27.5 mpg. We also note that the minimum standards apply only to *domestically manufactured* passenger cars, not to non-domestically manufactured passenger cars or to light trucks.

In *CBD,* the Ninth Circuit agreed with the agency that EPCA, as it was then written, did not explicitly require the adoption of a backstop, *i.e.*, a minimum CAFE standard that is fixed. A fixed minimum standard is one that does not change in response to changes in a manufacturer's vehicle mix.

The Court said, however, that the issue was not whether the adoption was expressly required, but whether it was arbitrary and capricious for the agency to decline to adopt a backstop. The Court said that Congress was silent in EPCA on this issue. The Court concluded that it was arbitrary and capricious for the agency to decline to adopt a backstop because it did not, in the view of the Court, address the statutory factors for determining the maximum feasible level of average fuel economy.

NHTSA believes that it considered and discussed the express statutory factors such as technological feasibility and economic practicability and related factors such as safety in deciding not to adopt a backstop. We do not believe that further discussion is warranted because Congress has spoken directly on this issue since the Ninth Circuit's decision.

The enactment of EISA resolved this issue. Congress expressly mandated that CAFE standards for automobiles be attribute-based. That is, they must be based on an attribute related to fuel economy, *e.g.,* footprint and they must adjust in response to changes in vehicle mix. Taken by itself, this mandate precludes the agency from adopting a fixed minimum standard. The only exception to that mandate is the provision in which Congress mandated a fixed and flat [163] minimum standard for one of the three compliance categories. It required one for domestic passenger cars, but not for either nondomestic passenger cars or light trucks.

Given the clarity of the requirement for attribute-based standards and the equally clear narrow exception to that requirement, the agency tentatively concludes that had Congress intended backstops to be established for either of the other two compliance categories, it would have required them. Congress did not, however, do so. Absent explicit statutory language that provides the agency authority to set flat standards, the agency believes that the setting of a supplementary minimum flat standard for the other two compliance categories would be contrary to the requirement to set an attribute-based standard under EISA.

Regardless, the agency notes that the curve of an attribute-based standard has features that limit backsliding. Some of these features, which are fully described in Section V.B of the notice, were added as the agency refined and modified the Volpe model for the purpose of this rulemaking. Others, such as the lower asymptote, which serves as a backstop, are inherent in the logistic function. We believe that these features help address the concern that has been expressed regarding the possibility of vehicle upsizing without compromising the benefits of reform. In addition, the agency notes that the 35 mpg requirement in and of itself serves as a backstop. The agency must set the standards high enough to ensure that the average fuel economy level of the combined car and light fleet is making steady progress toward and achieves the statutory requirement of at least 35 mpg by 2020. If the agency finds that this requirement might not be achieved, it will consider setting standards for model years 2016 through 2015 early enough and in any event high enough to ensure reaching the 35 mpg requirement.

4. Combined Fleet Performance

The combined industry wide average fuel economy (in miles per gallon, or mpg) levels for both cars and light

[163] A flat standard is one that requires each manufacturer to achieve the same numerical level of CAFE.

trucks, if each manufacturer just met its obligations under the proposed ''optimized'' standards for each model year, would be as follows:

MY 2011: 27.8 mpg
MY 2012: 29.2 mpg
MY 2013: 30.5 mpg
MY 2014: 31.0 mpg
MY 2015: 31.6 mpg

The annual average increase during this five year period is approximately 4.5 percent. Due to the uneven distribution of new model introductions during this period and to the fact that significant technological changes can be most readily made in conjunction with those introductions, the annual percentage increases are greater in the early years in this period. In order for the combined industry wide average fuel economy to reach at least 35 mpg by MY 2020, it would have to increase an average of 2.1 percent per year for MYs 2016 through 2020.

B. Estimated Technology Utilization Under Proposed Standards

NHTSA anticipates that manufacturers will significantly increase the use of fuel-saving technologies in response to the standards we are proposing for passenger cars. Although it is impossible to predict exactly how manufacturers will respond, the Volpe model provides estimates of technologies manufacturers could apply in order to comply with the proposed standards. The preliminary Regulatory Impact Analysis (PRIA) presents estimated increases in the industry-wide utilization of each technology included in agency's analysis. Tables VI–3 and VI–4 show rates at which the seven largest manufacturers' product plans indicated plans to use some selected technologies, as well as rates at which the Volpe model estimated that the same technologies might penetrate these manufacturers' passenger car fleet in response to the baseline and proposed standards.

The average penetration rate is the percentage of the entire fleet to which the technology is applied. For example, tables VI–3 and VI–4 show that these manufacturers could apply hybrid powertrains to 15 percent of the entire passenger car fleet in MY 2015, as opposed to the 5 percent shown in their product plans. However, not all manufacturers begin with the same technology penetration rates, and not all manufacturers are affected equally by the proposed standards. The next column shows the maximum penetration rate among the seven manufacturers with a significant market share (Chrysler, Ford, GM, Honda, Hyundai, Nissan, and Toyota). For example, the Volpe model estimated that one of these manufacturers would apply hybrid powertrains to 19 percent of its passenger car fleet to comply with the proposed MY 2015 standard.

As tables VI–3 and VI–4 demonstrate, the Volpe model estimated that manufacturers might need to apply significant numbers of advanced engines, advanced transmissions, and hybrid powertrains in order to comply with the proposed standards. (Most of the hybrids are integrated starter generators, although significant numbers of IMA and power-split hybrids also penetrate the fleet.) For example, the Volpe model estimated that one of the seven largest light truck manufacturers could be including diesel engines in 45 percent of its light trucks by MY2015 in response to the proposed standards.

TABLE VI.—3. ESTIMATED TECHNOLOGY PENETRATION RATES IN MY2015 FOR PASSENGER CARS

[In percent]

Technology	Average among seven largest manufacturers			Maximum among seven largest manufacturers		
	Product plan	Adjusted baseline	Under proposed standard	Product plan	Adjusted baseline	Under proposed standard
Passenger Cars						
Automatically Shifted Manual Transmission	10	10	39	59	59	86
Spark Ignited Direct Injection	22	22	30	76	76	82
Turbocharging & Engine Downsizing	5	5	17	11	11	51
Diesel Engine	0	0	2	0	0	5
Hybrid Electric Vehicles	5	5	15	14	14	19

TABLE VI.—4. ESTIMATED TECHNOLOGY PENETRATION RATES IN MY2015 FOR LIGHT TRUCKS

[In percent]

Technology	Maximum among seven largest manufacturers			Maximum among seven largest manufacturers		
	Product plan	Adjusted baseline	Under proposed standard	Product plan	Adjusted baseline	Under proposed tandard
Automatically Shifted Manual Transmission	10	14	55	41	41	72
Spark Ignited Direct Injection	23	24	40	46	46	73
Turbocharing & Engine Downsizing	9	11	31	32	32	44
Diesel Engine	3	6	10	7	29	45
Hybrid Electric Vehicles	2	6	25	5	13	32

The agency uses Volpe model analysis of technology application rates as a way of determining the economic practicability and technological feasibility of the proposed standards, but we note that manufacturers may always comply with the standards by applying different technologies in different orders and at different rates.

Insofar as our conclusion of what the maximum feasible standards would be is predicated on our analysis, however, the agency requests comment on the feasibility of these rates of increase in the penetration of these advanced technologies, and for other technologies discussed in the PRIA.

C. Benefits and Costs of Proposed Standards

1. Benefits

We estimate that the proposed standards for passenger cars would save approximately 19 billion gallons of fuel and prevent 178 billion metric tons of tailpipe CO_2 emissions over the lifetime of the passenger cars sold during those model years, compared to the fuel savings and emissions reductions that would occur if the standards remained at the adjusted baseline (i.e., the higher of manufacturer's plans and the manufacturer's required level of average fuel economy for MY 2010).[164]

We estimate that the value of the total benefits of the proposed passenger car standards would be approximately $31 billion [165] over the lifetime of the 5 model years combined. This estimate of societal benefits includes direct impacts from lower fuel consumption as well as externalities, and also reflects offsetting societal costs resulting from the rebound effect. Direct benefits to consumers, including fuel savings, account for 85 percent ($29.5 billion) of the roughly $35 billion in gross [166] consumer benefits resulting from increased passenger car CAFE. Petroleum market externalities account for roughly 10 percent ($3.6 billion). Environmental externalities, *i.e.*, reduction of air pollutants accounts for roughly 5 percent ($1.8 billion). Over half of this $1.8 billion figure is the result of greenhouse gas (primarily CO_2) reduction ($1.0 billion). Increased congestion, noise and accidents from increased driving will offset roughly $3.8 billion of the $35 billion in consumer benefits, leaving net consumer benefits of $31 billion.

The following table sets out the relative dollar value of the various benefits of this rulemaking on a per gallon saved basis:

TABLE VI–5.—ECONOMIC BENEFITS AND COSTS PER GALLON OF FUEL SAVED

[Undiscounted]

Category	Variable	Value (2006 $ per gallon)
Benefits	Savings in Fuel Production Cost	$1.99
	Reduction in Oil Import Externalities	.28
	Value of Additional Rebound-Effect Driving	.24
	Reduction in Criteria Pollutant Emissions	.16
	Value of Reduced Refueling Time	.12
	Reduction in CO_2 Emissions	[167] .02
	Gross Benefits	2.81
Costs	Externalities from Additional Rebound-Effect Driving	0.30
Net Benefits	Net Benefits	2.51

We estimate that the proposed standards for light trucks would save approximately 36 billion gallons of fuel and prevent 343 million metric tons of tailpipe CO_2 emissions over the lifetime of the light trucks sold during those model years, compared to the fuel savings and emissions reductions that would occur if the standards remained at the adjusted baseline.

We estimate that the value of the total benefits of the proposed light truck standards would be approximately $57 billion [168] over the lifetime of the 5 model years of light trucks combined. This estimate of societal benefits includes direct impacts from lower fuel consumption as well as externalities and also reflects offsetting societal costs resulting from the rebound effect. Direct benefits to consumers, including fuel savings, account for 84 percent ($52.7 billion) of the roughly $63 billion in gross consumer benefits resulting from increased light truck CAFE. Petroleum market externalities account for roughly 10 percent ($6.5 billion). Environmental externalities, i.e., reduction of air pollutants accounts for roughly 6 percent ($3.5 billion). Over half of this figure is the result of greenhouse gas (primarily CO_2) reduction ($1.9 billion). Increased congestion, noise and accidents from increased driving will offset roughly $5.4 billion of the $63 billion in consumer benefits, leaving net consumer benefits of $57 billion.

2. Costs

The total costs for manufacturers just complying with the standards for MY 2011–2015 passenger cars would be approximately $16 billion, compared to the costs they would incur if the standards remained at the adjusted baseline. The resulting vehicle price increases to buyers of MY 2015 passenger cars would be recovered or paid back [169] in additional fuel savings in an average of 56 months, assuming fuel prices ranging from $2.26 per gallon in 2016 to $2.51 per gallon in 2030.[170]

The total costs for manufacturers just complying with the standards for MY 2011–2015 light trucks would be approximately $31 billion, compared to the costs they would incur if the standards remained at the adjusted

[164] See supra text accompanying note 103.

[165] The $31 billion estimate is based on a 7% discount rate for valuing future impacts. NHTSA estimated benefits using both 7% and 3% discount rates. Under a 3% rate, total consumer benefits for passenger car CAFE improvements total $36 billion.

[166] Gross consumer benefits are benefits measured prior to accounting for the negative impacts of the rebound effect. They include fuel savings, consumer surplus from additional driving, reduced refueling time, reduced criteria pollutants, and reduced greenhouse gas production. Negative impacts from the rebound effect include added congestion, noise, and crash costs due to additional driving.

[167] Based on a value of $7.00 per ton of carbon dioxide.

[168] The $57 billion estimate is based on a 7% discount rate for valuing future impacts. NHTSA estimated benefits using both 7% and 3% discount rates. Under a 3% rate, total consumer benefits for light truck CAFE improvements are $72 billion.

[169] See Section V.A.7 below for discussion of payback period.

[170] The fuel prices (shown here in 2006 dollars) used to calculate the length of the payback period are those projected (Annual Energy Outlook 2008, revised early release) by the Energy Information Administration over the life of the MY 2011–2015 light trucks, not current fuel prices.

baseline. The resulting vehicle price increases to buyers of MY 2015 light trucks would be paid back in additional fuel savings in an average of 50 months, assuming fuel prices ranging from $2.26 to $2.51 per gallon.

Comparison of Estimated Benefits to Estimated Costs

The table below compares the incremental benefits and costs for the car and light truck CAFE standards, in millions of dollars.

TABLE VI–6.—PASSENGER CARS

	Model year					Total
	2011	2012	2013	2014	2015	2011–2015
Benefits	2,596	4,933	6,148	7,889	9,420	30,986
Costs	1,884	2,373	2,879	3,798	4,862	15,796
Net Benefits	712	2,560	3,269	4,091	4,558	15,190

TABLE VI–7.—LIGHT TRUCKS

	Model Year					Total
	2011	2012	2013	2014	2015	2011–2015
Benefits	3,909	8,779	13,560	14,915	16,192	57,355
Costs	1,649	4,986	7,394	8,160	8,761	30,949
Net Benefits	2,260	3,793	6,166	6,755	7,431	26,406

The average annual per vehicle cost increases are shown in the PRIA.

D. Flexibility Mechanisms

The agency's benefit and cost estimates do not reflect the availability and use of flexibility mechanisms, such as compliance credits and credit trading because EPCA prohibits NHTSA from considering the effects of those mechanisms in setting CAFE standards. EPCA has precluded consideration of the FFV adjustments ever since it was amended to provide for those adjustments. The prohibition against considering compliance credits was added by EISA.

The benefit and compliance cost estimates used by the agency in determining the maximum feasible level of the CAFE standards assume that manufacturers will rely solely on the installation of fuel economy technology to achieve compliance with the proposed standards. In reality, however, manufacturers are likely to rely to some extent on three flexibility mechanisms provided by EPCA and will thereby reduce the cost of complying with the proposed standards. First, some manufacturers will rely on a combination of technology and compliance credits that they earn (including credits transferred from one compliance category to another) as their compliance strategy. Second, they may also supplement their technological efforts by relying on the special fuel economy adjustment procedures provided by EPCA as an incentive for manufacturers to produce flexible fuel vehicles (FFV). Third, the agency is instituting a credit trading program that, if taken advantage of, would further provide flexibility.

The agency believes that manufacturers are likely to take advantage of these flexibility mechanisms, thereby reducing benefits and costs meaningfully, but does not have any reliable basis for predicting which manufacturers might use compliance credits, how they might use them or the extent to which they might do so.

With respect to earned credits through over-compliance NHTSA notes that while the manufacturers have relatively few light truck credits, several manufacturers already have a substantial amount of banked passenger car credits earned under the long term 27.5 mpg flat or nonattributed-based standard for those automobiles. Further, they will earn significant additional passenger car credits through MY 2010, the last year before the passenger car standards are increased and the first year in which those standards will be attribute-based. These pre-MY 2011 passenger car credits can be carried forward into the MY 2011–2015 period.

While manufacturers might use credits to a significant extent, thereby reducing benefits and costs to a meaningful level, the agency believes it important to note that the potential effect of these flexibility mechanisms is largely limited to MY 2011–2015. The earning of credits will become more difficult in MY 2011. MY 2011 is the first year in which all manufacturers will be required to comply with attribute-based CAFE standards for passenger cars and light trucks. The earning of compliance credits will be more challenging under attribute-based standards since each manufacturer's legal obligation to improve CAFE will be based, in part, on that manufacturer's own product mix. Further, the standards will significantly increase every year. On the other hand, credits earned in MY 2011 or thereafter can be transferred across fleets to a limited extent, adding additional flexibility to the system.

With respect to overcompliance through production of FFV vehicles, EISA also extended the FFV adjustment through 2019. Manufacturers can build enough FFV vehicles to raise the CAFE of their fleets. FFVs are assigned high fuel economy values using a formula specified in the Alternative Motor Fuels Act (AMFA). For example, a Ford Taurus has a fuel economy of 26.39 mpg—if it is converted to a FFV, its fuel economy increases to 44.88 mpg. Converting a vehicle into an FFV is more cost-effective than converting it, for example, into a diesel, which is more costly and achieves lower fuel economy. However, the maximum extent to which the adjustments can be used to raise the CAFE of a manufacturer's fleet is 1.2 mpg in MY 2011–2014. In MY 2015, the cap begins to decline. The cap continues to decline each year thereafter by 0.2 mpg until it reaches 0 mpg in MY 2020 and beyond.

Given that there will be considerably less opportunity to use credits in lieu of installing fuel saving technologies after MY 2015, the manufacturers may elect to apply technology early in the MY 2011–2020 period when redesign

opportunities arise rather than relying on credits or FFV adjustments, but then face being limited compliance options in later years. The declining influence of the flexibility mechanisms during this period guarantees that the standards for that year will be met almost entirely through the use of technology, thus helping to ensure the 35.0 mpg goal of EISA will be achieved.

Finally, with respect to cost reduction through reliance on credit trading, credits earned in MY 2011 or thereafter can be traded. There is a study in which the Congressional Budget Office estimated that credit trading would cut the costs of achieving a combined 27.5 mpg standard by 16 percent.[171] This study assumed that manufacturer compliance costs varied widely and that manufacturers were willing to engage in trading. While some manufacturers have expressed reluctance to trade with competitors, we believe that the credit trading program has the potential to reduce compliance costs meaningfully without any impact on overall fuel savings.

E. Consistency of Proposed Passenger Car and Light Truck Standards With EPCA Statutory Factors

As explained above, EPCA requires the agency to set fuel economy standards for each model year and for each fleet separately at the maximum feasible level for that model year and fleet. In determining the ''maximum feasible'' level of average fuel economy, the agency considers the four statutory factors: Technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy, along with additional relevant factors such as safety. In determining how to weigh these considerations, we are mindful of EPCA's overarching purpose of energy conservation. NHTSA's NEPA analysis for this rulemaking (see Section XIII.B of this document) also will inform the agency's final action.

The section above proposes footprint-based CAFE standards for MY 2011–2015 passenger cars and light truck. The agency has considered this set of standards in light of both the relevant factors and EPCA's overarching purpose of energy conservation, and seeks comment on whether the public agrees that the agency's analysis is sound or should have considered the factors differently or considered additional factors.

We have tentatively determined that the proposed passenger car and light truck standards are at the maximum feasible level for passenger car and light truck manufacturers for MY 2011–2015. As discussed above, the standards are basically determined by following the same procedure as for setting the optimized light truck standards for 2008–2011.

1. Technological Feasibility

We tentatively conclude that the proposed standards are technologically feasible. Whether a technology may be feasibly applied in a given model year is not simply a function of whether the technology will exist in that model year, but also whether the data sources reviewed by the agency indicate that the technology is mature enough to be applied in that year, whether it will conflict with other technologies being applied, and so on. The Volpe model maximizes net benefits by applying fuel-saving technologies to vehicle models in a cost-effective manner, which generally prevents it from applying technologies to vehicles before manufacturers would be ready to do so. Thus, we tentatively conclude that standards that maximize net benefits based on Volpe model analysis are technologically feasible.

We described above how we tentatively conclude that the additional measures used to set the optimized standards do not take the standards out of the realm of technological feasibility, because if targets are feasible in one year, they will continue to be feasible.

2. Economic Practicability

NHTSA has historically assessed whether a potential CAFE standard is economically practicable in terms of whether the standard is one ''within the financial capability of the industry, but not so stringent as to threaten substantial economic hardship for the industry.'' *See, e.g., Public Citizen* v. *NHTSA,* 848 F.2d 256, 264 (DC Cir. 1988). We tentatively conclude that the proposed standards are economically feasible. Making appropriate assumptions about key factors such as leadtime and using them in the Volpe model provides a benchmark for assessing the economic practicability of a proposed standard, because it avoids applying technologies at an infeasible rate and avoids application of technologies whose benefits are insufficient to justify their costs when the agency determines a manufacturer's capability. In other words, this approach ensures that each identified private technology investment projected by the model produces marginal benefits at least equal to marginal cost. The Volpe model also takes into account other factors closely associated with economic practicability, such as lead time and phase-in rates for technologies that it applies. By limiting the consideration of technologies to those that will be available and limiting their rate of application using these assumptions, the cost-benefit analysis assumes that manufactures will make improvements that are cost-justified.

In addition to carefully making these assumptions and using cost-benefit analysis, the agency also performs sales and employment impacts analysis on individual manufacturers. The sales analysis looks at a purchasing decision from the eyes of a knowledgeable and rational consumer, comparing the estimated cost increases versus the payback in fuel savings over 5 years (the average new vehicle loan) for each manufacturer. This relationship depends on the cost-effectiveness of technologies available to each manufacturer. Overall, based on a 7 percent discount rate for future fuel savings, we expect there would be no significant sales or job losses for these proposed standards. Therefore, we tentatively conclude that the proposed standards are economically practicable.

3. Effect of Other Motor Vehicle Standards of the Government on Fuel Economy

We tentatively conclude that the proposed standards for passenger cars and light trucks account for the effect of other motor vehicle standards of the Government on fuel economy. This statutory factor constitutes an express recognition that fuel economy standards should not be set without due consideration given to the effects of efforts to address other regulatory concerns, such as motor vehicle safety and pollutant emissions. The primary influence of many of these regulations is the addition of weight to the vehicle, with the commensurate reduction in fuel economy. Manufacturers incorporate this information in their product plans, which are accounted for as part of the Volpe model analysis used to set the standards. Because the addition of weight to the vehicle is only relevant if it occurs within the timeframe of the regulations (*i.e.*, MY 2011–2015), we consider the Federal Motor Vehicle Safety Standards set by NHTSA and the Federal Motor Vehicle Emissions Standards set by EPA which become effective during the timeframe.

[171] ''The Economic Costs of Fuel Economy Standards Versus a Gasoline Tax'', Report from the Congressional Budget Office, December, 2003.

Federal Motor Vehicle Safety Standards

NHTSA has completed a preliminary evaluation of the impact of the Federal motor vehicle safety standards (FMVSSs) using MY 2010 vehicles as a baseline for passenger cars. We have issued or proposed to issue a number of FMVSSs that become effective between the baselines and MY 2015. These have been analyzed for their potential impact on vehicle weights for vehicles manufactured in these years: The fuel economy impact, if any, of these new requirements will take the form of increased vehicle weight resulting from the design changes needed to meet the new FMVSSs.

The average test weight (curb weight plus 300 pounds) of the passenger car fleet is currently 3,570 lbs. During the time period addressed by this rulemaking, the average test weight is the passenger car fleet is projected to be between 3,608 and 3,635 lbs. The average test weight of Chrysler's passenger car fleet is currently 3,928 lbs. The average test weight of Chrysler's passenger car fleet is projected to be between 3,844 and 3,993 lbs in the future. For Ford, the average test weight of the passenger car fleet is currently 3,660 lbs, and is projected to be between 3,649 and 3,677 lbs. For GM, the average test weight of the passenger car fleet is currently 3,649 lbs, and is projected to be between 3,768 and 3,855 lbs. For Toyota, the average test weight of the passenger car fleet is currently 3,330 lbs, and is projected to be between 3,416 and 3,451 lbs.

The average test weight (curb weight plus 300 pounds) of the light truck fleet is 4,727 pounds, and during the time period addressed by this rulemaking, the average test weight of the light truck fleet is projected to be between 4,824 and 4,924 lbs. The average test weight of Chrysler's light truck fleet is currently 4,673 lbs, while during the time period addressed by this rulemaking, the average test weight of Chrysler's light truck fleet is projected to be between 4,830 and 4,906 lbs. For Ford, the light truck fleet's average test weight is currently 4,887 lbs, while during the time period addressed by this rulemaking, the average test weight is projected to be between 4,619 and 4,941 lbs. For GM, the light truck fleet's average test weight is currently 5,024 lbs, while during the time period addressed by this rulemaking, the average test weight is projected to be between 5,324 and 5,415 lbs. For Toyota, the light truck fleet's average test weight is currently 4,567 lbs, while during the time period addressed by this rulemaking, the average test weight is projected to be between 4,535 and 4,583 lbs.

Thus, overall, the four largest manufacturers of light-duty vehicles expect the average weight of their vehicles to remain mostly unchanged, with slight weight increases projected during the time period addressed by this rulemaking. The changes in weight include all factors, such as changes in the fleet mix of vehicles, required safety improvements, voluntary safety improvements, and other changes for marketing purposes. These changes in weight over the model years in question would have a negligible impact on fuel economy of their vehicles.

Weight Impacts of Required Safety Standards (Final Rules)

NHTSA has issued two final rules on safety standards that become effective for passenger cars and light trucks between MY 2011 and MY 2015. These have been analyzed for their potential impact on passenger car and light truck weights, using MY 2010 as a baseline.

1. FMVSS No. 126, Electronic Stability Control
2. FMVSS No. 214, Side Impact Oblique Pole Test

FMVSS No. 126, Electronic Stability Control:

The phase-in schedule for vehicle manufacturers is:

Model year	Production beginning date	Requirement
2009	September 1, 2008	55% with carryover credit.
2010	September 1, 2009	75% with carryover credit.
2011	September 1, 2010	95% with carryover credit.
2012	September 1, 2011	All light vehicles.

The final rule requires 75 percent of all light vehicles to meet the ESC requirement for MY 2010, 95 percent of all light vehicles to meet the ESC requirements by MY 2011, and all light vehicles to meet the requirements by MY 2012. Thus, in MY 2010, manufacturers must add ESC to 20 percent of vehicles; in MY 2011, to an additional 20 percent of vehicles; and in MY 2012, to another 5 percent of vehicles.

The agency's analysis of weight impacts found that ABS adds 10.7 lbs. and ESC adds 1.8 lbs. per vehicle for a total of 12.5 lbs. Based on manufacturers' plans for voluntary installation of ESC, 85 percent of passenger cars in MY 2010 would have ABS and 52 percent would have ESC. Thus, the total added weight in MY 2011 for passenger cars would be about 2.5 lbs. ($0.15 \times 10.7 + 0.48 \times 1.8$), and in MY 2012 would be about 0.6 lbs. For light trucks, manufacturers' plans indicate that 99 percent of all light trucks would have ABS by MY 2011 and that 52 percent would have ESC by that time. Thus for light trucks, the incremental weight impacts of adding ESC would be slightly less than 1 pound ($0.01 \times 10.7 + 0.48 \times 1.8$).

FMVSS No. 214, Side Impact Protection

NHTSA recently issued a final rule to incorporate a dynamic pole test into FMVSS No. 214, ''Side Impact Protection.'' [172] The rule will lead to the installation of new technologies, such as side curtain air bags and torso side air bags, which are capable of improving head and thorax protection to occupants of vehicles and that crash into poles and trees and vehicles that are laterally struck by a higher vehicle. The phase-in requirements for the side impact test are as shown below: [173]

Phase-in date	Percent of each manufacturer's light vehicles that must comply during the production period
September 1, 2009 to August 31, 2010	20 percent (excluding vehicles GVWR > 8,500 lbs.).
September 1, 2010 to August 31, 2011	50 percent of vehicles (excluding vehicles GVWR > 8,500 lbs.).
September 1, 2011 to August 31, 2012	75 percent of vehicles (excluding vehicles GVWR > 8,500 lbs.).

[172] 72 FR 51907 (Sept. 11, 2007).

[173] *Id.* 51971–72.

Phase-in date	Percent of each manufacturer's light vehicles that must comply during the production period
September 1, 2012 to August 31, 2013	All vehicles including limited line vehicles, except vehicles with GVWR > 8,500 lbs., alterers, and multi-stage manufacturers.
On or after September 1, 2013	All vehicles, including vehicles with GVWR > 8,500 lbs., alterers and multi-stage manufacturers.

Based on manufacturers' plans to provide window curtains and torso bags voluntarily, we estimate that 90 percent of passenger cars and light trucks would have window curtains and 72 percent would have torso bags for MY 2010. A very similar percentage is estimated for MY 2011. A teardown study of 5 thorax air bags resulted in an average weight increase per vehicle of 4.77 pounds (2.17 kg).[174] A second study performed teardowns of 5 window curtain systems.[175] One of the window curtain systems was very heavy (23.45 pounds). The other four window curtain systems had an average weight increase per vehicle of 6.78 pounds (3.08 kg), a figure which is assumed to be average for all vehicles in the future.

Assuming in the future that the typical system used to comply with the requirements of FMVSS No. 214 will be thorax bags with a window curtain, the average weight increase would be 2 pounds ($0.10 \times 6.78 + 0.28 \times 4.77$). However, there is the potential that some light trucks might need to add structure to meet the test. The agency has no estimate of this potential weight impact for structure.

Weight Impacts of Proposed/Planned Standards

Proposed FMVSS No. 216, Roof Crush

On August 23, 2005, NHTSA proposed amending the roof crush standard to increase the roof crush standard from 1.5 times the vehicle weight to 2.5 times the vehicle weight.[176] The NPRM proposed to extend the standard to vehicles with a GVWR of 10,000 pounds or less, thus including many light trucks that had not been required to meet the standard in the past. The proposed effective date was the first September 1 occurring three years after publication of the final rule. Thus, it is still possible that the final rule could be effective with MY 2011. In the PRIA, the average light truck weight was estimated to increase by 6.1 pounds for a 2.5 strength to weight ratio. Based on comments on the NPRM, the agency believes that this weight estimate is likely to increase. However, the agency does not yet have an estimate for the final rule.

Planned NHTSA Initiative on Ejection Mitigation

The agency is planning on issuing a proposal on ejection mitigation. The likely result of the planned proposal is for window curtain side air bags to be made larger and for a rollover sensor to be installed. The likely result will be an increase in weight of at least 1 pound; however, this analysis is not completed. In addition, advanced glazing is one alternative that manufacturers might pursue for specific window applications (possibly for fixed windows for third row applications) or more broadly. Advanced glazing is likely to have weight implications. Again, the agency has not made an estimate of the likelihood that advanced glazing might be used or its weight implications.

Summary—Overview of Anticipated Weight Increases

The following table summarizes estimates made by NHTSA regarding the weight added in MY 2010 or later to institute the above discussed standards or likely rulemakings. In summary, NHTSA estimates that weight additions required by final rules and likely NHTSA regulations effective in MY 2011 and beyond for passenger cars, compared to the MY 2010 fleet, will increase passenger car weight by an average of 12.2 pounds or more (5.5 kg or more). The agency estimates that weight additions required by final rules and likely NHTSA regulations effective in MY 2011 and beyond for light trucks, compared to the MY 2010 fleet, will increase light truck weight by an average of 10.1 pounds or more.

TABLE VI–8.—MINIMUM WEIGHT ADDITIONS DUE TO FINAL RULES OR LIKELY NHTSA REGULATIONS COMPARED TO MY 2010 BASELINE FLEET

Standard no.	Added weight in pounds	Added weight in kilograms
126	3.1	1.4
214	2.0	0.9
216	6.1–?	2.8–?
Ejection Mitigation	1.0–?	0.4–?
Total	12.2–?	5.5–?

Based on NHTSA's weight-versus-fuel-economy algorithms, a 3–4 pound increase in weight equates to a loss of 0.01 mpg in fuel economy. Thus, the agency's estimate of the safety/weight effects is 0.025 to 0.04 mpg or more for already issued or likely future safety standards.

Federal Motor Vehicle Emissions Standards

EPA's Fuel Economy Labeling Rule employs a new vehicle-specific, 5-cycle approach to calculating fuel economy

[174] Khadilkar, et al. ''Teardown Cost Estimates of Automotive Equipment Manufactured to Comply with Motor Vehicle Standard—FMVSS 214(D)—Side Impact Protection, Side Air Bag Features'', April 2003, DOT HS 809 809.

[175] Ludtke & Associates, ''Perform Cost and Weight Analysis, Head Protection Air Bag Systems, FMVSS 201'', page 4–3 to 4–5, DOT HS 809 842.

[176] 70 FR 49223 (Aug. 23, 2005). The PRIA for this NPRM is available at Docket No. NHTSA–2005–22143–2.

labels which incorporates estimates of the fuel efficiency of each vehicle during high speed, aggressive driving, air conditioning operation and cold temperatures into each vehicle's fuel economy label.[177] The rule became effective January 26, 2007, and will take effect starting with MY 2008.

The new testing procedures will combine measured fuel economy over the two current fuel economy tests, the FTP and HFET, as well as that over the US06, SC03 and cold FTP tests into estimates of city and highway fuel economy for labeling purposes. The test results from each cycle will be weighted to represent the contribution of each cycle's attributes to onroad driving and fuel consumption. The labeling rule does not alter the FTP and HFET driving cycles, the measurement techniques, or the calculation methods used to determine CAFE.

The EPA Labeling Rule will not impact CAFE standards or test procedures or other USG regulations.[178] Rather, the changes to existing test procedures will allow for the collection of appropriate fuel economy data to ensure that existing test procedures better represent real-world conditions.[179] Further, the labeling rule does not have a direct effect upon a vehicle's weight, nor on the fuel economy level that a vehicle can achieve. Instead, the labeling rule serves to provide consumers with a more accurate estimate of fuel economy based on more comprehensive factors reflecting real-world driving use.

There are two groups of State emissions standards do not qualify under 49 U.S.C. 32902(f), and therefore are not considered. One is consists of State standards that cannot be adopted and enforced by any State because there has been no waiver granted by the EPA under the preemption waiver provision in the Clean Air Act.[180] The other consists of State emissions standards that are expressly or impliedly preempted under EPCA, regardless of whether or not they have received such a waiver. *Preempted standards include, for example:*

(1) A fuel economy standard; and

(2) A law or regulation that has essentially all of the effects of a fuel economy standard, but is not labeled as one (*i.e.*, a State tailpipe CO_2 standard).

4. Need of the U.S. To Conserve Energy

Congress' requirement to set standards at the maximum feasible level and inclusion of the need of the nation to conserve energy as a factor to consider in setting CAFE standards ensures that standard setting decisions are made with this purpose and all of the associated benefits in mind. As discussed above, ''the need of the United States to conserve energy'' means ''the consumer cost, national balance of payments, environmental, and foreign policy implications of our need for large quantities of petroleum, especially imported petroleum.'' Environmental implications principally include reductions in emissions of criteria pollutants and carbon dioxide.

The need to conserve energy is, from several different standpoints, more crucial today as it was at the time of EPCA's enactment in the late 1970s. U.S. energy consumption has been outstripping U.S. energy production at an increasing rate. Crude oil prices are currently around $100 per barrel, despite having averaged about $13 per barrel as recently as 1998, and gasoline prices have doubled in this period.[181] Net petroleum imports now account for 60 percent of U.S. domestic petroleum consumption.[182] World crude oil production continues to be highly concentrated, exacerbating the risks of supply disruptions and their negative effects on both the U.S. and global economies. Figure VI–3 below shows the increase of crude oil imports and the decline of U.S. oil production since 1920.

[177] *See* 71 FR 77872 (December 26, 2006).

[178] *Id.* section I.F.

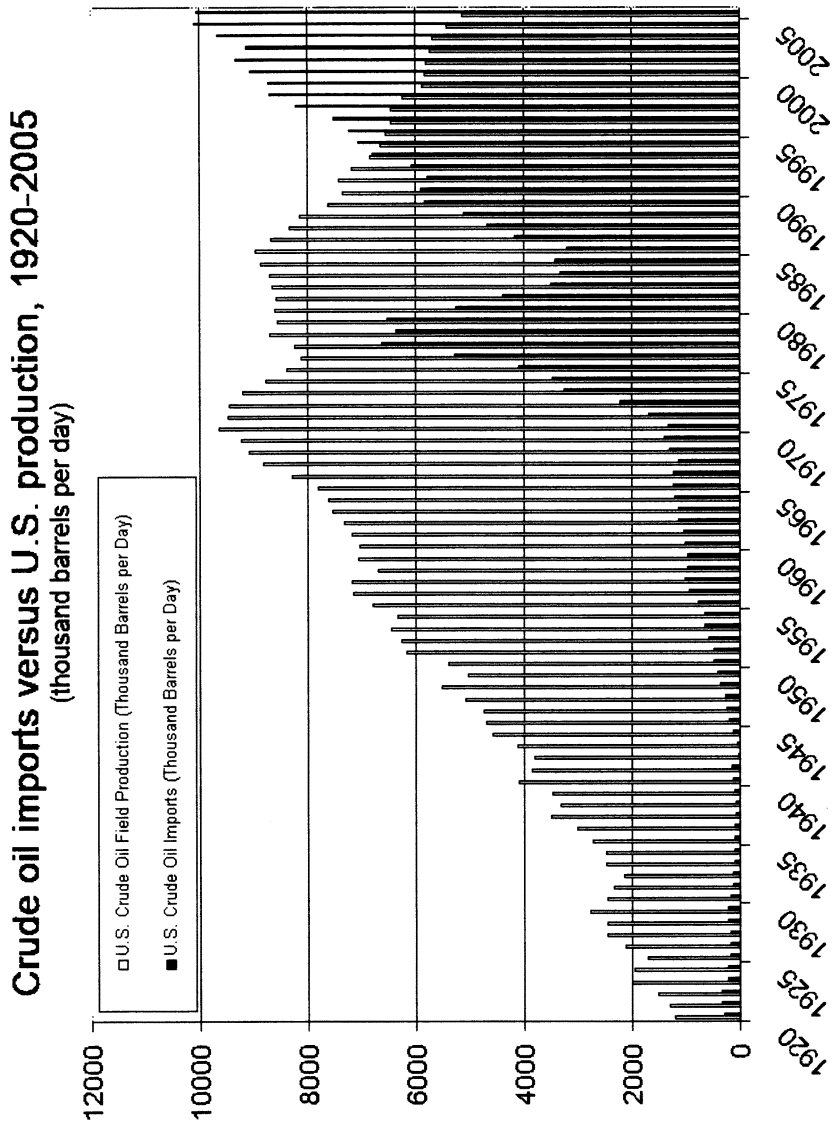
[179] *Id.* sections II, IV.

[180] 42 U.S.C. 7543 (a).

[181] Energy Information Administration, *Annual Energy Review* 2006, Table 5.21, p. 171. *Available at http://www.eia.doe.gov/emeu/aer/pdf/pages/sec5_51.pdf* (last accessed Nov. 29, 2007).

[182] Energy Information Administration, *Annual Energy Review* 2006, Table 5.1, p. 125. *Available at http://www.eia.doe.gov/emeu/aer/pdf/pages/sec5_5.pdf* (last accessed Nov. 29, 2007).

Figure VI-3



Source: DOE/EIA

The need to conserve energy is also more crucial today because of growing greenhouse gas emissions from petroleum consumption by motor vehicles and growing concerns about the effects of those emissions. Since 1999, the transportation sector has led all U.S. end-use sectors in emissions of carbon dioxide. Transportation sector CO_2 emissions in 2006 were 407.5 million metric tons higher than in 1990, an increase that represents 46.4 percent of the growth in unadjusted energy related carbon dioxide emissions from all sectors over the period. Petroleum consumption, which is directly related to fuel economy, is the largest source of carbon dioxide emissions in the transportation sector.[183] Moreover, transportation sector emissions from gasoline and diesel fuel combustion generally parallel total vehicle miles traveled. The need of the nation to conserve energy also encompasses all of these issues, insofar as carbon dioxide emissions from passenger cars and light trucks decrease as fuel economy improves and more energy is conserved.[184]

The need of the nation to reduce energy consumption would be properly reflected in the buying decisions of vehicle purchasers, if:

- Vehicle buyers behave as if they have unbiased expectations of their future driving patterns and fuel prices; and
- The public social, economic, security, and environmental impacts of petroleum consumption are fully identified, quantified and reflected in current and future gasoline prices; and
- Vehicle buyers behave as if they account for the impact of fuel economy

[183] However, increases in ethanol fuel consumption have mitigated the growth in transportation-related emissions somewhat (emissions from energy inputs to ethanol production plants are counted in the industrial sector).

[184] The above statistics are derived from Energy Information Administration, ''Emissions of Greenhouse Gases Report,'' Report # DOE/EIA–0573 (2006), released November 28, 2007. *Available at http://www.eia.doe.gov/oiaf/1605/ggrpt/carbon.html* (last accessed Feb. 3, 2008).

on their future driving costs in their purchasing decisions.

Basic economic theory suggests that the price of vehicles should reflect the value that the consumer places on the fuel economy attribute of his or her vehicle. It is not clear that consumers have the information or inclination to value the impact of fuel economy in their vehicle purchasing decisions. Consumers generally have no direct incentive to value benefits that are not included in the price of fuel—for example, benefits such as energy security and limiting global climate change. These are the market failures which EPCA requires NHTSA to address.

By accounting for the need of the nation to conserve energy in setting CAFE standards, NHTSA helps to mitigate the risks posed by petroleum consumption. In its analysis, NHTSA quantifies the need of the nation to conserve energy by calculating how much fuel economy a vehicle buyer ought to purchase, or rather, how much a vehicle buyer ought to value fuel economy, based both on fuel prices and potentially estimable externalities (including energy security, the benefits of mitigating a ton of CO_2 emissions, criteria pollutant emissions, noise, safety, and others).

The Volpe model uses values for these effects in helping to determine each model year's CAFE standards. Thus, each model year's CAFE standards are set based on an attempt to quantify the need of the United States to conserve energy, balanced against the other factors considered in the Volpe model, such as the technology inputs that help the model establish economically practicable and technologically feasible standards.

Also, as Congress intended, by accounting for the need of the nation to conserve energy in setting CAFE standards, NHTSA fulfills EPCA's overall goal of improving energy conservation. Factors that increase the need of the nation to conserve energy, such as rising oil prices or environmental concerns, may be reflected in more stringent, but still demonstrably economically practicable fuel economy standards. Balancing the EPCA factors against each other, and considering NHTSA's NEPA analysis for this rulemaking (see Section XIII.B. of this document), NHTSA may decide to set higher CAFE standards, and achieve more fuel savings and CO_2 emissions reduction, by expressly including the quantifiable values of the factors that affect the need of the nation to conserve energy.

These standards will enhance the normal market response to higher fuel prices, and will reduce light duty vehicle fuel consumption and CO_2 tailpipe emissions over the next several decades, responding to the need of the nation to conserve energy, as EPCA intended. More specifically, the proposed standards will save 55 billion gallons of fuel and 521 million metric tons of CO_2 over the lifetime of the regulated vehicles. NHTSA will evaluate the potential environmental impacts associated with such CO_2 emissions reductions and other environmental impacts of the proposed standards through the NEPA process.

F. Other Considerations in Setting Standards Under EPCA

As explained above, EPCA requires NHTSA to balance the four factors of technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy in setting CAFE standards for passenger cars and light trucks. As discussed above, EPCA also prohibits NHTSA from considering certain factors (e.g., credits) in setting CAFE standards. The next section highlights some of the issues that NHTSA may (and does) and may not take into account in setting CAFE standards under EPCA.

1. Safety

NHTSA has historically included the potential for adverse safety consequences when deciding upon a maximum feasible level, and has been upheld by courts in doing so.[185] Currently, we account for safety in the model as we develop the standards: Because downweighting is a common compliance strategy, and because the agency believes that downweighting of lighter vehicles makes them less safe, our model does not rely on weight reductions to achieve the standards for vehicles under 5,000 pounds GVWR,[186] and then only up to 5 percent. As explained above, the overarching principle that emerges from the enumerated factors and the court-sanctioned practice of considering safety and links them together is that CAFE standards should be set at a level that will achieve the greatest amount of fuel savings without leading to adverse economic or other societal consequences.

2. Alternative Fuel Vehicle Incentives

49 U.S.C. 32902(h) expressly prohibits NHTSA from considering the fuel economy of ''dedicated'' automobiles in setting CAFE standards. Dedicated automobiles are those that operate only on an alternative fuel, like all-electric or natural gas vehicles.[187] Dedicated vehicles often achieve higher mile per gallon (or equivalent) ratings than regular gasoline vehicles, so this prohibition prevents NHTSA from raising CAFE standards by averaging these vehicles into our determination of a manufacturer's maximum feasible fuel economy level.

Section 32902(h) also directs NHTSA to ignore the fuel economy incentives for dual-fueled (*e.g.*, E85-capable) automobiles in setting CAFE standards. § 32905(b) and (d) use special calculations for determining the fuel economy of dual-fueled automobiles that give those vehicles higher fuel economy ratings than identical regular automobiles. Through MY 2014, manufacturers may use this ''dual-fuel'' incentive to raise their average fuel economy up to 1.2 miles a gallon higher than it would otherwise be; after MY 2014, Congress has set a schedule by which the dual-fuel incentive diminishes ratably until it is extinguished after MY 2019.[188] Although manufacturers may use this additional credit for their CAFE compliance, NHTSA may not consider it in setting standards. As above, this prohibition prevents NHTSA from raising CAFE standards by averaging these vehicles into our determination of a manufacturer's maximum feasible fuel economy level.

3. Manufacturer Credits

Section 32903 was recently revised by EISA, and allows manufacturers to earn credits for exceeding CAFE standards in a given year and to apply them to CAFE compliance for up to three model years before and five model years after the year in which they were earned. However, section 32903(a) states expressly that fuel economy standards must be ''determined * * * without regard to credits under this section.'' Thus, NHTSA may not raise CAFE standards because manufacturers have enough credits to meet the higher standards, nor may NHTSA lower standards because manufacturers do not have enough credits to meet existing standards.

[185] *See, e.g.*, Competitive Enterprise Institute v. NHTSA (CEI I), 901 F.2d 107, 120 at n. 11 (DC Cir. 1990) (''NHTSA has always examined the safety consequences of the CAFE standards in its overall consideration of relevant factors since its earliest rulemaking under the CAFE program.'')

[186] Kahane study, *supra* note 78.

[187] 49 U.S.C. 32901(a)(7).

[188] 49 U.S.C. 32906(a).

G. Environmental Impacts of the Proposed Standards

As noted above, environmental concerns are among the issues bearing on the need of the nation to conserve energy. They are also relevant under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4347. Requiring improvements in fuel economy will necessarily reduce CO_2 emissions, because the less fuel a vehicle burns, the less CO_2 it emits. Reductions in CO_2 emissions, in turn, may slow or mitigate climate change and associated environmental impacts. Increased fuel economy also may affect other aspects of the environment, such as emissions of criteria air pollutants and air quality.[189] In order to inform its consideration of the proposed standards, NHTSA has initiated an environmental review of the proposed standards and reasonable alternatives pursuant to NEPA. On March 28, 2008, NHTSA published a notice of intent to prepare an environmental impact statement and requested scoping comments (73 FR 16615). NHTSA is publishing a supplemental notice of public scoping and request for scoping comments that invites Federal, State, and local agencies, Indian tribes, and the public to participate in the scoping process and to help identify the environmental issues and reasonable alternatives to be examined in the EIS. The scoping notice also provides information about the proposed standards, the alternatives NHTSA expects to consider in its NEPA analysis, and the scoping process.

As discussed in the scoping notice, in preparing an EIS for this rulemaking, NHTSA expects to consider potential environmental impacts of the proposed standards and reasonable alternatives, including impacts associated with CO_2 emissions and climate change. NHTSA expects that its NEPA analysis will include: direct impacts related to fuel and energy use and emissions of CO_2 and air pollutants; indirect impacts related to emissions and climate change, such as impacts on air quality and temperature and resulting impacts on natural resources and on the human environment; and other indirect impacts. NHTSA's NEPA analysis will inform its decisions on the proposed standards, consistent with NEPA and EPCA.

H. Balancing the Factors to Determine Maximum Feasible CAFE Levels

While the agency carefully considered alternative stringencies as discussed in section X, it tentatively concludes that in stopping at the point that maximizes net benefits, it has achieved the best balancing of all of the statutory requirements, including the 35 mpg requirement. In striking that balance, the agency was mindful of the growing need of the nation to conserve energy for reasons that include increasing energy independence and security and protecting the environment. It was mindful also that this is the first rulemaking in which the agency has simultaneously proposed to raise both passenger car and light truck standards, and that it was doing so in the context of statutory requirements for significant annual increases over an extended period of years.

Among the steps it took in its analysis and balancing were the following:

- First, the agency pushed many of the manufacturers in their application of technology. NHTSA is proposing standards that it estimates will entail risk that some manufacturers will exhaust available technologies in some model years. However, the agency has tentatively concluded that the additional risk is outweighed by the significant increase in estimated net benefits to society.
- Second, as observed in the technology penetration table above, the agency believes that more and more advanced, but expensive fuel economy technologies will penetrate the fleet by 2015. However, the agency was careful to ensure that those technologies are applied in an economically and technologically feasible manner by focusing on linking certain expensive technologies to redesign and refresh dates and by phasing in technologies over time as it is difficult for companies to implement many of the technologies on 100 percent of their vehicles all at once. Sections III and V describe in fuller detail how the agency addressed these issues in its modeling.
- Third, in assessing costs and benefits, the agency took into account the private and social benefits, including environmental and energy security benefits (*e.g.*, it monetized important externalities, such as energy security and CO_2) and ensured that for every dollar of investment the country gets at least 1 dollar of benefits.
- Fourth, in setting attribute based standards as required by EISA, the agency will minimize safety implications and preserve consumer choice. Further, through its choice of footprint as an attribute, the agency minimized the risk of upsizing as it is more difficult to change the footprint than to simply add weight to the vehicle.
- Fifth, the agency evaluated the costs and benefits described above and ensured that the standards were achievable without the industry's being economically harmed through significant sales losses.
- Sixth, the agency weighed those costs and benefits vis-à-vis the need of the nation to conserve energy for reasons that include increasing energy independence and security and protecting the environment and compared the results for a wide variety of alternatives as discussed in Chapter X.
- NHTSA tentatively concludes that it has exercised sound judgment and discretion in considering degrees of technology utilization and degrees of risk, and has appropriately balanced these considerations against estimates of the resultant costs and benefits to society, thereby arriving at standards that represent the maximum feasible standards as required by EPCA. The agency invites comment regarding whether it has struck a proper balance and, if not, how it should do so.

VII. Standards for Commercial Medium- and Heavy-Duty On-Highway Vehicles and ''Work Trucks''

NHTSA is not promulgating standards for commercial medium- and heavy-duty on-highway vehicles or ''work trucks'' [190] as part of this proposed rule. EISA added a new provision to 49 U.S.C. 32902 requiring DOT, in consultation with the Department of Energy and the EPA, to examine the fuel efficiency of commercial medium- and heavy-duty on-highway vehicles and work trucks, and determine the appropriate test procedures and methodologies for measuring the fuel efficiency of these vehicles, as well as the appropriate metric for measuring and expressing their fuel efficiency performance and the range of factors that affect their fuel efficiency. This study would need to be performed within 1 year of the publication of the NAS study required by section 108 of EISA.[191]

Within 2 years of the completion of the study, DOT would need to undertake rulemaking to ''determine''

[189] Because CO_2 accounts for such a large fraction of total greenhouse gases (GHG) emitted during fuel production and use—more than 95%, even after accounting for the higher global warming potentials of other GHG—NHTSA's analysis of the GHG impacts of increasing CAFE standards focuses on reductions in CO_2 emissions resulting from the savings in fuel use that accompany higher fuel economy.

[190] ''Work trucks'' are vehicles rated between 8,500 and 10,000 lbs GVWR and which are not medium-duty passenger vehicles. 49 U.S.C. 32901(a)(19).

[191] 49 U.S.C. 32902(k)(1).

* * * how to implement a commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency improvement program designed to achieve the maximum feasible improvement, and * * * adopt and implement appropriate test methods, measurement metrics, fuel economy standards, and compliance and enforcement protocols that are appropriate, cost-effective, and technologically feasible'' for these vehicles.[192] EISA also requires a four-year lead time for fuel economy standards promulgated under this section, and would allow separate standards to be prescribed for different classes of vehicles.[193]

VIII. Vehicle Classification

A. Origins of the Regulatory Definitions

NHTSA developed the regulatory definitions for passenger cars and light trucks based on our interpretation of EPCA's language and of Congress' intent as evidenced through the legislative history. The statutory language is clear that some vehicles must be passenger automobiles and some must be non-passenger automobiles. Passenger automobiles were defined as ''any automobile (other than an automobile capable of off-highway operation) which the Secretary [*i.e.*, NHTSA] decides by rule is manufactured primarily for use in the transportation of not more than 10 individuals.'' EPCA § 501(2), 89 Stat. 901.

Thus, under EPCA, there are two general groups of automobiles that qualify as non-passenger automobiles: (1) Those defined by NHTSA in its regulations as other than passenger automobiles due to their having not been manufactured ''primarily'' for transporting up to ten individuals; and (2) those expressly excluded from the passenger category by statute due to their capability for off-highway operation regardless of whether they were manufactured primarily for passenger transportation. NHTSA's classification rule directly tracks those two broad groups of non-passenger automobiles in subsections (a) and (b), respectively, of 49 CFR 523.5.

EPCA also defined vehicle ''capable of off-highway operation'' as one that NHTSA decides by regulation:

has a ''significant feature'' (other than 4-wheel drive) which is designed to equip such automobile for off-highway operation, and either (i) is a 4-wheel drive automobile or (ii) is rated at more than 6,000 pounds gross vehicle weight.''

Thus under the statute, any vehicle that has a ''significant feature'' and also is either 4-wheel drive or over 6,000 lbs GVWR can never be a passenger vehicle. Generally speaking, the ''significant feature'' that NHTSA's regulation focuses on relates to high ground clearance. EPCA does not prohibit us from choosing other or additional significant features, but Congress has had multiple opportunities to disagree with our interpretation and has not done so.

In its final rule establishing its vehicle classification regulation, NHTSA noted the ambiguity of the statutory definitions of ''automobile'' and ''passenger automobile'' and considered at length the legislative history of those definitions.[194] The agency concluded that ''* * * both houses of Congress had expressed an intent that vehicles classed by EPA as light duty vehicles be subject to average fuel economy standards separate from the standards imposed on passenger cars.''[195] The agency thus found it necessary to analyze what Congress meant by ''primarily.''

In establishing 49 CFR part 523 in the 1970s, we determined that Congress intended ''primarily'' to mean ''chiefly'' [or firstly, in the first place], not ''substantially'' [or largely, in large part],[196] for two main reasons. First, if ''primarily'' meant ''substantially'' or ''in large part,'' ''then almost every automobile would be a passenger automobile, since a substantial function of almost all automobiles is to transport at least two persons. The only non-passenger automobiles under this interpretation would be those specifically excluded by the definition * * *''[197] Because Congress gave NHTSA authority to develop the definitions by regulation, it did not make sense to read ''primarily'' as limiting the category of non-passenger automobiles to just those specifically excluded by the precise language of the statute.

And second, we concluded that considering ''primarily'' ''against a legislative backdrop of other statutes using the identical phrase, and the remedial purposes of this Act,'' justified a broad interpretation of ''non-passenger automobile.''[198] The remedial purposes of EPCA—to improve fuel efficiency and increase fuel savings—do not require all vehicles to be classified as passenger automobiles. Since non-passenger automobile CAFE standards must still be set at the maximum feasible level, fuel economy of all vehicles would be improved regardless of how the vehicles were classified.[199] Additionally, interpreting ''non-passenger automobile'' broadly was determined to be consistent with the Vehicle Safety Act[200] and EPA emissions regulations promulgated under the Clean Air Act. A broad interpretation of ''non-passenger automobile'' served to ''minimize the possibility of inconsistent regulatory requirements.''[201] And finally, analyzing the legislative history, NHTSA concluded that ''By using existing terms with existing applications [such as ''light duty truck'' as used by EPA], Congress gave a clear indication of the types of automobiles that were intended to be treated separately from passenger automobiles.''[202] [203]

Thus, as NHTSA developed the regulatory definitions, we kept these indications from Congress in mind, which resulted in four basic types of non-passenger automobiles:

(1) Automobiles designed primarily to transport more than 10 persons.

As a practical matter, this category basically encompasses large passenger vans.

(2) Automobiles designed primarily for purposes of transportation of property.

NHTSA has included in this category both vehicles with open beds like pickup trucks, and vehicles which provide greater cargo-carrying than passenger-carrying volume. As we stated in the 1977 final rule, pickup trucks are not ''manufactured chiefly to transport individuals, since well over half of the available space on those automobiles consists of the cargo bed, which is exclusively cargo-carrying area. Further, this type of automobile is designed to carry heavy loads.''[204] Regarding vehicles which provide greater cargo-carrying than passenger-carrying volume, we stated that ''Since more of the space inside the vehicle has been dedicated to transporting cargo, and such vehicles are typically designed to carry heavy loads, this agency

[192] 49 U.S.C. 32902(k)(2).

[193] 49 U.S.C. 32902(k)(2) and (3).

[194] 42 FR 38362, 38365–67; July 28, 1977.

[195] *Id.* 38366.

[196] We stated that ''the word 'primarily' has two ordinary, everyday meanings in legal usage—'chiefly' and 'substantially.'" *See* Board of Governors of the *Federal Reserve System* v. *Agnew*, 329 U.S. 441, 446 (1947).

[197] 42 FR 38362, 38365 (Jul. 28, 1977).

[198] *Id.* at 38365–66.

[199] *Id.* at 38366.

[200] The Vehicle Safety Act distinguished between ''passenger cars'' and ''trucks.''

[201] 42 FR 38362, 38366.

[202] *Id.*

[203] We note that the 2003 ANPRM that preceded the 2006 CAFE rule incorrectly summarized the agency's review of the legislative history in the late 1970s. The 2003 ANPRM erroneously stated that Congress intended that passenger automobiles be defined as those used primarily for the transport of individuals. 68 FR 74926 (Dec. 29, 2003)

[204] *Id.* at 38367.

concludes that the chief consideration in designing the vehicle was the ability to transport property.'' This included, for example, cargo vans and multistop vehicles.

(3) Automobiles which are derivatives of automobiles designed primarily for the transportation of property.

This could include vehicles in which the cargo-carrying area has been converted to provide temporary living quarters, because they would typically be a derivative of a cargo van or a pickup truck. Additionally, these could include a passenger van with seating positions for less than 10 people. Such a vehicle would be basically a cargo van with readily removable seats, so removing the seats would create more cargo-carrying than passenger-carrying volume. These vehicles would be distinguished from station wagons, which have seats that can fold down to create a flat cargo space, but are not ''derivatives,'' in that their parent vehicle is not a non-passenger automobile, and do not have the same chassis, springs, or suspension system as a non-passenger automobile.

(4) Automobiles which are capable of off-highway operation.

NHTSA generally defines ''capable of off-highway operation'' as meeting the high ground clearance characteristics of § 523.5(b)(2) and either having 4-wheel drive or being rated at more than 6,000 pounds gross vehicle weight, or both. We note that a vehicle is considered as having 4-wheel drive only if it is manufactured with 4-wheel drive. The fact that the same model is available in 4-wheel drive would not be sufficient to classify a 2-wheel drive vehicle as one that ''has'' 4-wheel drive under § 523.5(b)(1)(i).

B. The Rationale for the Regulatory Definitions in Light of the Current Automobile Market

The categories listed above make up the various criteria which allow classification of a vehicle as a light truck under Part 523. However, as the 2002 NAS Report noted, the national vehicle market has evolved, and the fleets have changed. Until the passage of the Energy Independence and Security Act of 2007, Congress had provided no further insight since EPCA's enactment into how new types of vehicles that have developed since the 1970s should be classified. NHTSA had to classify these vehicles based on the words of the statute and on its own interpretation of what Congress appears to have wanted. The following section identifies the main vehicle types currently classified as light trucks, and explains the agency's reasoning for each.

Pickup trucks were among the original automobiles identified by Congress in EPCA's legislative history as vehicles that would not be passenger automobiles.[205] As mentioned earlier, we originally identified automobiles ''which can transport property on an open bed'' as ones ''not manufactured chiefly to transport individuals, since well over half of the available space on those automobiles consists of the cargo bed, which is exclusively cargo carrying area.'' [206] We stated further that ''this type of automobile is designed to carry heavy loads,'' and is therefore properly a non-passenger automobile or light truck.

NHTSA recognizes that pickup trucks have evolved since the 1970s, and that some now come with extended cabs for extra passenger room and smaller open beds. These features, however, do not change the fact that pickup trucks are designed to carry loads. Moreover, even with an extended cab and a smaller open bed, the fact that the open bed is still present indicates to us that the vehicle was manufactured chiefly for transporting cargo. If the manufacturer intended the vehicle's first purpose to be the carrying of passengers, it could have enclosed the entire vehicle. Thus, as 49 CFR 523.5(a)(3) indicates, a pickup truck with an open bed is to be classified as a light truck regardless of any other features it may possess.

Sport utility vehicles (SUVs), which possess a substantial market share today, had not yet developed when EPCA was enacted or when NHTSA first promulgated Part 523, although their forebears like the AMC Jeep and other off-road and military style vehicles were known at the time. These vehicles originally tended to be classified as light trucks because they were capable of off-highway operation, and possessed either the necessary high ground clearance characteristics or 4-wheel drive or both. They may also be greater than 6,000 pounds GVWR, and/or manufactured to permit expanded use of the automobile for cargo-carrying or other nonpassenger-carrying purposes.

Part of the overall popularity of SUVs is due to the great variety of forms in which they are available. For example, consumer demand has led manufacturers to offer smaller SUVs (*i.e.*, less than 6,000 pounds GVWR) with features such as the high ground clearance that many drivers enjoy. These vehicles may come with two or even three rows of seats as standard. If these smaller vehicles actually have 4-wheel drive and the requisite number of clearance characteristics, they would properly be classified as light trucks under § 523.5(b) without regard to functional considerations such as cargo volume.

However, if these lighter vehicles (*i.e.*, under 6,000 pounds) have 2-wheel drive, they would not qualify as light trucks under § 523.5(b) despite having the clearance characteristics. Such vehicles may nevertheless be classified as light trucks if they meet one or more of the functional criteria in § 523.5(a). For example, if a vehicle has three standard rows of seats, it should be classified in accordance with § 523.5(a)(5)(ii), on the same basis as many minivans are currently classified—that it provides a certain minimum potential cargo-carrying capacity that NHTSA has believed is consistent with what Congress had in mind when it originally considered the distinction between passenger and non-passenger automobiles. Alternatively, a 2-wheel drive automobile may properly be classified as a light truck under § 523.5(a)(4) if it provides ''greater cargo-carrying than passenger-carrying volume'' as discussed in one of NHTSA's longstanding interpretations.[207]

Minivans are another general category of vehicles that essentially developed after the enactment of EPCA and the promulgation of Part 523 are minivans. Minivans are classified as light trucks under the ''flat floor'' provision of § 523.5(a)(5), because their seats may be easily removed or folded down to create a large flat level surface for cargo-carrying. The flat floor provision was originally based on the agency's

[205] EPA included pickup trucks as ''light duty trucks,'' and the Senate bill which became EPCA used EPA's definition of light duty trucks as examples of vehicles that would be non-passenger automobiles. 42 FR 38362, 38366 (Jul. 28, 1977).

[206] *Id.* 38367.

[207] In 1981, General Motors asked NHTSA whether a 2-wheel drive utility vehicle would be properly classified as a light truck as long as the cargo-carrying volume exceeded the passenger-carrying volume. We agreed in a letter of interpretation responding to GM that ''two-wheel drive utility vehicles which are truck derivatives and which, *in base form, have greater cargo-carrying volume than passenger-carrying volume* should be classified as light trucks for fuel economy purposes.'' (Emphasis added.) This letter of interpretation indicates that in order to be properly classified as a light truck under § 523.5(a)(4), a 2-wheel drive SUV must have greater cargo-carrying volume than passenger-carrying volume ''in base form.'' Base form means the version of the vehicle sold as ''standard,'' without optional equipment installed, and does not include a version that would meet the cargo volume criterion only if ''delete options'' were exercised to remove standard equipment. For example, a base vehicle that comes equipped with a standard second-row seat would not be classified as a light truck merely because the purchaser has an option to delete the second-row seat.

determination that passenger vans with removable seats and a flat load floor were derived from cargo vans, and should therefore be classified as light trucks.[208]

In the preamble to the final rule establishing the MY 1983–1985 light truck fuel economy standards, in response to a comment by Chrysler, we explained that the regulations classified ''large passenger vans as light trucks based on the ability of passenger van users to readily remove the rear seats to produce a flat, floor level cargo-carrying space.'' [209] Manufacturers generally responded to NHTSA's statement by building compact passenger vans—*i.e.*, minivans—with readily removable rear seats in order to qualify as light trucks under the flat floor provision. In short, because minivans often have removable seats and a flat floor, they have traditionally been classified as light trucks for fuel economy purposes. EPA also classifies minivans as light duty trucks for emissions purposes, as derivatives of light trucks.

In recent years, many minivans have been designed with seats that fold down flat or into the floor pan, rather than being completely removable. In the 2006 light truck CAFE final rule, NHTSA revised § 523.5(a)(5) to allow these minivans to continue to qualify for classification as light trucks, requiring ''vehicles equipped with at least 3 rows of seats'' to be able to create a ''flat, leveled cargo surface'' instead of a ''flat, *floor level,* surface.'' We believe that this is consistent with Congress' intent that vehicles manufactured with the capacity to permit expanded use of the automobile for cargo-carrying or other nonpassenger-carrying purposes be classified as light trucks. Minivans have this capacity just as passenger vans do. In order to distinguish them from other vehicles like station wagons that also arguably have this capacity, we require vehicles to have three rows of seats in order to qualify as light trucks on this basis. This helps to guarantee a certain amount of potential cargo-carrying volume, since manufacturers will not be able to fit an additional row of seats in a vehicle under a certain size. Congress did not specify how much cargo volume was necessary for a vehicle to be classified as a light truck. We believe that this requirement for light truck classification is both consistent with Congress' intent that light trucks permit expanded use for cargo-carrying purposes, and accommodates the evolution of this section of the modern vehicle fleet.

[208] 42 FR 38362, 38367 (Jul. 28, 1977).

[209] 45 FR 81593, 81599 (Dec. 11, 1980).

The latest vehicle type growing rapidly in the U.S. market today is the ''crossover'' vehicle. Crossover vehicles are generally designed on passenger car-like platforms (unibody construction), but are also designed with the functionality of SUVs and minivans. Crossover vehicles blur the typical divisions between passenger cars, SUVs and minivans (higher ground clearance, two or three rows of seats, and varying amounts of cargo space). These vehicles can come in any shape or size, they may or may not look like traditional passenger cars, SUVs or minivans, and they may be available in a variety of drive configurations (2WD, 4WD, AWD, or some combination). As more and more of these vehicles become available it will become more difficult to categorize them into one particular vehicle category. The majority of existing crossover vehicles have been categorized by vehicle manufacturers as light trucks under section 523.5(b) if they are off-highway capable, or under section 523.5(a) due to their functional characteristics. NHTSA plans to continue to allow these vehicles to be classified as light trucks as long as they continue to meet the light truck classification requirements as specified in part 523. As with SUVs, when determining off road capability, a vehicle ''has'' 4-wheel drive (or AWD) if it is actually equipped with it; a 2-wheel drive vehicle is counted as a 2-wheel drive vehicle regardless of whether the same model is available in 4-wheel drive. Furthermore, when evaluating the functional capabilities against the requirements of section 523.5(a), vehicles should be classified by model, including all vehicles of a particular model. When the light truck determination is made based upon the functional characteristics requirements of section 523.5(a), the base or standard vehicle (vehicle with no options) is used to classify the associated model. For example, if a vehicle model does not come standard with a third row of seats, but can be purchased with an optional third row seat, the vehicle, and all the vehicles within that model line, cannot be classified as a light truck under 523.5(a)(5), which requires vehicles to be equipped, as standard equipment, with at least 3 rows of seats and able to create a ''flat, leveled cargo'' surface.

C. NHTSA Is Not Proposing To Change the Regulatory Definitions at This Time

As explained above, NHTSA's regulations defining vehicle classifications for fuel economy purposes (49 CFR part 523) are based on the underlying statute. We continue to believe that they are valid, as discussed above. In addition, EISA Congress specifically addressed the vehicle classification issue. It redefined ''automobile,'' added a definition of ''commercial medium- and heavy-duty on-highway vehicle,'' defined non-passenger automobile and defined ''work truck.'' Significantly, it did not change other definitions and its new definition of ''non-passenger automobile,'' which is most relevant in this context, in no way contradicted how NHTSA has long construed that term. In enacting EISA, Congress demonstrated its full awareness of how NHTSA classifies vehicles for fuel economy purposes and chose not to alter those classifications. That strongly suggests Congressional approval of the agency's 30-year approach to vehicle classification.

Accordingly, other than by incorporating EISA's new and revised definitions, we are not proposing to change the agency's regulations defining vehicle classification. Congress has indicated no need for us to do so and such changes would not help achieve Congress' objectives.

Moreover, Congress has given clear direction that overall objectives must be obtained regardless of vehicle classification. The EISA adds a significant requirement to EPCA—the combined car and light truck fleet must achieve at least 35 mpg in the 2020 model year. Thus, regardless of whether the entire fleet is classified as cars or light trucks, or any proportion of each, the result must still be a fleet performance of at least 35 mpg in 2020. This suggests that Congress did not want to spend additional time on the subject of whether vehicles are cars or light trucks. Instead, Congress focused on mandating fuel economy performance, regardless of classifications.

With respect to the impact on fuel savings, our tentative conclusion is that moving large numbers of vehicles from the light truck to the passenger car category would not increase fuel savings or stringency of the standards. Under a Reformed attribute-based CAFE system, passenger car and light truck CAFE standards will simply be reoptimized if vehicles are moved from one category to another. To the extent that some relatively fuel-efficient vehicles are moved out of the light truck category, the optimization for the remainder of the group would likely result in lower standards, because there would now be fewer higher performers in the light truck category. However, when these trucks are moved into the car category, they are likely to be less fuel-efficient than similarly sized cars. Thus,

including those vehicles could well drag down the optimized targets for the car category. Preliminary analyses have suggested that this is what happens, but the agency specifically requests comments on this and any supporting data for the commenter's position. Further, since EISA now permits manufacturers to transfer CAFE credits earned for their passenger car fleet to their light truck fleet and vice versa, it makes even less difference how a vehicle is classified, because the benefit a manufacturer gets for exceeding a standard may be applied anywhere. If there is no fuel savings benefit to be gained from revising the regulatory definitions, NHTSA does not see how doing so would facilitate achieving EPCA's overarching goal of improving fuel savings. Although NHTSA does not propose to change the vehicle classification standards, the agency does intend to apply those definitions strictly and in accordance with agency interpretations, as set out above, and the standards presented in the final rule will reflect this. NHTSA seeks comment on its reading of the statute with regard to vehicle classification and its decision not to change its definitions.

IX. Enforcement

A. Overview

NHTSA's enforcement under the CAFE program essentially consists of gauging a manufacturer's compliance in each model year with the passenger car and light truck standards against their credit status. If a manufacturer's average miles per gallon for a given fleet falls below the relevant standard, and the manufacturer cannot make up the difference by using credits earned previously or anticipated to be earned for over-compliance, the manufacturer is subject to penalties. The penalty, as adjusted for inflation by law,[210] is $5.50 for each tenth of a mpg that a manufacturer's average fuel economy falls short of the standard for a given model year multiplied by the total volume of those vehicles in the affected fleet (*i.e.*, import or domestic passenger car, or light truck), manufactured for that model year. NHTSA has collected $735,422,635.50 to date in CAFE penalties, the largest ever being paid by DaimlerChrysler for its MY 2006 import passenger car fleet, $30,257,920.00. For their MY 2006 fleets, six manufacturers paid CAFE fines for not meeting an applicable standard—Ferrari, Maserati, BMW, Porsche, Volkswagen, and DaimlerChrysler—for a total of $43,170,896.50.

EPCA authorizes increasing the civil penalty up to $10.00, exclusive of inflationary adjustments, if NHTSA decides that the increase in the penalty—

> (i) Will result in, or substantially further, substantial energy conservation for automobiles in model years in which the increased penalty may be imposed; and
>
> (ii) Will not have a substantial deleterious impact on the economy of the United States, a State, or a region of a State.[211]

The agency requests comment on whether it should initiate a proceeding to consider raising the civil penalty. Paying civil penalties represents a substantial less expensive alternative to installing fuel saving technology in order to achieve compliance with the CAFE standards or buying credits from another manufacturer. (See discussion of credit trading below.)

Manufacturers can earn CAFE credits to offset deficiencies in their CAFE performances under 49 U.S.C. 32903. Specifically, when the average fuel economy of either the domestic or imported passenger car or light truck fleet for a particular model year exceeds the established standard for that category of vehicles, the manufacturer earns credits. The amount of credit a manufacturer earns is determined by multiplying the tenths of a mile per gallon that the manufacturer exceeded the CAFE standard in that model year by the number of vehicles in that category it manufactured in that model year. Credits are discussed at much greater length in the section below.

NHTSA begins to determine CAFE compliance by considering pre- and mid-model year reports submitted by manufacturers pursuant to 49 CFR part 537, Automotive Fuel Economy Reports. The reports for the current model year are submitted to NHTSA every December and July. Although the reports are used for NHTSA's reference only, they help the agency, and the manufacturers who prepare them, anticipate potential compliance issues as early as possible, and help manufacturers plan compliance strategies.

NHTSA makes its ultimate determination of manufacturers' CAFE compliance based on EPA's official calculations, which are in turn based on final model year data submitted by manufacturers to EPA pursuant to 40 CFR 600.512, Model Year Report, no later than 90 days after the end of the calendar year. EPA then verifies the data submitted by manufacturers and issues final CAFE reports to manufacturers and to NHTSA between April and October of each year (for the previous model year). NHTSA identifies the manufacturers' fleets that have failed to meet the applicable CAFE fleet standards, and issues enforcement letters to manufacturers not meeting one or more of the standards. Letters are generally issued within one to two weeks of receipt of EPA's final CAFE reports.

For the enforcement letters, NHTSA calculates a cumulative credit status for each of a manufacturer's vehicle categories according to 49 U.S.C. 32903. If sufficient credits are available, NHTSA determines a carry-forward credit allocation plan. If the manufacturer does not have enough credits to offset the shortfall, NHTSA requests payment of a corresponding civil penalty unless the manufacturer submits a carry-back credit allocation plan. We note that any penalties paid are paid to the U.S. Treasury and not to NHTSA itself.

After enforcement letters are sent, NHTSA continues to monitor civil penalty payments that are due within 60 days from the date of receipt of the letter by the vehicle manufacturer, and takes further action if the manufacturer is delinquent in payment. NHTSA also monitors receipt of carry-back plans from manufacturers who choose this compliance alternative. Plans are required within 60 days from the date of receipt of the enforcement letter by the vehicle manufacturer.

B. CAFE Credits

The ability to earn and apply credits has existed since EPCA's original enactment,[212] but the issue of the ability to trade credits, *i.e.*, to sell credits to other manufacturers or buy credits from them, was first raised in the 2002 NAS Report. NAS found that

> changing the current CAFE system to one featuring tradable fuel economy credits and a ''cap'' on the price of these credits appears to be particularly attractive. It would provide incentives for all manufacturers, including those that exceed the fuel economy targets, to continually increase fuel economy, while allowing manufacturers flexibility to meet consumer preferences.[213]

After receiving the 2002 NAS Report, Secretary of Transportation Mineta wrote to Congress asking for authority to implement all of NAS'' recommendations.

While waiting for that express authority, NHTSA raised the issue of

[210] Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996, Pub. L. 104–134, 110 Stat. 1320, § 31001(s).

[211] 49 U.S.C. 32912(c).

[212] The credit provision (currently codified at 49 U.S.C. 32903) was originally section 508 of EPCA's Public Law version.

[213] NAS, Finding 11, 113.

credit trading in both its 2002 Request for Comments [214] and its 2003 ANPRM.[215] The initial response to the idea was mixed: environmental and consumer groups expressed concern that vehicle manufacturers would use a credit trading system in lieu of increasing fuel economy to meet the CAFE standards, while vehicle manufacturers generally supported the prospect of increased flexibility in the CAFE program.[216] However, without clear authority to implement a credit trading program, NHTSA was unable to take further action at the time.

NHTSA raised the issue of credit transfer, *i.e.*, the application of credits earned by manufacturer in one compliance category to another compliance category, in its 2005 NPRM [217] and 2006 final rule for the MY 2008–11 light truck standards, but concluded that it would interfere with the transition to Reformed CAFE by making it more difficult for manufacturers to determine their compliance obligations.[218] The 2006 final rule also stated that the agency would not adopt a credit trading program, again on the basis that its authority to do so was unclear.[219] However, NHTSA submitted several draft bills to Congress during this time period and after, most recently in February 2007. In an address to the Senate Committee on Commerce, Science, and Transportation on March 6, 2007 regarding the February 2007 bill, Administrator Nason stated that credit trading was a ''natural extension'' of the existing EPCA credit framework, and that trading would be ''purely voluntary, and [that] we believe[d] it will help lower the industry's cost of complying with CAFE.'' [220]

EISA provided express authority for both credit trading and transferring and made other changes as well to EPCA regarding credits:

- Authorizing the establishment of a credit trading program;
- Requiring the establishment of a credit transferring program; and
- Extending the carry-forward period from 3 to 5 years.

NHTSA has developed a proposal for a new Part 536 setting up these two credit programs. We believe that our proposal is consistent with Congress' intent. The agency seeks comment generally on the following three topics with respect to the proposed Part 536: (1) Whether the agency has correctly interpreted Congress' intent; (2) whether there are any ways to improve the proposed credit trading and transferring system consistent with EISA and Congress' intent that the agency might have overlooked; and (3) whether any of the aspects of the programs proposed by the agency are either inconsistent with EISA and Congress' intent or the rest of the CAFE regulations, or are otherwise unworkable. The following section describes the proposed credit trading and transfer programs, as well as several other related ideas that the agency is considering.

1. Credit Trading

> EPCA, as amended by EISA, states
> The Secretary of Transportation [by delegation, the Administrator of NHTSA] may establish by regulation a fuel economy credit trading program to allow manufacturers whose automobiles exceed the average fuel economy standards prescribed under section 32902 to earn credits to be sold to manufacturers whose automobiles fail to achieve the prescribed standards such that the total oil savings associated with manufacturers that exceed the prescribed standards are preserved when trading credits to manufacturers that fail to achieve the prescribed standards.[221]

EISA also prevents traded credits from being used by a manufacturer to meet the minimum fuel economy standard for domestically-manufactured passenger cars.[222]

Proposed new part 536 would permit credit trading, beginning with credits earned in MY 2011. Although only manufacturers may earn credits and apply them toward compliance, NHTSA would allow credits to be purchased and traded by both manufacturers and non-manufacturers in order to facilitate greater flexibility in the credit market.

NHTSA proposes that credit trading be conducted as follows: If a credit holder wishes to trade credits to another party, the current credit holder and the receiving party must jointly issue an instruction to NHTSA, identifying the specific credits to be traded by quantity, vintage (model year of origin), compliance category of origin (domestic passenger cars, imported passenger cars, or light trucks), and originating manufacturer. These identification requirements are intended to help ensure accurate calculation for preserving total oil savings. If the credit recipient is not already an account holder, it must provide sufficient information for NHTSA to establish an account for them. Once an account has been established or identified, NHTSA will complete the trade by debiting the transferor's account and crediting the recipient's account. NHTSA will track the quantity, vintage, compliance category, and originator of all credits held or traded by all account-holders.

Manufacturers need not restrict their use of traded credits to the compliance category from which the credits were earned. However, if a manufacturer wishes to transfer a credit received by trade to another compliance category, it must instruct NHTSA of its intention so that NHTSA can apply an adjustment factor in order to preserve ''total oil savings,'' as required by EISA.[223] EISA requires total oil savings to be preserved because one credit is not necessarily equal to another, as Congress realized. For example, the fuel savings lost if the average fuel economy of a manufacturer falls one-tenth of a mpg below the level of a relatively low standard are greater than the fuel savings gained by raising the average fuel economy of a manufacturer one-tenth of a mpg above the level of a relatively high CAFE standard.

Table IX–1 shows a simple numerical example of this on an individual vehicle level. Vehicle A has a fuel economy of 30 mpg and is driven 150,000 miles over its lifetime, consuming 5,000 gallons of fuel. Increasing the fuel economy of vehicle A by one mpg lowers the lifetime fuel consumption by 161 gallons to 4,839 gallons. Vehicle B has a fuel economy of 15 mpg and is driven 150,000 miles over its lifetime, consuming 10,000 gallons of fuel. Increasing the fuel economy of vehicle B by one mpg lowers the lifetime fuel consumption by 625 gallons to 9,375 gallons. Both vehicles' fuel economy rises by the same amount, one mpg, but much more fuel is saved by vehicle B because it uses much more gas per mile than does vehicle A.

[214] 67 FR 5767, 5772 (Feb. 7, 2002).

[215] 68 FR 74908, 74915–16 (Dec. 29, 2003).

[216] *Id.*

[217] 70 FR 51414, 51439–40 (Aug. 30, 2005).

[218] 71 FR 17566, 17616 (Apr. 6, 2006).

[219] *Id.* 17653–54.

[220] Transcript *available at http://commerce.senate.gov/public/index.cfm?FuseAction=Hearings.TestimonyHearing_ID=1827_Witness_ID=2362* (last accessed Feb. 2, 2008).

[221] 49 U.S.C. 32903(f)(1).

[222] 49 U.S.C. 32903(f)(2).

[223] 49 U.S.C. 32903(f)(1).

TABLE IX–I.—COMPARISON OF FUEL SAVINGS AT DIFFERENT FUEL ECONOMY BASELINES

	Vehicle A	Vehicle B
Lifetime Miles Driven	150,000	150,000
Initial Fuel Economy	30	15
Initial Lifetime Fuel Consumption	5,000	10,000
Final Fuel Economy	31	16
Final Lifetime Fuel Consumption	4,839	9,375
Savings	161	625

To preserve total oil savings in credit trading, NHTSA would apply an adjustment factor to traded credits. More specifically, the agency would multiply the value of each credit (with a nominal value of 0.1 mpg per vehicle) by an adjustment factor calculated by the following formula:

$$/A = \left(\frac{VMTe * \left(\left(\frac{1}{MPGe} \right) - \left(\frac{1}{MPGe - 0.1} \right) \right)}{VMTu * \left(\left(\frac{1}{MPGu} \right) - \left(\frac{1}{MPGu - 0.1} \right) \right)} \right)$$

Where:

A = adjustment factor applied to traded credits by multiplying mpg for a particular credit;

VMT_e = lifetime vehicle miles traveled for the compliance category in which the credit was earned (152,000 miles for domestic and imported passenger cars; 179,000 miles for light trucks);

VMT_u = lifetime vehicle miles traveled for the compliance category in which the credit is used for compliance (152,000 miles for domestic and imported passenger cars; 179,000 miles for light trucks);

MPG_e = fuel economy standard for the originating manufacturer, compliance category, and model year in which the credit was earned;

MPG_u = fuel economy standard for the manufacturer, compliance category, and model year in which the credit will be used.

The effect of applying this formula would be to increase the value of credits that were earned for exceeding a relatively low CAFE standard and are to be applied to a compliance category with a relatively high CAFE standard and decrease the value of credits that were earned for exceeding a relatively high CAFE standard and are to be applied to a compliance category with a relatively low CAFE standard. NHTSA is proposing to use the fuel economy standard in the formula rather than the actual fuel economy or some average of the two, primarily because we believe it will be more predictable for credit holders and traders. However, we seek comment on those two alternatives, since they may be more precise in their ability to account for fuel savings.

Congress also restricted the use of credit trading in EISA by providing that manufacturers must comply with the minimum domestic passenger car standard specified in 49 U.S.C. 32902(b)(4) without the aid of credits obtained through trading. The minimum standard equals the greater of 27.5 mph or 92 percent of the projected average fuel economy level for all passenger cars for the model year in question. 49 U.S.C. 32903(f)(2) states that trading and transferring of credits to the domestic passenger car compliance category are limited to the extent that the fuel economy of such automobiles shall comply with the minimum standard without regard to trading or transferring of credits from other compliance categories. Thus, our proposed credit trading regulation prevents the use of traded credits to comply with the minimum domestic passenger car standard.

In developing this regulation, NHTSA has proposed additional restrictions on the use of credits as necessary for consistency with Congress' intent in EISA. For example, a credit that has been traded and is then traded back to the originating manufacturer is deemed never to have been traded, to avoid manufacturers gaining value from the same credit twice.

2. Credit Transferring

If a credit holding manufacturer wishes to transfer credits that it has earned, it need simply instruct NHTSA which credits to transfer to which alternate compliance category, identifying the quantity, vintage, and original compliance category in which the credits were earned. NHTSA will then transfer the credits. As explained above, if a credit holding manufacturer wishes to transfer credits that it has received by trade, it must similarly instruct NHTSA. NHTSA will apply an adjustment factor to the traded credits to ensure, pursuant to EISA, that total oil (fuel) savings are preserved.

Credit transfers are limited by EISA both in the extent to which they may increase a manufacturer's average fuel economy in a compliance category, and when they may be begun to be used. Section 32903(g)(3) states that a manufacturer's average fuel economy in a compliance category cannot be increased through the use of transferred credits by more than 1 mpg in MYs 2011–2013, more than 1.5 mpg in MYs 2014–2017, or more than 2 mpg in MYs 2018 and after. Section 32903(g)(5) also states that credits can only be transferred if they are earned *after* MY 2010. Our proposed credit transferring regulation reflects these limitations.

Congress also restricted the use of credit transferring in EISA by providing that manufacturers must comply with the minimum domestic passenger car standard without the aid of credits obtained through transfer. 49 U.S.C. 32903(g)(4) states that transferring of credits to the domestic passenger car compliance category is limited to the extent that the fuel economy of such automobiles shall comply with the minimum standard without regard to transferring of credits from other compliance categories. Thus, our proposed credit transferring regulation prevents the use of transferred credits to comply with the minimum domestic passenger car standard.

NHTSA is proposing to denominate credits in miles per gallon (mpg), not in gallons. NHTSA requests comments, however, on whether transferred credits

should be denominated in gallons, because doing so would ensure that no transfers result in any loss of fuel savings or in a missed opportunity to reduce CO_2 emissions.[224] The risk of fuel savings loss can be illustrated by the following example. Suppose there were a manufacturer that produces the same number of automobiles in two different compliance categories. Each of the two categories is required to meet the same level of CAFE. If the manufacturer exceeds the standard for one category by one mile per gallon and falls short of the other standard by the same amount, the additional fuel saved by the automobiles subject to the first standard would be less than the additional fuel consumed by the automobiles subject to the second standard. The risk is even greater if the example is changed so that the standards are different and the manufacturer exceeds the higher standard and falls short of the lower standard.

3. Credit Carry-Forward/Carry-Back

Credit lifespan has always been dictated by statute. A manufacturer may only use credits for a certain number of model years before and after the year in which it was earned. Congress intended credits to provide manufacturers greater compliance flexibility, but did not wish that flexibility to be so great as to obviate the need to continue improving fleet fuel economy. Before EISA's enactment, EPCA permitted credits to be used for 3 model years before and after the model year in which a credit was earned; EISA extended the ''carry-forward'' time to 5 model years. Because EISA was enacted in the middle of model year 2008,[225] NHTSA concluded that the best interpretation of this change in lifespan was to apply it only to vehicles manufactured in or after MY 2009; the alternative of finding some way to prorate the change in lifespan presents considerable administrative difficulties, especially since credits are denominated by year of origin, not month and year of origin. Thus, credits earned for MYs 2008 and earlier will continue to have a 3-year carry-forward/carry-back lifespan; credits earned in MY 2009 or thereafter will have a 5-year carry-forward and a 3-year carry-back lifespan.

[224] NHTSA previously addressed this issue in the 2006 final rule establishing CAFE standards for MY 2008–2011 light trucks. See 71 FR 17566, 17616.

[225] EISA's effective date was December 20, 2007; the 2008 model year began on October 1, 2007.

C. Extension and Phasing Out of Flexible-Fuel Incentive Program

EPCA encourages manufacturers to build alternative-fueled and dual-fueled vehicles. This is accomplished by using a special, statutorily specified calculation procedure for determining the fuel economy of these vehicles. The specially calculated fuel economy figure is based on the assumption that the vehicle operates on the alternative fuel a significant portion of the time. This approach gives such vehicles a much-higher fuel economy level compared to similar gasoline-fueled vehicles. These vehicles can then be factored into a manufacturer's general fleet fuel economy calculation, thus raising the average fuel economy level of the fleet. EPCA limited the extent to which a manufacturer could raise its fuel economy level due to the incentive to 1.2 mpg per compliance category.

Prior to the enactment of EISA, this incentive was only available through MY 2010. EISA extended the incentive, but also provided for phasing it out between MYs 2015 and 2019, by progressively reducing the amount by which fleet fuel economy could be raised due to the incentive.[226] Thus, the maximum fuel economy increase which may be attributed to the incentive is as follows for:

	mpg
MYs 1993–2014	1.2
MY 2015	1.0
MY 2016	0.8
MY 2017	0.6
MY 2018	0.4
MY 2019	0.2
After MY 2019	0

NHTSA promulgated 49 CFR part 538 to implement the statutory alternative-fueled and dual-fueled vehicle manufacturing incentive. We are not now proposing to amend Part 538 to reflect the EISA changes, due to the already-large scope of the current rulemaking, but will do so in an upcoming rulemaking.

X. Regulatory Alternatives

As noted above, in developing the proposed standards, the agency considered the four statutory factors underlying maximum feasibility (technological feasibility, economic practicability, the effect of other standards of the Government on fuel economy, and the need of the nation to conserve energy) as well as other relevant considerations such as safety. NHTSA assessed what fuel saving technologies would be available, how effective they are, and how quickly they could be introduced. This assessment considered technological feasibility, economic practicability and associated energy conservation. We also considered other standards to the extent captured by EPCA [227] and environmental and safety concerns. This information was factored into the computer model used by NHTSA for applying technologies to particular vehicle models. The agency then balanced the factors relevant to standard setting. NHTSA's NEPA analysis, discussed in Section XIII.B. of this document, also will inform NHTSA's consideration of the proposed standards and reasonable alternatives in developing a final rule.

In balancing these factors, NHTSA generally observes that the increasing application of technologies increases fuel economy and associated benefits, but it also increases costs. Initial applications of technologies provide far more fuel savings per dollar of expenditure on them than applications of remaining technologies, which provide less incremental fuel savings at greater cost and, with progressive additions of technologies, eventually far greater cost. At some stage, the increasing application of technologies is not justified. A significant question is what methodology and decisionmaking criteria are used in the balancing to determine when to cease adding technologies and thus arrive at regulatory fuel economy targets.

In developing its proposed standards, the agency used a net benefit-maximizing analysis that placed monetary values on relevant externalities (both energy security and environmental externalities, including the benefits of reductions in CO_2 emissions) and produced what is called the ''optimized scenario.'' The optimized standards reflect levels such that, considering the seven largest manufacturers, net benefits (that is, total benefits minus total costs) are higher than at every other examined level of stringency. The agency also reviewed the results of the model's estimates of stringencies maximizing net benefits to assure that the results made sense in terms of balancing EPCA's statutory factors and in meeting EISA's requirements for improved fuel economy.

In addition to the optimized scenario, NHTSA considered and analyzed five additional regulatory alternatives that do not rely upon marginal benefit-cost

[226] 49 U.S.C. 32906.

[227] 71 FR 17566, 17669–70; April 6, 2006.

analysis. In ascending order of stringency, the six alternatives are:

- Standards that fall below the optimized scenario by the same absolute amount by which the +25 percent alternative exceeds the optimized scenario (''25 percent below optimized'' alternative),
- Standards based on applying technologies until net benefits are maximized (optimized scenario), and
- Standards that exceed the optimized scenario by 25 percent of the interval between the optimized scenario and the TC = TB alternative (see below) (''25 percent above optimized'' alternative),
- Standards that exceed the optimized scenario by 50 percent of the interval between the optimized scenario and the TC = TB alternative (''50 percent above optimized'' alternative),
- Standards based on applying technologies until total costs equal total benefits (zero net benefits) (TC = TB alternative),[228] and
- Standards based on applying all feasible technologies without regard to cost (technology exhaustion alternative).[229]

NHTSA chose these alternatives in order to consider and evaluate the impacts of balancing the EPCA factors differently in determining maximum feasibility than the agency has in prior rulemakings. In *Center for Biological Diversity* v. *NHTSA*, the Ninth Circuit Court recognized that ''EPCA gives NHTSA discretion to decide how to balance the statutory factors—as long as NHTSA's balancing does not undermine the fundamental purpose of EPCA: Energy conservation.'' 508 F.3d 508, 527 (9th Cir. 2007). The Court also raised the possibility that NHTSA's current balancing of the statutory factors might be different from the agency's balancing in the past, given the greater importance today of the need of the nation to conserve energy and more advanced understanding of climate change. *Id.* at 530–31.

Given EPCA's mandate that NHTSA consider four specific factors in setting CAFE standards and NEPA's instruction that agencies give effect to NEPA's policies as well, NHTSA recognizes that numerous alternative CAFE levels are theoretically conceivable and that the alternatives described above essentially represent only several on a continuum of alternatives. Along the continuum, each alternative represents a different way in which NHTSA conceivably could assign weight to each of the four EPCA factors and NEPA's policies. For the alternatives that fall above the optimized scenario (the +25, +50 and TC = TB alternatives), the agency would evaluate policies that put increasingly more emphasis on reducing energy consumption and CO_2 emissions, given their impact on global warming, and less on the other factors, including the economic impacts on the industry. Conversely, for the alternative that falls below the optimum scenario, the agency would evaluate policies that place relatively more weight on the economic situation of the industry and less on reducing energy consumption and CO_2 emissions.

The graphs below show, for passenger cars, light trucks, and the combined fleet, the average annual fuel economy levels for the four alternatives as compared to the proposed standards. Subsequent graphs and tables present their estimated costs, benefits, and net benefits (in billions of dollars). In addition, tables that are provided summarized the average extent to which manufacturers' CAFE levels are projected to fall short of CAFE standards—*i.e.*, the average shortfall—under each of these alternatives. Manufacturer-specific shortfall is shown for the proposed and TC=TB alternative.

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[228] The agency considered the ''TC = TB'' alternative because one or more commenters in the rulemaking on standards for MY 2008–2011 light trucks urged NHTSA to consider setting the standards on this basis rather than on the basis of maximizing net benefits. In addition, while the Ninth Circuit Court of Appeals concluded that EPCA neither requires nor prohibits the setting of standards at the level at which net benefits are maximized, the Court raised the possibility of tilting the balance more toward reducing energy consumption and CO_2.

[229] This was accomplished by determining the stringency at which a reformed standard would require every manufacturer to apply every technology estimated to be potentially available. At such stringencies, all but one manufacturer would be expected to fail to comply with the standard, and many manufacturers would owe large civil penalties as a result. The agency considered this alternative because the agency wished to explore the stringency and consequences of standards based solely on the potential availability of technologies at the individual manufacturer level.

Figure X-1. Average Required CAFE Levels (mpg) for Passenger Cars under Proposed and Alternative Standards

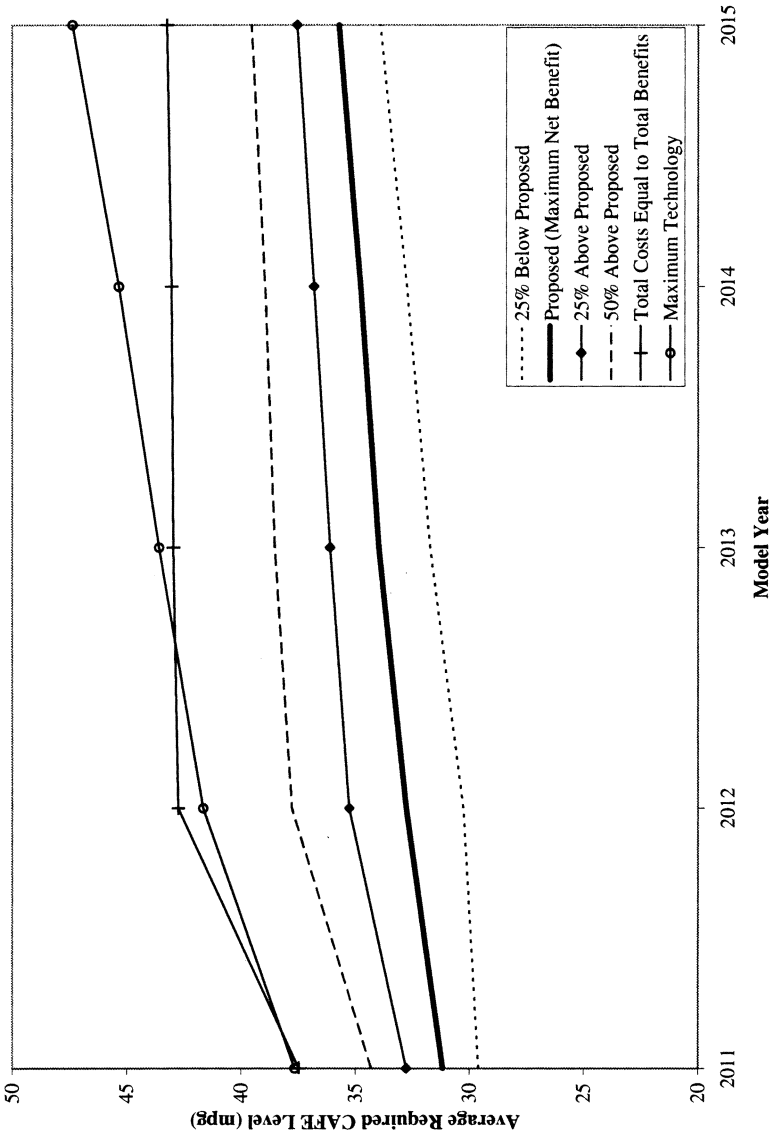


Figure X-2. Average Required CAFE Levels (mpg) for Light Trucks under Proposed and Alternative Standards

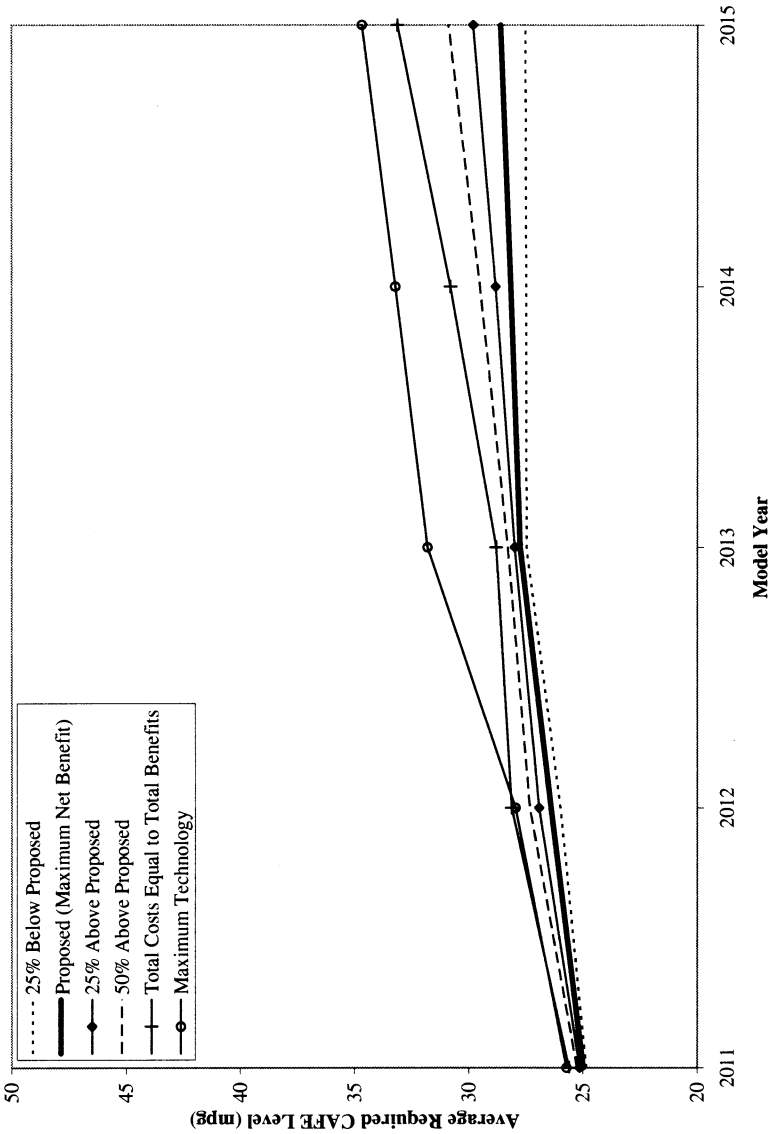


Figure X-3. Average Required CAFE Levels (mpg) for Overall Fleet under Proposed and Alternative Standards

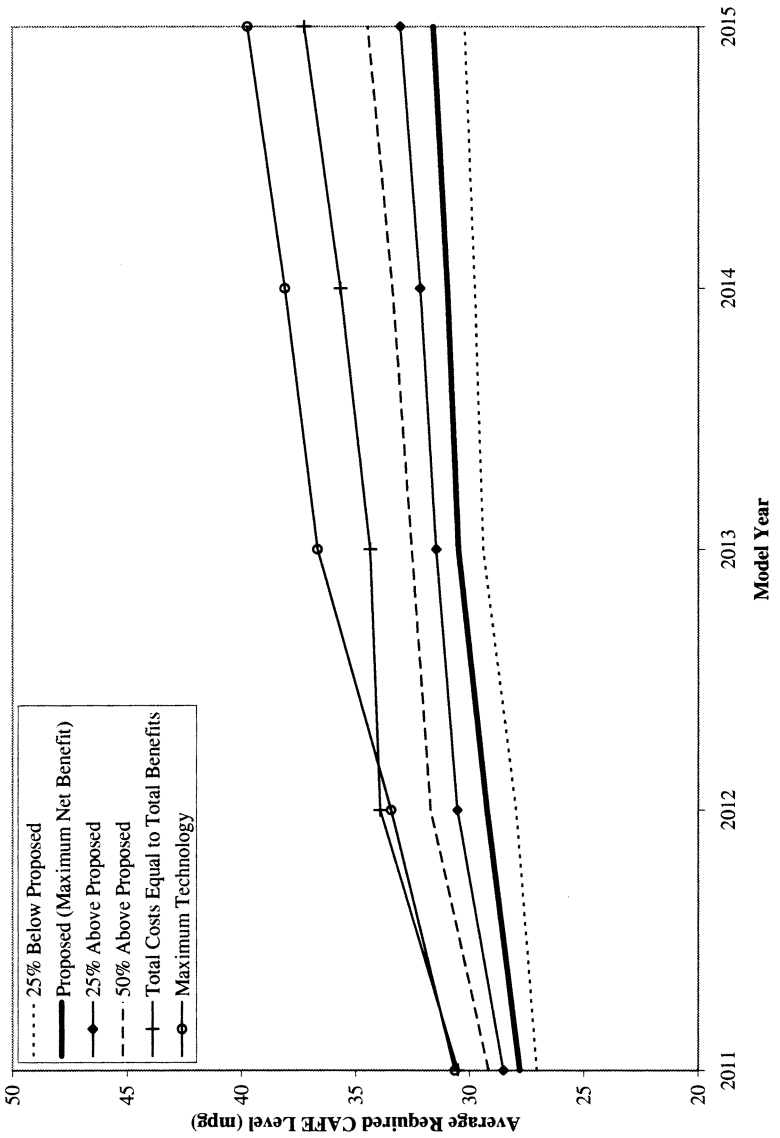


Figure X-4. Total Benefits under Proposed and Alternative Standards

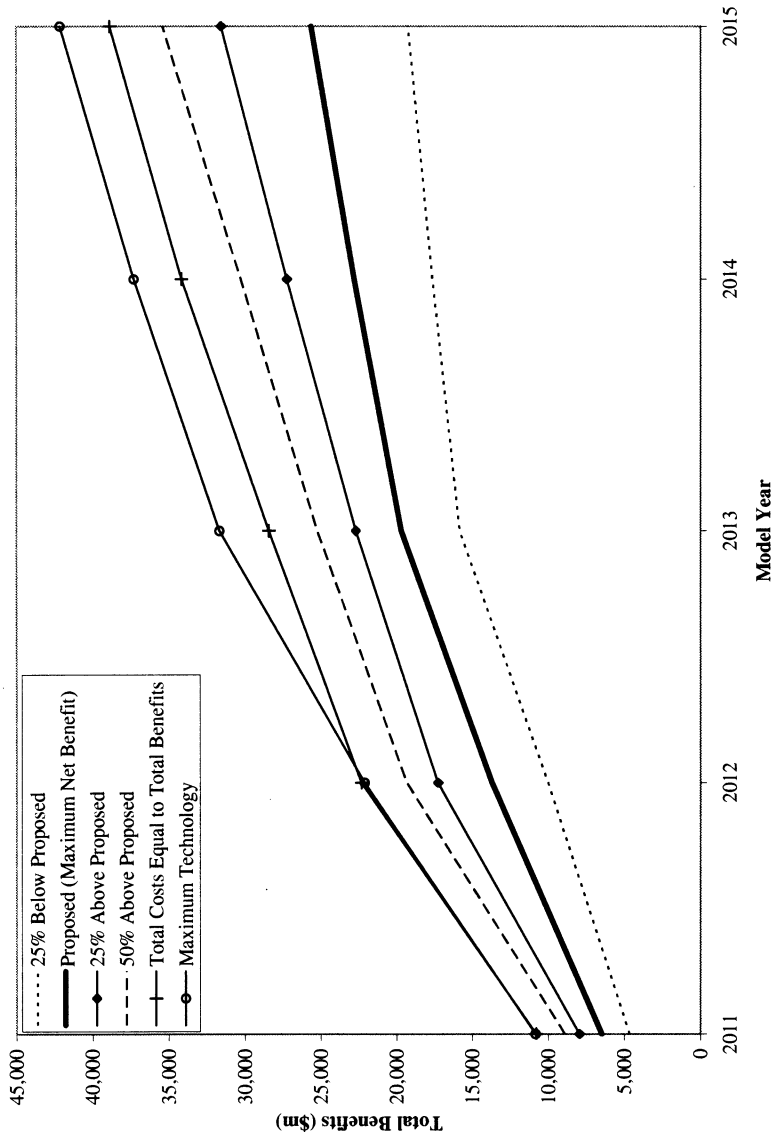


Figure X-5. Total Costs under Proposed and Alternative Standards

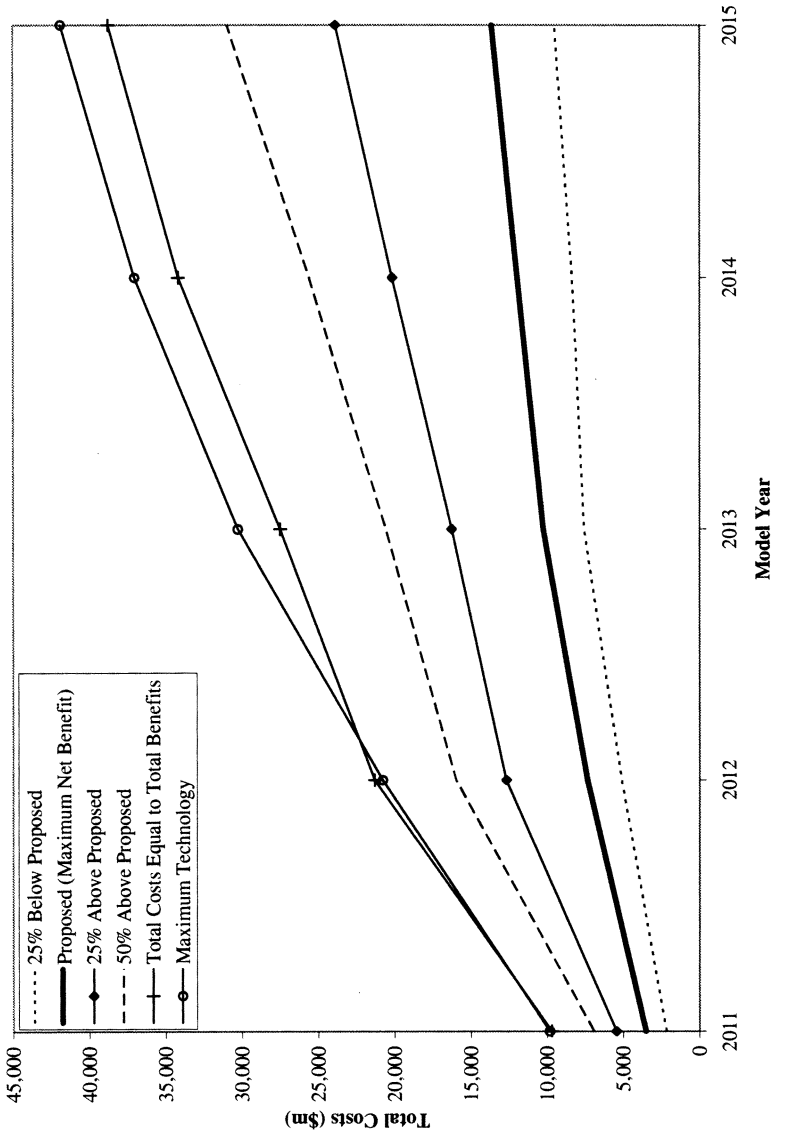
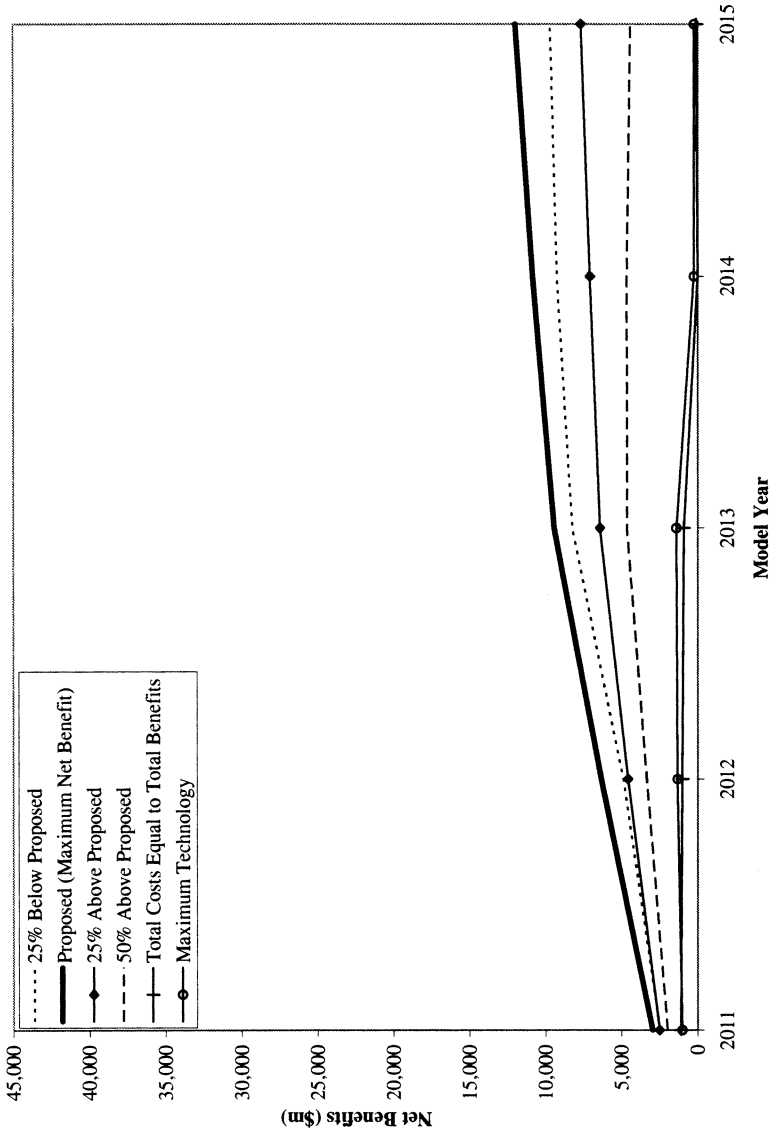


Figure X-6. Net Benefits under Proposed and Alternative Standards



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For the proposal and each regulatory alternative, the Tables X–1 and X–3 show the total net benefits in millions of dollars at a 7 percent discount rate for the projected fleet of sales for each model year.

TABLE X–1.—TOTAL BENEFITS OVER THE VEHICLE'S LIFETIME—PRESENT VALUE

[Millions of 2006 dollars, discounted 7%]

	MY 2011	MY 2012	MY 2013	MY 2014	MY 2015
Passenger Cars:					
25% Below	1,156	2,104	3,235	5,197	6,799
Optimized	2,596	4,933	6,148	7,889	9,420
25% Above	3,755	7,280	8,454	10,638	12,083
50% Above	4,274	8,825	10,213	12,576	14,495
TC = TB	5,769	10,878	12,087	14,644	16,492
Technology Exhaust	5,834	11,282	12,968	15,930	18,061
Light Trucks:					
25% Below	3,508	7,910	12,603	12,433	12,441
Optimized	3,909	8,779	13,560	14,915	16,192
25% Above	4,201	9,990	14,236	16,587	19,457
50% Above	4,642	10,507	15,011	17,687	20,892
TC = TB	5,027	11,453	16,330	19,515	22,367

TABLE X–1.—TOTAL BENEFITS OVER THE VEHICLE'S LIFETIME—PRESENT VALUE—Continued

[Millions of 2006 dollars, discounted 7%]

	MY 2011	MY 2012	MY 2013	MY 2014	MY 2015
Technology Exhaust	5,088	11,512	19,395	22,074	24,779
Combined PC+LT:					
25% Below	4,664	10,014	15,838	17,630	19,240
Optimized	6,505	13,712	19,708	22,804	25,612
25% Above	7,956	17,270	22,690	27,225	31,540
50% Above	8,916	19,331	25,224	30,263	35,387
TC = TB	10,796	22,331	28,417	34,159	38,860
Technology Exhaust	10,922	22,795	32,363	38,004	42,820

TABLE X–2.—TOTAL COSTS

[Millions of 2006 dollars, discounted 7%]

	MY 2011	MY 2012	MY 2013	MY 2014	MY 2015
Passenger Cars:					
25% Below	835	818	1,253	2,153	3,209
Optimized	1,884	2,373	2,879	3,798	4,862
25% Above	3,387	5,653	6,445	8,240	9,084
50% Above	4,010	7,885	8,986	11,207	12,981
TC = TB	5,913	10,796	12,303	15,403	17,398
Technology Exhaust	6,079	12,595	14,701	18,759	21,110
Light Trucks:					
25% Below	1,349	4,296	6,329	6,212	6,326
Optimized	1,649	4,986	7,394	8,160	8,761
25% Above	2,072	7,034	9,815	11,903	14,781
50% Above	2,922	8,098	11,586	14,386	17,969
TC = TB	3,788	10,525	15,196	18,762	21,364
Technology Exhaust	3,933	10,670	18,275	21,051	23,479
Combined PC+LT:					
25% Below	2,184	5,114	7,582	8,365	9,534
Optimized	3,534	7,358	10,273	11,957	13,623
25% Above	5,459	12,687	16,261	20,143	23,865
50% Above	6,932	15,983	20,572	25,593	30,950
TC = TB	9,702	21,321	27,499	34,164	38,761
Technology Exhaust	10,013	23,266	32,976	39,810	44,589

TABLE X–3.—NET TOTAL BENEFITS OVER THE VEHICLE'S LIFETIME—PRESENT VALUE *

[Millions of 2006 dollars, discounted 7%]

	MY 2011	MY 2012	MY 2013	MY 2014	MY 2015
Passenger Cars:					
25% Below	321	1,285	1,982	3,045	3,590
Optimized	711	2,560	3,269	4,092	4,558
25% Above	368	1,627	2,009	2,398	2,999
50% Above	264	940	1,226	1,370	1,514
TC = TB	−144	82	−216	−759	−906
Technology Exhaust	−245	−1,313	−1,733	−2,829	−3,049
Light Trucks:					
25% Below	2,154	3,633	6,348	6,288	6,258
Optimized	2,260	3,793	6,167	6,755	7,432
25% Above	2,129	2,956	4,421	4,684	4,676
50% Above	1,720	2,408	3,426	3,301	2,924
TC = TB	1,239	928	1,134	753	1,003
Technology Exhaust	1,155	843	1,120	1,023	1,280
Combined PC+LT:					
25% Below	2,476	4,919	8,330	9,333	9,848
Optimized	2,971	6,353	9,435	10,847	11,989
25% Above	2,497	4,583	6,430	7,082	7,675
50% Above	1,984	3,349	4,652	4,670	4,437
TC = TB	1,094	1,010	918	−5	98
Technology Exhaust	909	−471	−613	−1,806	−1,769

* Negative values mean that costs exceed benefits.

In tentatively deciding which alternative to propose, the agency looked at a variety of factors. The agency notes that once stringency levels exceed the point at which net benefits are maximized, the societal costs of each incremental increase in stringency exceed the accompanying societal benefits. If we have valued benefits appropriately, it does not make economic sense to mandate the spending of more money than society receives in return. The resources used to meet overly stringent CAFE standards, instead of the optimized scenario standards, would better be allocated to other uses such as technology research and development, or improvements in vehicle safety.

The agency considered the burden placed on specific manufacturers, consumers and employment. As CAFE standards increase, the incremental benefits are approximately constant while the incremental costs increase rapidly. Figure X–5 above shows that as stringency is increased, costs rise out of proportion compared to the benefits or the fuel savings. Increasingly higher costs have a negative impact on sales and employment. Each of the alternatives that is more stringent than the optimized alternative negatively impact sales and employment.

The agency also considered technological feasibility. The Volpe model assumes that major manufacturers will exhaust all available technology before paying noncompliance civil penalties, even though the latter is often less costly. Historically, the large manufacturers have never paid civil penalties. In the more stringent alternatives, the Volpe model predicts that increasing numbers of manufacturers will run out of technology to apply and, theoretically, resort to penalty payment. NHTSA provisionally believes that setting standards this high is not technologically feasible, nor does it serve the need of the nation to conserve fuel. Paying a CAFE penalty does not result in any fuel savings.

In analyzing the *''– 25 percent below optimized'' alternative,* the agency notes that these standards are more aggressive than the standards that the agency has proposed since the first years of the program and would impose unprecedented costs on manufacturers. The agency also recognizes that even this pace of increase in the standards may burden some of the manufacturers, particularly since the agency is now increasing car and light truck standards simultaneously. However, in light of the need of the nation to conserve energy and reduce global warming, the agency does not believe that this alternative would be maximum feasible under the statute. The agency is also concerned that the combined fleet might not reach the 35 mpg requirement by 2020 under EISA.

Underlying the differences in costs, benefits, and net benefits for the other alternatives are differences in the degree to which NHTSA has estimated that technologies might be applied in response to the standards corresponding to each of these alternatives. The following tables show estimates of the average penetration rates of some selected technologies in the MY2015 passenger car and light truck fleets under each of the alternatives discussed here:

TABLE X–4.—ESTIMATED AVERAGE TECHNOLOGY PENETRATION (LARGEST SEVEN MANUFACTURERS) MY2015 PASSENGER CARS

[In percent]

Technology	Average among seven largest manufacturers							
	Product plan	Adjusted baseline	25% Below proposed	Proposed standard	25% Above proposed	50% Above proposed	TC = TB	Tech. exhaustion
Automatically Shifted Manual Transmissions	10	10	23	39	47	55	63	69
Spark Ignited Direct Injection Engines	22	22	22	30	37	48	68	63
Turbocharging & Engine Downsizing	5	5	8	17	30	40	62	57
Diesel Engines	0	0	3	2	7	13	18	21
Hybrid Electric Vehicles	5	5	14	15	22	28	35	38

TABLE X–5.—ESTIMATED AVERAGE TECHNOLOGY PENETRATION (LARGEST SEVEN MANUFACTURERS) MY2015 LIGHT TRUCKS

[In percent]

Technology	Average among seven largest manufacturers							
	Product plan	Adjusted baseline	25% Below proposed	Proposed standard	25% Above proposed	50% Above proposed	TC = TB	Tech. exhaustion
Automatically Shifted Manual Transmissions	10	14	42	55	58	60	59	70
Spark Ignited Direct Injection Engines	23	24	31	40	42	55	60	69
Turbocharging & Engine Downsizing	9	11	21	31	38	51	54	65
Diesel Engines	3	6	8	10	20	23	26	28
Hybrid Electric Vehicles	2	6	15	25	29	31	30	30

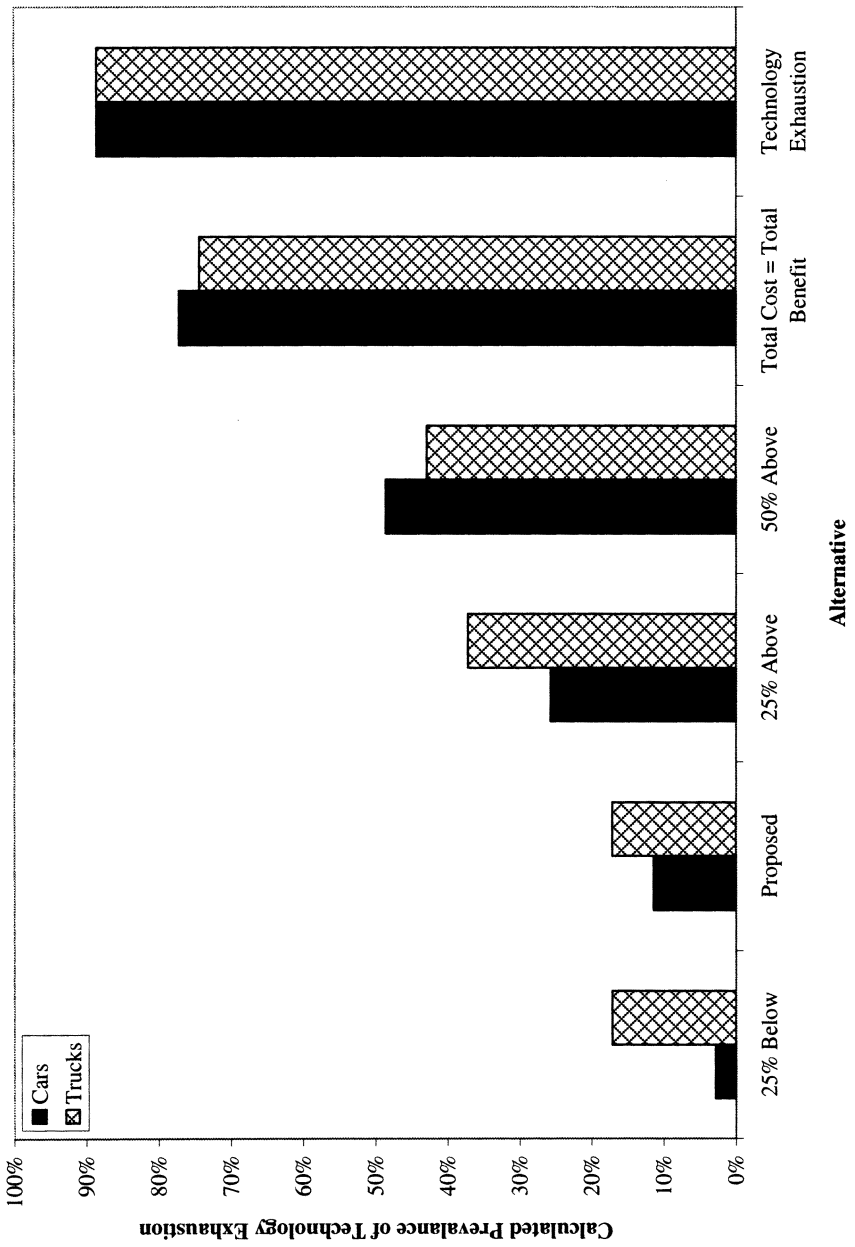
As the first of the above tables indicates, the Volpe model estimated that, under the standards proposed today, manufacturers might triple the planned utilization of turbochargers and hybrid electric powertrains in the

passenger car fleet. This table also indicates that the use of turbochargers in passenger cars might increase by an additional factor of two under the ''25% above proposed'' alternative.

Similarly, the second table indicates that manufacturers might triple the planned utilization of diesel engines in the light truck fleet, and increase the utilization of hybrid electric powertrains by more than an order of magnitude. This table also shows a significant difference between the proposed and ''25% above proposed'' alternative, including an additional doubling in the utilization of diesel engines.

NHTSA has examined the extent to which each alternative would (as estimated by the Volpe model and using the input information discussed in preceding sections) cause manufacturers to exhaust technologies projected to be available during MY2011–MY2015. The following chart summarizes the frequency with which this was estimated to occur—*i.e.*, the number of instances in which an individual manufacturer exhausted technologies and thus fell below a standard in individual model years divided by 35 (seven manufacturers times five model years).

Figure X-7
Calculated Prevalence of Technology Exhaustion



As this analysis indicates, the ''25% below proposed'' alternative caused technologies to be exhausted 3 percent of the time for passenger cars, and 17 percent of the time for light trucks. Under the proposed standards, the rate

of technology exhaustion increased to 11 percent for passenger cars, but did not change for light trucks. However, under the ''25% above proposed'' alternative, the corresponding rates increased to 26 percent and 37 percent, respectively. In other words, under this alternative, the Volpe model estimated that, more than a quarter of the time, manufacturers would be unable to comply with the passenger car standards solely using technologies expected to be available, and that they would be unable to comply with the light truck standards using available technologies more than a third of the time. These rates were estimated to be considerably higher for the remaining three alternatives.

These estimates of technology utilization and the exhaustion of available technologies indicate that all of the alternatives NHTSA has considered entail risk that one or more manufacturers would not be able to comply with both the passenger car and light truck standards in every model year solely by applying technology. This risk is mitigated somewhat by the fact that our analysis may not encompass every technology that will potentially be available during MY2011–MY2015. For example, some manufacturers have made public statements regarding hopes to offer ''plug-in'' HEVs before MY2015, but such vehicles are not represented in our analysis.[230] Nonetheless, the agency has tentatively concluded that the scope of technologies it has included is comprehensive enough that the analysis shown above indicates that under some alternatives, there is considerable risk that some manufacturers would exhaust available technologies in some model years.

In tentatively concluding that the proposed standards are the maximum feasible standards, NHTSA has balanced this risk against the other considerations it must take into account, in particular the need of the nation to conserve energy, which encompasses concerns regarding carbon dioxide emissions. The agency's analysis includes economic measures of these needs—that is, economic measures of the externalities of petroleum consumption and the damages associated with carbon dioxide emissions. These measures are reflected in the agency's estimates of the total and net benefits of each of the alternatives.

NHTSA is proposing standards that it estimates will entail risk that some manufacturers will exhaust available technologies in some model years. However, relative to the less stringent ''25% below proposed'' alternative, the agency has tentatively concluded that the additional risk is outweighed by the significant increase in estimated net benefits to society, ranging from an additional $0.5b in MY2011 to an additional $2.1b in MY2015. Conversely, the agency has tentatively concluded that, relative to the proposed standards, the more than doubling of risk posed by the ''25% above proposed'' alternative is not warranted, especially considering that this alternative is estimated to significantly *reduce* net benefits, by $0.5b in MY2011 and, eventually, $4.3b in MY2015.

NHTSA tentatively concludes that it has exercised reasonable judgment in considering degrees of technology utilization and degrees of risk, and has appropriately balanced these considerations against estimates of the resultant costs and benefits to society.

Notwithstanding the tentative conclusions described above, NHTSA seeks comment on these and other regulatory alternatives to aid in determining what standards to adopt in the final rule.[231] The agency invites comment regarding whether it has struck a proper balance and, if not, how it should do so. The alternatives identified by the agency are intended to aid public commenters in helping the agency to explore that issue. NHTSA's NEPA analysis also will inform its further action on today's proposal and may influence the final standards.

Specific sensitivity runs that vary fuel prices, the rebound effect, CO_2 and discount rate were conducted for the proposed Optimized standards. These analyses have an impact on the standards, costs and benefits. For example, in analyzing the ''optimized alternative'', we estimated that following the same methods and criteria for setting the standards, but applying a 3 percent discount rate rather than a 7 percent discount rate, would suggest standards reaching about 33.6 mpg (average required fuel economy among both passenger cars and light trucks) in MY2015, 2 mpg higher than the 31.6 mpg average resulting from the standards we are proposing based on a 7 percent discount rate. The more stringent standards during MY2011–MY2015 would reduce CO_2 emissions by 672 million metric tons (mmt), or 29 percent more than the 521 mmt achieved by the proposed standards. On the other hand, we estimate that standards increasing at this pace would require about $85b in technology outlays during MY2011–MY2015, or 89 percent more than the $45b in technology outlays associated with the standards proposed today. The impact of the 3 percent rate is shown in the body of the PRIA along with the 6 formal alternatives. All other sensitivity analyses are shown in Chapter IX of the PRIA.

XI. Sensitivity and Monte Carlo Analysis

NHTSA is proposing fuel economy standards that maximize net societal benefits, based on the Volpe model. That is, where the estimated benefits to society exceed the estimated cost of the rule by the highest amount. This analysis is based, among other things, on many underlying estimates, all of which entail uncertainty. Future fuel prices, the cost and effectiveness of available technologies, the damage cost of carbon dioxide emissions, the economic externalities of petroleum consumption, and other factors cannot be predicted with certainty.

Recognizing these uncertainties, NHTSA has used the Volpe model to conduct both sensitivity analyses, by changing one factor at a time, and a probabilistic uncertainty analysis (a Monte Carlo analysis that allows simultaneous variation in these factors) to examine how key measures (*e.g.*, mpg levels of the standard, total costs and total benefits) vary in response to changes in these factors.

However, NHTSA has not conducted a probabilistic uncertainty analysis to evaluate how optimized stringency levels respond to such changes in these factors. The Volpe model currently does not have the capability to integrate Monte Carlo simulation with stringency optimization.

The results of the sensitivity analyses indicate that the value of CO2, the value of externalities, and the value of the rebound effect have almost no impact on the level of the standards. Assuming a higher price of gasoline has the largest impact of the sensitivity analyses examined (raising the MY 2015 passenger car standard level by 6.7 mpg and the light truck level by 0.8 mpg). It appears that the light truck levels are not as sensitive as the passenger car levels to changes in the estimated benefits. This can occur because the technologies that have not been used

[230] If included in the new product plans that the agency is requesting, these vehicles will be included in our analysis for the final rule.

[231] In assessing the alternatives set out in this document, commenters may find it useful to examine the approaches being taken by other countries to improving fuel economy and reducing tailpipe CO_2 emissions, *e.g.*, Canada, *http://www.tc.gc.ca/pol/en/environment/FuelConsumption/index.html* (last accessed April 20, 2008); European Union, *http://ec.europa.eu/environment/co2/co2_home.htm* (last accessed April 20, 2008); and Japan, *http://www.eccj.or.jp/top_runner/pdf/vehicles_gasdiesel_feb2007.pdf* (last accessed April 20, 2008).

under the Optimized alternative, and are still available for light trucks, are not that close to being cost effective and it takes a larger increase in benefits to bring them over the cost-benefit threshold.

NHTSA's sensitivity analysis found that changes in the damage cost of carbon dioxide emissions and the economic externalities of petroleum consumption had very little impact on the stringency levels of the proposed standards (at most 0.1 mpg per year). The agency varied estimated carbon dioxide damage costs over a range of $0 to $14 per metric ton and varied the economic externalities of petroleum consumption over a range of $0.120 to $0.504 per gallon.

However, the sensitivity analysis did show significant changes in the stringency of the standards in response to large increases in the projected future cost of gasoline. By increasing the price of gasoline by an average of $0.88 in 2016 to $1.22 in 2020 per gallon, the passenger car standard that maximized net societal benefits for MY 2015 increased from 35.7 mpg to 42.4 mpg and the light truck standard for MY 2015 increases from 28.6 mpg to 29.4 mpg. NHTSA notes that, unlike carbon dioxide damage costs and the economic externalities of petroleum consumption, the price of gasoline is not an externality. The Volpe model assumes manufacturers consider fuel prices when selecting among available technologies.

OMB Circular A–4 requires formal probabilistic uncertainty analysis of complex rules where there are large, multiple uncertainties whose analysis raises technical challenges or where effects cascade and where the impacts of the rule exceed $1 billion. The agency identified and quantified the major uncertainties in the preliminary regulatory impact analysis and estimated the probability distribution of how those uncertainties affect the benefits, costs, and net benefits of the alternatives considered in a Monte Carlo analysis. The results of that analysis, summarized for the combined passenger car and light truck fleet across both the 7 percent (typically the lower range) and 3 percent (typically upper range) discount rates [232] are as follows:

Fuel Savings: The analysis indicates that MY 2011 vehicles (both passenger cars and light trucks) will experience between 3,370 million and 4,735 million gallons of fuel savings over their useful lifespan. MY 2012 vehicles will experience between 7,476 million and 9,639 million gallons of fuel savings over their useful lifespan. MY 2013 vehicles will experience between 10,863 million and 13,763 million gallons of fuel savings over their useful lifespan. MY 2014 vehicles will experience between 12,568 and 15,664 million gallons of fuel savings over their useful lifespan. MY 2015 vehicles will experience between 14,188 and 17,659 million gallons of fuel savings over their useful lifespan. Over the combined lifespan of the five model years, between 48.5 billion and 61.4 billion gallons of fuel will be saved.

Total Costs: The analysis indicates that owners of MY 2011 passenger cars and light trucks will pay between $2,447 million and $5,256 million in higher vehicle prices to purchase vehicles with improved fuel efficiency. MY 2012 owners will pay between $5,817 million and $10,427 million more. MY 2013 owners will pay between $7,942 million and $15,288 million more. MY 2014 owners will pay between $9,338 million and $17,189 million more. MY 2015 owners will pay between $10,940 million and $19,842 million more. Owners of all five model years vehicles combined will pay between $36.5 billion and $67.9 billion in higher vehicle prices to purchase vehicles with improved fuel efficiency.

Societal Benefits: The analysis indicates that changes to MY 2011 passenger cars and light trucks to meet the proposed CAFE standards will produce overall societal benefits valued between $4,375 million and $13,041 million. MY 2012 vehicles will produce benefits valued between $9,363 million and $28,214 million. MY 2013 vehicles will produce benefits valued between $13,370 million and $41,027 million. MY 2014 vehicles will produce benefits valued between $15,586 million and $47,087 million. MY 2015 vehicles will produce benefits valued between $17,486 million and $53,708 million. Over the combined lifespan of the five model years, societal benefits valued between $60.1 billion and $183.1 billion will be produced.

Net Benefits: The uncertainty analysis indicates that the net impact of the higher CAFE requirements for MY 2011 passenger cars and light trucks will be a net benefit of between $937 million and $9,678 million. There is at least a 99.3 percent certainty that changes made to MY 2011 vehicles to achieve the higher CAFE standards will produce a net benefit. The net impact of the higher CAFE requirements for MY 2012 will be a net benefit of between $283 million and a net benefit of $21,139 million. There is at least a 99.6 percent certainty that changes made to MY 2012 vehicles to achieve the CAFE standards will produce a net benefit. The net impact of the higher CAFE requirements for MY 2013 will be a net benefit of between $494 million and a net benefit of $31,311 million. There is at least a 99.6 percent certainty that changes made to MY 2013 vehicles to achieve the higher CAFE standards will produce a net benefit. The net impact of the higher CAFE requirements for MY 2014 will be a net benefit of between $711 million and $35,746 million. There is 100 percent certainty that changes made to MY 2014 vehicles to achieve the CAFE standards will produce a net benefit. The net impact of the higher CAFE requirements for MY 2015 will be a net benefit of between $654 million and $40,703 million. There is 100 percent certainty that changes made to MY 2015 vehicles to achieve the CAFE standards will produce a net benefit. Over all five model years, the higher CAFE standards will produce net benefits ranging from $3.1 billion to $138.6 billion. There is *at least* a 99.3 percent certainty that higher CAFE standards will produce a net societal benefit in *each* of the model years covered by this final rule. In most years, this probability is 100 percent.

XII. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long.[233] We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit your comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between

[232] In a few cases the upper range results were obtained from the 7% rate and the lower range results were obtained from the 3% rate. While this may seem counterintuitive, it results from the random selection process that is inherent in the Monte Carlo technique.

[233] *See* 49 CFR 553.21.

9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

• *Fax:* (202) 493–2251.

If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using the Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.[234]

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.* DOT's guidelines may be accessed at *http://dmses.dot.gov/submit/DataQualityGuidelines.pdf.*

How can I be sure that my comments were received?

If you submit your comments by mail and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation.[235]

In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket by one of the methods set forth above.

Will the agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments received after that date. If interested persons believe that any new information the agency places in the docket affects their comments, they may submit comments after the closing date concerning how the agency should consider that information for the final rule. However, the agency's ability to consider late comments in this rulemaking will be limited as the agency anticipates issuing a final rule this fall.

If a comment is received too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the materials placed in the docket for this document (*e.g.,* the comments submitted in response to this document by other interested persons) at any time by going to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES.** The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

XIII. Regulatory Notices and Analyses

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, Oct. 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to OMB review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The rulemaking proposed in this NPRM will be economically significant if adopted. Accordingly, OMB reviewed it under Executive Order 12866. The rule, if adopted, would also be significant within the meaning of the Department of Transportation's Regulatory Policies and Procedures.

The benefits and costs of this proposal are described above. Because the proposed rule would, if adopted, be economically significant under both the Department of Transportation's procedures and OMB guidelines, the agency has prepared a Preliminary Regulatory Impact Analysis (PRIA) and placed it in the docket and on the agency's Web site. Further, pursuant to OMB Circular A–4, we have prepared a formal probabilistic uncertainty analysis for this proposal. The circular requires such an analysis for complex rules where there are large, multiple uncertainties whose analysis raises technical challenges or where effects cascade and where the impacts of the rule exceed $1 billion. This proposal meets these criteria on all counts.

B. National Environmental Policy Act

In litigation concerning NHTSA's 2006 final rule, ''Average Fuel Economy Standards for Light Trucks, Model Years 2008–2011,'' 71 FR 17566, April 6, 2006 (Final Rule), the U.S. Court of Appeals for the Ninth Circuit ordered NHTSA to prepare an Environmental Impact Statement (EIS) for that rule. *Center for Biological Diversity* v. *NHTSA,* 508 F.3d 508, 558 (9th Cir. 2007). The Government is seeking rehearing on the appropriateness of that remedy, instead of a remand of the agency's Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for further consideration.

Simultaneously, NHTSA has initiated the EIS process under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4347, and implementing regulations issued by the Council on Environmental Quality (CEQ), 40 CFR part 1500, and NHTSA, 49 CFR part 520. On March 28, 2008, NHTSA published a notice of intent to prepare an EIS for this rulemaking and requested scoping comments. (73 FR 16615) NHTSA is publishing a supplemental notice of public scoping and request for scoping comments that invites Federal, State, and local agencies, Indian tribes, and the public to participate in the scoping process and to help identify the environmental issues and reasonable alternatives to be examined in the EIS. The scoping notice also provides information about the proposed standards, the alternatives

[234] Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

[235] *See* 49 CFR 512.

NHTSA expects to consider in its NEPA analysis, and the scoping process.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' 13 CFR 121.105(a). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

I certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. 605(b)).

If adopted, the proposal would directly affect seventeen large single stage motor vehicle manufacturers.[236] The proposal would also affect four small domestic single stage motor vehicle manufacturers.[237] According to the Small Business Administration's small business size standards (*see* 13 CFR 121.201), a single stage automobile or light truck manufacturer (NAICS code 336111, Automobile Manufacturing; 336112, Light Truck and Utility Vehicle Manufacturing) must have 1,000 or fewer employees to qualify as a small business. All four of the vehicle manufacturers have less than 1,000 employees and make less than 1,000 vehicles per year. We believe that the rulemaking would not have a significant economic impact on the small vehicle manufacturers because under Part 525, passenger car manufacturer making less than 10,000 vehicles per year can petition NHTSA to have alternative standards set for those manufacturers. These manufacturers currently don't meet the 27.5 mpg standard and must already petition the agency for relief. If the standard is raised, it has no meaningful impact on these manufacturers, they still must go through the same process and petition for relief. Given that there already is a mechanism for handling small businesses, which is the purpose of the Regulatory Flexibility Act, a regulatory flexibility analysis was not prepared.

D. Executive Order 13132 Federalism

Executive Order 13132 requires NHTSA 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.'' The Order defines the term ''Policies that have federalism implications' 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.'' Under the Order, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation. The agency has complied with Order's requirements.

The issue of preemption of State emissions standard under EPCA is not a new one; there is an ongoing public dialogue regarding the preemptive impact of CAFE standards whose beginning pre-dates this rulemaking. This dialogue has involved a variety of parties (*i.e.*, the States, the federal government and the general public) and has taken place through a variety of means, including several rulemaking proceedings. NHTSA first addressed the issue in its rulemaking on CAFE standards for MY 2005–2007 light trucks[238] and explored it at great length, after receiving extensive public comment, in its rulemaking for MY 2008–2011 light trucks.[239] Throughout this time, NHTSA has consistently taken the position that state regulations regulating CO_2 tailpipe emissions from automobiles are expressly and impliedly preempted.

NHTSA's position remains unchanged, notwithstanding the occurrence of several significant events since the issuance of the final rule for MY 2008–2011 light trucks in April 2006. In 2007, the Supreme Court ruled *Massachusetts* v. *EPA* that carbon dioxide is an ''air pollutant'' within the meaning of the Clean Air Act and thus potentially subject to regulation under that statute. Later that year, two Federal district courts ruled in Vermont and California that the GHG motor vehicle emission standards adopted by those states are not preempted under EPCA. Still later that year, Congress enacted EISA, amending EPCA by mandating substantial and sustained annual increases in the passenger car and light truck CAFE standards. As further amended by EISA, EPCA also mandates that standards be attribute-based and established and implemented separately for passenger cars and light trucks. As it did before EISA, EPCA permits manufacturers to adjust their product mix on a national basis in order to achieve compliance while meeting consumer demand.

NHTSA has carefully considered those events and reexamined the detailed technological and scientific analyses and conclusions it presented in its 2006 final rule. The agency reaffirms those analyses and conclusions.

The Supreme Court did not consider the issue of preemption under EPCA of state regulations regulating CO_2 tailpipe emissions from automobiles. Instead, it addressed the relationship of EPA and NHTSA rulemaking.

We respectfully disagree with the two district court rulings. We note that an appeal has been filed concerning the Vermont decision and that the appellants' briefs have already been filed. EPCA's express preemption provision preempts state standards ''related to'' average fuel economy standards. Under the relatedness test, preemption is not dependent on the existence or nonexistence of any inconsistency or any difference between those State standards and the CAFE standards. Likewise, it is not dependent upon a state standard or a portion of a state standard's being identical to or equivalent to a CAFE standard.

The enactment of EISA has increased the conflict between state regulations regulating CO_2 tailpipe emissions from automobiles and EPCA. A conflict between state and federal law arises when compliance with both federal and state regulations is a physical impossibility *or when state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.* Contrary to the recommendations of NAS, the judgment of NHTSA, and the mandate of

[236] BMW, Mercedes, Chrysler, Ferrari, Ford, Subaru, General Motors, Honda, Hyundai, Lotus, Maserati, Mitsubishi, Nissan, Porsche, Suzuki, Toyota, and Volkswagen.

[237] The Regulatory Flexibility Act only requires analysis of small domestic manufacturers. There are four passenger car manufacturers we know of and no light truck manufacturers: Avanti, Panoz, Saleen, and Shelby.

[238] 67 FR 77015, 77025; December 16, 2002, and 68 FR 16868, 16895; April 7, 2003.

[239] 70 FR 51414, 51457; August 30, 2005, and 71 FR 17566, 17654–17670; April 6, 2006.

Congress, the state regulations regulating CO_2 tailpipe emissions, which are equivalent in effect to fuel economy standards, are not attribute-based, thus presenting risks to safety and employment. Contrary also to EISA, the state regulations do not establish separate standards.

In reaffirming its position, NHTSA fully appreciates the great importance to the environment of addressing and reducing GHG emissions. Given that substantially reducing CO_2 tailpipe emissions from automobiles is unavoidably and overwhelmingly dependent upon substantially increasing fuel economy through installation of engine technologies; transmission technologies; accessory technologies; vehicle technologies; and hybrid technologies, increases in fuel economy will produce commensurate reductions in CO_2 tailpipe emissions. And as noted above, through EISA, Congress has ensured that there will be substantial and sustained, long term improvements in fuel economy.

Given the importance of an effective, smooth functioning national program to improve fuel economy and in light of the fact that district court considered this agency's analysis and carefully crafted position on preemption, NHTSA is considering taking the further step of summarizing that position in appendices to be added to the parts in the Code of Federal Regulations setting forth the passenger car and light truck CAFE standards. That summary is as follows:

(a) To the extent that any state regulation regulates tailpipe carbon dioxide emissions from automobiles, such a regulation relates to average fuel economy standards within the meaning of 49 U.S.C. 32919.

1. Automobile fuel economy is directly and very substantially related to automobile tailpipe emissions of carbon dioxide.

2. Carbon dioxide is the natural by-product of automobile fuel consumption.

3. The most significant and controlling factor in making the measurements necessary to determine the compliance of automobiles with the fuel economy standards in this Part is their rate of tailpipe carbon dioxide emissions.

4. Most of the technologically feasible reduction of tailpipe emissions of carbon dioxide is achievable only through improving fuel economy, thereby reducing both the consumption of fuel and the creation and emission of carbon dioxide.

5. Accordingly, as a practical matter, regulating fuel economy controls the amount of tailpipe emissions of carbon dioxide to a very substantial extent, and regulating the tailpipe emissions of carbon dioxide controls fuel economy to a very substantial extent.

(b) As a state regulation related to fuel economy standards, any state regulation regulating tailpipe carbon dioxide emissions from automobiles is expressly preempted under 49 U.S.C. 32919.

(c) A state regulation regulating tailpipe carbon dioxide emissions from automobiles, particularly a regulation that is not attribute-based and does not separately regulate passenger cars and light trucks, conflicts with

1. The fuel economy standards in this Part,

2. The judgments made by the agency in establishing those standards, and

3. The achievement of the objectives of the statute (49 U.S.C. Chapter 329) under which those standards were established, including objectives relating to reducing fuel consumption in a manner and to the extent consistent with manufacturer flexibility, consumer choice, and automobile safety.

(d) Any state regulation regulating tailpipe carbon dioxide emissions from automobiles is impliedly preempted under 49 U.S.C. Chapter 329.

We have closely examined our authority and obligations under EPCA and that statute's express preemption provision. For those rulemaking actions undertaken at an agency's discretion, Section 3(a) of Executive Order 13132 instructs agencies to closely examine their statutory authority supporting any action that would limit the policymaking discretion of the States and assess the necessity for such action. This is not such a rulemaking action. NHTSA has no discretion not to issue the CAFE standards proposed in this document. EPCA mandates that the issuance of CAFE standards for passenger cars and light trucks for model years 2011–2015. Given that a State regulation for tailpipe emissions of CO_2 is the functional equivalent of a CAFE standard, there is no way that NHTSA can tailor a fuel economy standard so as to avoid preemption. Further, EPCA itself precludes a State from adopting or enforcing a law or regulation related to fuel economy (49 U.S.C. 32919(a)).

E. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988, ''Civil Justice Reform,'' [240] NHTSA has considered whether this rulemaking would have any retroactive effect. This proposed rule does not have any retroactive effect.

F. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of a proposed or final rule that includes a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995). Adjusting this amount by the implicit gross domestic product price deflator for 2006 results in $126 million (116.043/92.106 = 1.26). Before promulgating a rule for which a written statement is needed, section 205 of UMRA generally requires NHTSA 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 NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This proposed rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, of more than $126 million annually, but it will result in the expenditure of that magnitude by vehicle manufacturers and/or their suppliers. In promulgating this proposal, NHTSA considered a variety of alternative average fuel economy standards lower and higher than those proposed. NHTSA is statutorily required to set standards at the maximum feasible level achievable by manufacturers and has tentatively concluded that the proposed fuel economy standards are the maximum feasible standards for the passenger car fleet for MYs 2011–2015 and for the light truck fleet for MYs 2011–2015 in light of the statutory considerations.

G. Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. The proposed rule would amend the reporting requirements under 49 CFR part 537, Automotive Fuel Economy Reports. In addition to the vehicle model information collected under the approved data collection (OMB control number 2127–0019) in Part 537, passenger car manufacturers would also be required to provide data on vehicle footprint. Manufacturers and other persons wishing to trade fuel economy credits would be required to provide an instruction to NHTSA on the credits to be traded.

In compliance with the PRA, we announce that NHTSA is seeking comment on the proposed revisions to the collection.

[240] 61 FR 4729 (Feb. 7, 1996).

Agency: National Highway Traffic Safety Administration (NHTSA).

Title: 49 CFR part 537, Automotive Fuel Economy (F.E.) Reports.

Type of Request: Amend existing collection.

OMB Clearance Number: 2127–0019.

Form Number: This collection of information will not use any standard forms.

Requested Expiration Date of Approval: Three years from the date of approval.

Summary of the Collection of Information

NHTSA is proposing that manufacturers would be required to provide data on vehicle (including passenger car) footprint so that the agency could determine a manufacturer's required fuel economy level. This information collection would be included as part of the existing fuel economy reporting requirements. NHTSA is also proposing that manufacturers and other persons wishing to trade fuel economy credits would be required to provide an instruction to NHTSA on the credits to be traded.

Description of the Need for the Information and Proposed Use of the Information

NHTSA would need the footprint information to determine a manufacturer's required fuel economy level and its compliance with that level. NHTSA would need the credit trading instruction to ensure that its records of a manufacturer's available credits are accurate in order to determine whether a manufacturer has sufficient credits available to offset any non-compliance with the CAFE requirements in a given year.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)

NHTSA estimates that 20 manufacturers would submit the required information. The frequency of reporting would not change from that currently authorized under collection number 2127–0019.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information

For footprint, NHTSA estimates that each passenger car manufacturer would incur an additional 10 burden hours per year. This estimate is based on the fact that data collection would involve only computer tabulation. Thus, each passenger car manufacturer would incur an additional burden of 10 hours or a total on industry of an additional 200 hours a year (assuming there are 20 manufacturers). At an assumed rate of $21.23 an hour, the annual, estimated cost of collecting and preparing the additional passenger car footprint information is $4,246.

For credit trading, NHTSA estimates that each instruction would incur an additional burden hour per year. This estimate is based on the fact that the data required is already available and thus the only burden is the actual preparation of the instruction. NHTSA estimates that the maximum instructions it would receive each year is 20. While non-manufacturers may also participate in credit trading, NHTSA does not believe that every manufacturer would need to, or be able to, participate in credit trading every year. NHTSA does not, at this time, have a way of estimating how many non-manufacturers may wish to participate in credit trading. Therefore NHTSA believes that the total number of manufacturers is a reasonable estimate, for a total annual additional burden of 20 hours a year. At an assumed rate of $21.23 an hour, the annual estimated cost of collecting and preparing the credit trading instruction is $425.

NHTSA estimates that the recordkeeping burden resulting from the collection of information would be 0 hours because the information would be retained on each manufacturer's existing computer systems for each manufacturer's internal administrative purposes. There would be no capital or start-up costs as a result of this collection. Manufacturers can collect and tabulate the information by using existing equipment. Thus, there would be no additional costs to respondents or record keepers.

NHTSA requests comment on its estimates of the total annual hour and cost burdens resulting from this collection of information. Please submit any comments to the NHTSA Docket Number referenced in the heading of this document, and to Ken Katz, Lead Engineer, Fuel Economy Division, Office of International Policy, Fuel Economy, and Consumer Programs, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also contact him by phone at (202) 366–0846, by fax at (202) 493–2290, or by e-mail at *ken.katz@dot.gov.* Comments are due by July 1, 2008.

H. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) 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. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

I. Executive Order 13045

Executive Order 13045 1A[241] *applies to any rule that:* (1) Is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the proposed rule on children, and explain why the proposed regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This proposed rule does not pose such a risk for children. The primary effects of this proposal are to conserve energy and to reduce tailpipe emissions of CO_2, the primary greenhouse gas, by setting fuel economy standards for motor vehicles.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.*, the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical.

Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as ''performance-based or design-specific technical specification and related management systems practices.'' They pertain to ''products and processes, such as size, strength, or technical performance of a product, process or material.''

Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary

[241] 62 FR 19885 (Apr. 23, 1997).

consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

The document proposes to categorize passenger cars according to vehicle footprint (average track width X wheelbase). For purposes of this calculation, NHTSA proposes to base these measurements on those developed by the automotive industry. Determination of wheelbase would be consistent with L101-wheelbase, defined in SAE J1100 MAY95, Motor vehicle dimensions. NHTSA's proposal uses a modified version of the SAE definitions for track width (W101-tread-front and W102-tread-rear as defined in SAE J1100 MAY95). The proposed definition of track width reduces a manufacturer's ability to adjust a vehicle's track width through minor alterations.

K. Executive Order 13211

Executive Order 13211[242] *applies to any rule that:* (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. If the regulatory action meets either criterion, we must evaluate the adverse energy effects of the proposed rule and explain why the proposed regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

The proposed rule seeks to establish passenger car and light truck fuel economy standards that will reduce the consumption of petroleum and will not have any adverse energy effects. Accordingly, this proposed rulemaking action is not designated as a significant energy action.

L. Department of Energy Review

In accordance with 49 U.S.C. 32902(j)(1), we submitted this proposed rule to the Department of Energy for review. That Department did not make any comments that we have not addressed.

M. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

N. 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 organization, 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 *http://www.dot.gov/privacy.html.*

XIV. Regulatory Text

List of Subjects in 49 CFR Parts 523, 531, 533, 534, 535, 536, and 537

Fuel economy and Reporting and recordkeeping requirements.

In consideration of the foregoing, under the authority of 49 U.S.C. 32901, 32902, 32903, and 32907, and delegation of authority at 49 CFR 1.50, NHTSA proposes to amend 49 CFR Chapter V as follows:

PART 523—VEHICLE CLASSIFICATION

1. Amend the authority citation for part 523 by revising to read as follows:

Authority: 49 U.S.C. 32901, delegation of authority at 49 CFR 1.50.

2. Amend § 523.2 by adding, in alphabetical order, definitions of ''light truck'' and ''work truck'' to read as follows:

§ 523.2 Definitions.

* * * * *

Light truck means a non-passenger automobile as defined in § 523.5.

* * * * *

Work truck means a vehicle that is rated at more than 8,500 and less than or equal to 10,000 pounds gross vehicle weight, and is not a medium-duty passenger vehicle as defined in 40 CFR 86.1803–01 as in effect on December 20, 2007.

3. Amend § 523.3 by revising paragraph (a) to read as follows:

§ 523.3 Automobile.

(a) An automobile is any 4-wheeled vehicle that is propelled by fuel, or by alternative fuel, manufactured primarily for use on public streets, roads, and highways and rated at less than 10,000 pounds gross vehicle weight, except:

(1) A vehicle operated only on a rail line;

(2) A vehicle manufactured in different stages by 2 or more manufacturers, if no intermediate or final-stage manufacturer of that vehicle manufactures more than 10,000 multi-stage vehicles per year; or

(3) A work truck.

* * * * *

4. Amend § 523.5 by revising the introductory text, and paragraphs (a) introductory text, (b) introductory text, (b)(1), and (b)(2) introductory text to read as follows:

§ 523.5 Non-passenger automobile.

A non-passenger automobile means an automobile that is not a passenger automobile or a work truck and includes vehicles described in paragraphs (a) or (b) of this section:

(a) An automobile designed to perform at least one of the following functions:

* * * * *

(b) An automobile capable of off-highway operation, as indicated by the fact that it:

(1)(i) Has 4-wheel drive or

(ii) Is rated at more than 6,000 pounds gross vehicle weight; and

(2) Has at least four of the following characteristics—

* * * * *

PART 531—PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

5. The authority citation for part 531 continues to read as follows:

Authority: 49 U.S.C. 32902; delegation of authority at 49 CFR 1.50.

6. Amend § 531.5 by revising paragraph (a), redesignating paragraph (b) as paragraph (d), and adding paragraphs (b) and (c) to read as follows:

§ 531.5 Fuel economy standards.

(a) Except as provided in paragraph (d) of this section, each manufacturer of passenger automobiles shall comply with the average fuel economy standards in Table I, expressed in miles per gallon, in the model year specified as applicable:

[242] 66 FR 28355 (May 18, 2001).

TABLE I

Model year	Standard
1978	18.0
1979	19.0
1980	20.0
1981	22.0
1982	24.0
1983	26.0
1984	27.0

TABLE I—Continued

Model year	Standard
1985	27.5
1986	26.0
1987	26.0
1988	26.0
1989	26.5
1990–2010	27.5

(b) For each of model years 2011 through 2015, a manufacturer's passenger automobile fleet shall comply with the fuel economy level calculated for that model year according to Figure 1 and the appropriate values in Table II.

FIGURE 1

$$\text{Required_Fuel_Economy_Level} = \frac{N}{\sum_i \frac{N_i}{T_i}}$$

Where:

N is the total number (sum) of passenger automobiles produced by a manufacturer,

N_i is the number (sum) of the i^{th} model passenger automobile produced by the manufacturer, and

T_i is fuel economy target of the i^{th} model passenger automobile, which is determined according to the following formula, rounded to the nearest hundredth:

$$T = \frac{1}{\frac{1}{a} + \left(\frac{1}{b} - \frac{1}{a}\right)\frac{e^{(x-c)/d}}{1+e^{(x-c)/d}}}$$

Where,

Parameters a, b, c, and d are defined in Table II;

e = 2.718; and

x = footprint (in square feet, rounded to the nearest tenth) of the vehicle model.

TABLE II.—PARAMETERS FOR THE PASSENGER AUTOMOBILE FUEL ECONOMY TARGETS

Model year	Parameters			
	a	b	c	d
2011	38.20	25.80	45.88	1.60
2012	40.00	27.40	45.79	1.54
2013	40.80	28.70	45.70	1.48
2014	41.20	29.90	45.61	1.42
2015	41.70	31.20	45.51	1.36

(c) In addition to the requirement of paragraph (b) of this section, each manufacturer shall also meet the minimum standard for domestically manufactured passenger automobiles expressed in Table III:

TABLE III

Model year	Minimum standard
2011	28.7
2012	30.2
2013	31.3
2014	32.0
2015	32.9

* * * * *

7. Part 531 is amended by adding the following new Appendix A at the end:

Appendix A to Part 531—Preemption of State Regulations Regulating Tailpipe Carbon Dioxide Emissions From Automobiles

(a) To the extent that any state regulation regulates tailpipe carbon dioxide emissions from automobiles, such a regulation relates to average fuel economy standards within the meaning of 49 U.S.C. 32919.

1. Automobile fuel economy is directly and very substantially related to automobile tailpipe emissions of carbon dioxide.

2. Carbon dioxide is the natural by-product of automobile fuel consumption.

3. The most significant and controlling factor in making the measurements necessary to determine the compliance of automobiles with the fuel economy standards in this Part is their rate of tailpipe carbon dioxide emissions.

4. Most of the technologically feasible reduction of tailpipe emissions of carbon dioxide is achievable only through improving fuel economy, thereby reducing both the consumption of fuel and the creation and emission of carbon dioxide.

5. Accordingly, as a practical matter, regulating fuel economy controls the amount of tailpipe emissions of carbon dioxide to a very substantial extent, and regulating the tailpipe emissions of carbon dioxide controls fuel economy to a very substantial extent.

(b) As a state regulation related to fuel economy standards, any state regulation regulating tailpipe carbon dioxide emissions from automobiles is expressly preempted under 49 U.S.C. 32919.

(c) A state regulation regulating tailpipe carbon dioxide emissions from automobiles, particularly a regulation that is not attribute-based and does not separately regulate passenger cars and light trucks, conflicts with

1. The fuel economy standards in this Part,

2. The judgments made by the agency in establishing those standards, and

3. The achievement of the objectives of the statute (49 U.S.C. Chapter 329) under which those standards were established, including objectives relating to reducing fuel consumption in a manner and to the extent consistent with manufacturer flexibility, consumer choice, and automobile safety.

(d) Any state regulation regulating tailpipe carbon dioxide emissions from automobiles is impliedly preempted under 49 U.S.C. Chapter 329.

PART 533—LIGHT TRUCK FUEL ECONOMY STANDARDS

8. The authority citation for part 533 continues to read as follows:

Authority: 49 U.S.C. 32902; delegation of authority at 49 CFR 1.50.

9. Amend § 533.5 by revising Table V of paragraph (a) and revising paragraph (h) to read as follows:

§ 533.5 Requirements.

(a) * * *

TABLE V.—PARAMETERS FOR THE LIGHT TRUCK FUEL ECONOMY TARGETS

Model year	Parameters			
	a	b	c	d
2008	28.56	19.99	49.30	5.58
2009	30.07	20.87	48.00	5.81
2010	29.96	21.20	48.49	5.50
2011	30.90	21.50	51.94	3.80
2012	32.70	22.80	51.98	3.82
2013	34.10	23.80	52.02	3.84
2014	34.10	24.30	52.06	3.86
2015	34.30	24.80	52.11	3.87

* * * * *

(h) For each of model years 2011–2015, a manufacturer's light truck fleet shall comply with the fuel economy level calculated for that model year according to Figure 1 and the appropriate values in Table V.

10. Part 533 is amended by adding the following new Appendix B at the end:

Appendix B to Part 533—Preemption of state regulations regulating tailpipe carbon dioxide emissions from automobiles

(a) To the extent that any state regulation regulates tailpipe carbon dioxide emissions from automobiles, such a regulation relates to average fuel economy standards within the meaning of 49 U.S.C. 32919.

1. Automobile fuel economy is directly and very substantially related to automobile tailpipe emissions of carbon dioxide.

2. Carbon dioxide is the natural by-product of automobile fuel consumption.

3. The most significant and controlling factor in making the measurements necessary to determine the compliance of automobiles with the fuel economy standards in this Part is their rate of tailpipe carbon dioxide emissions.

4. Most of the technologically feasible reduction of tailpipe emissions of carbon dioxide is achievable only through improving fuel economy, thereby reducing both the consumption of fuel and the creation and emission of carbon dioxide.

5. Accordingly, as a practical matter, regulating fuel economy controls the amount of tailpipe emissions of carbon dioxide to a very substantial extent, and regulating the tailpipe emissions of carbon dioxide controls fuel economy to a very substantial extent.

(b) As a state regulation related to fuel economy standards, any state regulation regulating tailpipe carbon dioxide emissions from automobiles is expressly preempted under 49 U.S.C. 32919.

(c) A state regulation regulating tailpipe carbon dioxide emissions from automobiles, particularly a regulation that is not attribute-based and does not separately regulate passenger cars and light trucks, conflicts with

1. The fuel economy standards in this Part,

2. The judgments made by the agency in establishing those standards, and

3. The achievement of the objectives of the statute (49 U.S.C. Chapter 329) under which those standards were established, including objectives relating to reducing fuel consumption in a manner and to the extent consistent with manufacturer flexibility, consumer choice, and automobile safety.

(d) Any state regulation regulating tailpipe carbon dioxide emissions from automobiles is impliedly preempted under 49 U.S.C. Chapter 329.

PART 534—RIGHTS AND RESPONSIBILITIES OF MANUFACTURERS IN THE CONTEXT OF CHANGES IN CORPORATE RELATIONSHIPS

11. The authority citation for part 534 continues to read as follows:

Authority: 49 U.S.C. 32901; delegation of authority at 49 CFR 1.50.

12. Amend § 534.4 by revising paragraphs (c) and (d) to read as follows:

§ 534.4 Successors and predecessors.

* * * * *

(c) Credits earned by a predecessor before or during model year 2008 may be used by a successor, subject to the availability of credits and the general three-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward. Credits earned by a predecessor after model year 2008 may be used by a successor, subject to the availability of credits and the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward.

(d) Credits earned by a successor before or during model year 2008 may be used to offset a predecessor's shortfall, subject to the availability of credits and the general three-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward. Credits earned by a successor after model year 2008 may be used to offset a predecessor's shortfall, subject to the availability of credits and the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward.

13. Amend § 534.5 by revising paragraphs (c) and (d) to read as follows:

§ 534.5 Manufacturers within control relationships.

* * * * *

(c) Credits of a manufacturer within a control relationship may be used by the group of manufacturers within the control relationship to offset shortfalls, subject to the agreement of the other manufacturers, the availability of the credits, and the general three-year restriction on carrying credits forward or backward prior to or during model year 2008, or the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward after model year 2008.

(d) If a manufacturer within a group of manufacturers is sold or otherwise spun off so that it is no longer within that control relationship, the manufacturer may use credits that were earned by the group of manufacturers within the control relationship while the manufacturer was within that relationship, subject to the agreement of the other manufacturers, the availability of the credits, and the general three-year restriction on carrying credits forward or backward prior to or during model year 2008, or the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward after model year 2008.

* * * * *

PART 535—[REMOVED]

14. Remove Part 535.

15. Part 536 is added to read as follows:

PART 536—TRANSFER AND TRADING OF FUEL ECONOMY CREDITS

Sec.
536.1 Scope.
536.2 Application.
536.3 Definitions.
536.4 Credits.
536.5 Trading infrastructure.
536.6 Treatment of credits earned prior to model year 2011.
536.7 Treatment of carryback credits.
536.8 Conditions for trading of credits.
536.9 Use of credits with regard to the domestically manufactured passenger automobile minimum standard.
536.10 Treatment of dual-fuel and alternative fuel vehicles—consistency with 49 CFR Part 538.

Authority: 49 U.S.C. 32903; delegation of authority at 49 CFR 1.50.

§ 536.1 Scope.

This part establishes regulations governing the use and application of CAFE credits up to three model years before and five model years after the model year in which the credit was earned. It also specifies requirements for manufacturers wishing to transfer fuel economy credits between their fleets and for manufacturers and other persons wishing to trade fuel economy credits to achieve compliance with prescribed fuel economy standards.

§ 536.2 Application.

This part applies to all credits earned (and transferable and tradable) for exceeding applicable average fuel economy standards in a given model year for domestically manufactured passenger cars, imported passenger cars, and light trucks.

§ 536.3 Definitions.

(a) *Statutory terms.* In this part, all terms defined in 49 U.S.C. 32901(a) are used in their statutory meaning.

(b) *Other terms.* As used in this part:

Above standard fuel economy means, with respect to a compliance category, that the automobiles manufactured by a manufacturer in that compliance category in a particular model year have greater average fuel economy (calculated in a manner that reflects the incentives for alternative fuel automobiles per 49 U.S.C. 32905) than that manufacturer's fuel economy standard for that compliance category and model year.

Adjustment factor means a factor used to adjust the value of a traded credit for compliance purposes to ensure that the compliance value of the credit reflects the total volume of oil saved when the credit was earned.

Below standard fuel economy means, with respect to a compliance category, that the automobiles manufactured by a manufacturer in that compliance category in a particular model year have lower average fuel economy (calculated in a manner that reflects the incentives for alternative fuel automobiles per 49 U.S.C. 32905) than that manufacturer's fuel economy standard for that compliance category and model year.

Compliance. (1) Compliance means a manufacturer achieves compliance in a particular compliance category when:

(i) The average fuel economy of the vehicles in that category exceed or meet the fuel economy standard for that category, or

(ii) The average fuel economy of the vehicles in that category do not meet the fuel economy standard for that category, but the manufacturer proffers a sufficient number of valid credits, adjusted for total oil savings, to cover the gap between the average fuel economy of the vehicles in that category and the required average fuel economy.

(2) A manufacturer achieves compliance for its fleet if conditions (1)(i) or (1)(ii) of this definition are simultaneously met for all compliance categories.

Compliance category means any of three categories of automobiles subject to Federal fuel economy regulations. The three compliance categories recognized by 49 U.S.C. 32903(g)(6) are domestically manufactured passenger automobiles, imported passenger automobiles, and non-passenger automobiles (''light trucks'').

Credit holder (or holder) means a legal person that has valid possession of credits, either because they are a manufacturer who has earned credits by exceeding an applicable fuel economy standard, or because they are a designated recipient who has received credits from another holder. Credit holders need not be manufacturers, although all manufacturers may be credit holders.

Credits (or fuel economy credits) means an earned or purchased allowance recognizing that the average fuel economy of a particular manufacturer's vehicles within a particular compliance category and model year exceeds that manufacturer's fuel economy standard for that compliance category and model year. One credit is equal to 1/10 of a mile per gallon above the fuel economy standard per one vehicle within a compliance category. Credits are denominated according to model year in which they are earned (vintage), originating manufacturer, and compliance category.

Expiry date means the model year after which fuel economy credits may no longer be used to achieve compliance with fuel economy regulations. Expiry Dates are calculated in terms of model years: For example, if a manufacturer earns credits for model year 2011, these credits may be used for compliance in model years 2008–2016.

Fleet means all automobiles that are manufactured by a manufacturer in a particular model year and are subject to fuel economy standards under 49 CFR Part 531 and 533. For the purposes of this regulation, a manufacturer's fleet means all domestically manufactured and imported passenger automobiles and non-passenger automobiles (''light trucks''). ''Work trucks'' and medium and heavy trucks are not included in this definition for purposes of this regulation.

Light truck means the same as ''non-passenger automobile,'' as that term is defined in 49 U.S.C. 32901(a)(17), and as ''light truck,'' as that term is defined at 49 CFR 523.5.

Originating manufacturer means the manufacturer that originally earned a particular credit. Each credit earned will be identified with the name of the originating manufacturer.

Trade means the receipt by NHTSA of an instruction from a credit holder to place one of its credits in the account of another credit holder. A credit that has been traded can be identified because the originating manufacturer will be a different party than the current credit holder. If a credit has been traded to another credit holder and is subsequently traded back to the originating manufacture, it will be deemed not to have been traded for compliance purposes.

Transfer means the application by a manufacturer of credits earned by that manufacturer in one compliance category or credits acquired by trade (and originally earned by another manufacturer in that category) to achieve compliance with fuel economy standards with respect to a different compliance category. For example, a manufacturer may purchase light truck credits from another manufacturer, and transfer them to achieve compliance in the manufacturer's domestically manufactured passenger car fleet.

Vintage means, with respect to a credit, the model year in which the credit was earned.

§ 536.4 Credits.

(a) *Type and vintage.* All credits are identified and distinguished in the accounts by originating manufacturer, compliance category, and model year of origin (vintage).

(b) *Application of credits.* All credits earned and applied are calculated, per 49 U.S.C. 32903(c), in tenths of a mile per gallon by which the average fuel economy of vehicles in a particular

compliance category manufactured by a manufacturer in the model year in which the credits are earned exceeds the applicable average fuel economy standard, multiplied by the number of vehicles sold in that compliance category. However, credits that have been traded, defined as credits that are used for compliance by a manufacturer other than the originating manufacturer, are valued for compliance purposes using the adjustment factor specified in paragraph (c) of this section, pursuant to the ''total oil savings'' requirement of 49 U.S.C. 32903(f)(1).

(c) *Adjustment factor.* Vehicle fuel economy, measured in miles per gallon (mpg), is adjusted to ensure constant oil savings when traded between manufacturers. Adjusted mpg is shown by multiplying the value of each credit (with a nominal value of 0.1 mpg per vehicle) by an adjustment factor calculated by the following formula:

$$/A = \left(\frac{VMTe * \left(\left(\frac{1}{MPGe} \right) - \left(\frac{1}{MPGe - 0.1} \right) \right)}{VMTu * \left(\left(\frac{1}{MPGu} \right) - \left(\frac{1}{MPGu - 0.1} \right) \right)} \right)$$

Where:

A = Adjustment Factor applied to traded credits by multiplying mpg for a particular credit;

VMTe = Lifetime vehicle miles traveled for the compliance category in which the credit was earned: 152,000 miles for domestically manufactured and imported passenger cars, 179,000 miles for light trucks;

VMTu = Lifetime vehicle miles traveled for the compliance category in which the credit is used for compliance: 152,000 miles for domestically manufactured and imported passenger cars, 179,000 miles for light trucks;

MPGe = Fuel economy standard for the originating manufacturer, compliance category, and model year in which the credit was earned;

MPGu = Fuel economy standard for the manufacturer, compliance category, and model year in which the credit will be used.

§ 536.5 Trading Infrastructure.

(a) *Accounts.* NHTSA maintains ''accounts'' for each credit holder. The account consists of a balance of credits in each compliance category and vintage held by the holder.

(b) *Who may hold credits.* Every manufacturer subject to fuel economy standards under 49 CFR parts 531 or 533 is automatically an account holder. If the manufacturer earns credits pursuant to this part, or receives credits from another party, so that the manufacturer's account has a non-zero balance, then the manufacturer is also a credit holder. Any party designated as a recipient of credits by a current credit holder will receive an account from NHTSA and become a credit holder, subject to the following conditions:

(1) A designated recipient must provide name, address, contacting information, and a valid taxpayer identification number or social security number;

(2) NHTSA does not grant a request to open a new account by any party other than a party designated as a recipient of credits by a credit holder;

(3) NHTSA maintains accounts with zero balances for a period of time, but reserves the right to close accounts that have had zero balances for more than one year.

(c) *Automatic debits and credits of accounts.*

(1) Upon receipt of a verified instruction to trade credits from an existing credit holder, NHTSA verifies the presence of sufficient credits in the account of the trader, then debit the account of the trader and credit the account of the recipient with credits of the vintage, origin, and compliance category designated. If the recipient is not a current account holder, NHTSA establishes the account subject to the conditions described in paragraph (b) of this section, and shifts the credits to the newly-opened account.

(2) NHTSA automatically deletes unused credits from holders' accounts as they reach their expiry date.

(d) *Compliance.*

(1) NHTSA assesses compliance with fuel economy standards each year, utilizing the certified and reported CAFE data provided by the Environmental Protection Agency for enforcement of the CAFE program pursuant to 49 U.S.C. 32904(e). Credit values are calculated based on the CAFE data from the EPA. If a particular compliance category within a manufacturer's fleet has above standard fuel economy, NHTSA adds credits to the manufacturer's account for that compliance category and vintage in the appropriate amount by which the manufacturer has exceeded the applicable standard.

(2) If a manufacturer's vehicles in a particular compliance category have below standard fuel economy, NHTSA automatically debits the manufacturer's unexpired credits, earned or obtained through trading, within the compliance category from the manufacturer's account, beginning with the oldest credits held by the manufacturer.

(3) If there are insufficient credits within the compliance category to enable the manufacturer to achieve compliance in that category, NHTSA automatically transfers any available existing surplus credits, including credits obtained through trading, from other compliance categories to the extent permitted by 49 U.S.C. 32903(g)(3) and this regulation, beginning with the oldest vintage of available surplus credits.

(4) The value, when used for compliance, of any credits received via trade is adjusted, using the adjustment factor described in § 536.4(c), pursuant to 49 U.S.C. 32902(f)(1).

(5) If a manufacturer is still unable to comply with the applicable standards for one or more compliance categories after NHTSA has applied all available credits from within and without the compliance category, NHTSA shall inform the manufacturer of its non-compliant status and their liability for fines, which may be avoided by submitting additional credits obtained through trading, or deferred by submitting a carryback plan for NHTSA's approval pursuant to 49 U.S.C. 32903(b)(2).

(6) NHTSA will enforce the CAFE program using the certified and reported CAFE values provided by the Environmental Protection Agency as required by 49 U.S.C. 32904(c) and (e). Credit values will be calculated from the CAFE numbers issued from EPA.

(e) *Reporting.*

(1) NHTSA periodically publishes the names and credit holdings of all credit holders. NHTSA does not publish individual transactions, nor respond to individual requests for updated balances from any party other than the account holder.

(2) NHTSA issues an annual credit status letter to each party that is a credit holder at that time. The letter to a credit holder includes a credit accounting record that identifies the credit status of the credit holder including any activity (earned, expired, transferred, traded, carry-forward and carry-back credit transactions/allocations) that took place during the identified activity period.

§ 536.6 Treatment of credits earned prior to model year 2011.

(a) Credits earned in a compliance category before and during model year 2008 may be applied by the manufacturer that earned them to carryback plans for that compliance category approved up to three model years prior to the year in which the credits were earned, or may be applied to compliance in that compliance category for up to three model years after the year in which the credits were earned.

(b) Credits earned in a compliance category after model year 2008 may be applied by the manufacturer that earned them to carryback plans for that compliance category approved up to three years prior to the year in which the credits were earned, or may be held or applied for up to five model years after the year in which the credits were earned.

(c) Credits earned in a compliance category prior to model year 2011 may not be transferred or traded by a manufacturer to another compliance category.

§ 536.7 Treatment of carryback credits.

(a) Credits earned in a compliance category in any model year may be used in carryback plans approved by NHTSA, pursuant to 49 U.S.C. 32903(b), for up to three model years prior to the year in which the credit was earned.

(b) For purposes of this regulation, NHTSA will treat the use of future credits for compliance, as through a carryback plan, as a deferral of penalties for non-compliance with an applicable fuel economy standard.

(c) If NHTSA receives and approves a manufacturer's carryback plan to earn future credits within the following three model years in order to comply with current regulatory obligations, NHTSA will defer levying fines for non-compliance until the date(s) when the manufacturer's approved plan indicates that credits will be earned or acquired to achieve compliance, and upon receiving confirmed CAFE data from EPA. If the manufacturer fails to acquire or earn sufficient credits by the plan dates, NHTSA will initiate compliance proceedings.

(d) In the event that NHTSA fails to receive or approve a plan for a non-compliant manufacturer, NHTSA will levy fines pursuant to statute. If within three years, the non-compliant manufacturer earns or acquires additional credits to reduce or eliminate the non-compliance, NHTSA will reduce any fines owed, or repay fines to the extent that credits received reduce the non-compliance.

(e) No credits from any source will be accepted in lieu of compliance after three model years after the non-compliance.

(f) If a manufacturer is unable to comply in any compliance category in any model year, NHTSA will automatically deduct and extinguish any eligible credits subsequently held, earned, or acquired to reduce the oldest instance of non-compliance before allowing credits to accumulate or applying credits to achieve compliance in later years.

(g) A carryback plan may not include the use of credits earned before model year 2011 that have been subsequently traded or transferred to another party.

§ 536.8 Conditions for trading of credits.

(a) *Trading of credits.* If a credit holder wishes to trade credits to another party, the current credit holder and the receiving party must jointly issue an instruction to NHTSA, identifying the quantity, vintage, compliance category, and originator of the credits to be traded. If the recipient is not a current account holder, the recipient must provide sufficient information for NHTSA to establish an account for the recipient. Once an account has been established or identified for the recipient, NHTSA completes the trade by debiting the transferor's account and crediting the recipient's account. NHTSA will track the quantity, vintage, compliance category, and originator of all credits held or traded by all account-holders.

(b) *Trading between and within compliance categories.* For credits earned in model year 2011 or thereafter, and used to satisfy compliance obligations for model year 2011 or thereafter:

(1) Manufacturers may use credits originally earned by another manufacturer in a particular compliance category to satisfy compliance obligations within the same compliance category.

(2) Once a manufacturer acquires by trade credits originally earned by another manufacturer in a particular compliance category, the manufacturer may transfer the credits to satisfy its compliance obligations in a different compliance category, but only to the extent that the CAFE increase attributable to the transferred credits does not exceed the limits in 49 U.S.C. 32903(g)(3). For any compliance category, the sum of a manufacturer's transferred credits earned by that manufacturer and transferred credits obtained by that manufacturer through trade must not exceed that limit.

(c) *Changes in corporate ownership and control.* Manufacturers must inform NHTSA of corporate relationship changes to ensure that credit accounts are identified correctly and credits are assigned and allocated properly.

(1) In general, if two manufacturers merge in any way, they must inform NHTSA how they plan to merge their credit accounts. NHTSA will subsequently assess corporate fuel economy and compliance status of the merged fleet instead of the original separate fleets.

(2) If a manufacturer divides or divests itself of a portion of its automobile manufacturing business, it must inform NHTSA how it plans to divide the manufacturer's credit holdings into two or more accounts. NHTSA will subsequently distribute holdings as directed by the manufacturer, subject to provision for reasonably anticipated compliance obligations.

(3) If a manufacturer is a successor to another manufacturer's business, it must inform NHTSA how it plans to allocate credits and resolve liabilities per 49 CFR part 534, Rights and Responsibilities of Manufacturers in the Context of Corporate Relationships.

(d) *No short or forward sales.* NHTSA will not honor any instructions to trade or transfer more credits than are currently held in any account. NHTSA will not honor instructions to trade or transfer credits from any future vintage (*i.e.,* credits not yet earned). NHTSA will not participate in or facilitate contingent trades.

(e) *Cancellation of credits.* A credit holder may instruct NHTSA to cancel its currently held credits, specifying the originating manufacturer, vintage, and compliance category of the credits to be cancelled. These credits will be permanently null and void; NHTSA will remove the specific credits from the credit holder's account, and will not reissue them to any other party.

(f) *Errors or fraud in earning credits.* If NHTSA determines that a manufacturer has been credited, through error or fraud, with earning credits, NHTSA will cancel those credits if possible. If the manufacturer credited with having earned those credits has already traded them when the error or

fraud is discovered, NHTSA will hold the receiving manufacturer responsible for returning the same or equivalent credits to NHTSA for cancellation.

(g) *Error or fraud in trading.* In general, all trades are final and irrevocable once executed, and may only be reversed by a new, mutually-agreed transaction. If NHTSA executes an erroneous instruction to trade credits from one holder to another through error or fraud, NHTSA will reverse the transaction if possible. If those credits have been traded away, the recipient holder is responsible for obtaining the same or equivalent credits for return to the previous holder.

§ 536.9 Use of credits with regard to the domestically manufactured passenger automobile minimum standard.

(a) Transferred or traded credits may not be used, pursuant to 49 U.S.C. 32903(g)(4), to meet the domestically manufactured passenger automobile minimum standard specified in 49 U.S.C. 32902(b)(4).

(b) Each manufacturer is responsible for compliance with both the minimum standard and the attribute-based standard.

(c) If a manufacturer's average fuel economy level for domestically manufactured passenger automobiles is lower than the attribute-based standard, but higher than the minimum standard, then the manufacturer may achieve compliance with the attribute-based standard by applying credits.

(d) If a manufacturer's average fuel economy level for domestically manufactured passenger automobiles is lower than both the attribute-based standard and the minimum standard, then the difference between the attribute-based standard and the minimum standard may be relieved by the use of credits, but the difference between the minimum standard and the manufacturer's actual fuel economy level may not be relieved by credits and will be subject to penalties.

§ 536.10 Treatment of dual-fuel and alternative fuel vehicles—consistency with 49 CFR Part 538.

(a) Statutory alternative fuel and dual-fuel vehicle calculations are treated as a change in the underlying fuel economy of the vehicle for purposes of this regulation, not as a credit that may be transferred or traded. Improvements in alternative fuel or dual fuel vehicle fuel economy as calculated pursuant to 49 U.S.C. 32905 and limited by 49 U.S.C. 32906 are therefore attributable only to the particular compliance category and model year to which the alternative or dual-fuel vehicle belongs.

(b) If a manufacturer's calculated fuel economy for a particular compliance category, including any required calculations for alternative fuel and dual fuel vehicles, is higher or lower than the applicable fuel economy standard, manufacturers will earn credits or must apply credits or pay fines equal to the difference between the calculated fuel economy level in that compliance category and the applicable standard. Credits earned are the same as any other credits, and may be held, transferred, or traded by the manufacturer subject to the limitations of the statute and this regulation.

(c) If a manufacturer builds enough alternative fuel or dual fuel vehicles to improve the calculated fuel economy in a particular compliance category by more than the limits set forth in 49 U.S.C. 32906(a), the improvement in fuel economy for compliance purposes is restricted to the statutory limit. Manufacturers may not earn credits nor reduce the application of credits or fines for calculated improvements in fuel economy based on alternative or dual fuel vehicles beyond the statutory limit.

PART 537—AUTOMOTIVE FUEL ECONOMY REPORTS

16. The authority citation for part 537 continues to read as follows:

Authority: 49 U.S.C. 32907, delegation of authority at 49 CFR 1.50.

17. Amend § 537.7 by revising paragraphs (b) and (c)(4)(xvi)(A) to read as follows:

§ 537.7 Pre-model year and mid-model year reports.

* * * * *

(b) *Projected average and target fuel economy.* (1) State the projected average fuel economy for the manufacturer's automobiles determined in accordance with § 537.9 and based upon the fuel economy values and projected sales figures provided under paragraph (c)(2) of this section.

(2) State the projected final average fuel economy that the manufacturer anticipates having if changes implemented during the model year will cause that average to be different from the average fuel economy projected under paragraph (b)(1) of this section.

(3) State the projected target fuel economy for the manufacturer's passenger automobiles and light trucks determined in accordance with 49 CFR 531.5(c) and 49 CFR 533.5(h) and based upon the projected sales figures provided under paragraph (c)(2) of this section.

(4) State the projected final target fuel economy that the manufacturer anticipates having if changes implemented during the model year will cause the targets to be different from the target fuel economy projected under paragraph (b)(3) of this section.

(5) State whether the manufacturer believes that the projections it provides under paragraphs (b)(2) and (b)(4) of this section, or if it does not provide an average or target under those paragraphs, the projections it provides under paragraphs (b)(1) and (b)(3) of this section, sufficiently represent the manufacturer's average and target fuel economy for the current model year for purposes of the Act. In the case of a manufacturer that believes that the projections are not sufficiently representative for those purposes, state the specific nature of any reason for the insufficiency and the specific additional testing or derivation of fuel economy values by analytical methods believed by the manufacturer necessary to eliminate the insufficiency and any plans of the manufacturer to undertake that testing or derivation voluntarily and submit the resulting data to the Environmental Protection Agency under 40 CFR 600.509.

* * * * *

(c) * * *

(4) * * *

(xvi)(A) In the case of passenger automobiles:

(*1*) Interior volume index, determined in accordance with subpart D of 40 CFR part 600,

(*2*) Body style,

(*3*) Beginning model year 2010, track width as defined in 49 CFR 523.2,

(*4*) Beginning model year 2010, wheelbase as defined in 49 CFR 523.2, and

(*5*) Beginning model year 2010, footprint as defined in 49 CFR 523.2.

* * * * *

Issued: April 22, 2008.

Nicole R. Nason,

Administrator.

[FR Doc. 08–1186 Filed 4–23–08; 9:16 am]

BILLING CODE 4910–59–P

Federal Register

Friday,
May 2, 2008

Part III

The President

Executive Order 13464—Blocking Property and Prohibiting Certain Transactions Related to Burma

Federal Register
Vol. 73, No. 86
Friday, May 2, 2008

Presidential Documents

Title 3—

The President

Executive Order 13464 of April 30, 2008

Blocking Property and Prohibiting Certain Transactions Related to Burma

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Burmese Freedom and Democracy Act of 2003 (Public Law 108–61, as amended, 50 U.S.C. 1701 note), and section 301 of title 3, United States Code, and in order to take additional steps with respect to the Government of Burma's continued repression of the democratic opposition in Burma, and with respect to the national emergency declared in Executive Order 13047 of May 20, 1997, relied upon for additional steps taken in Executive Order 13310 of July 28, 2003, and expanded in Executive Order 13448 of October 18, 2007,

I, GEORGE W. BUSH, President of the United States of America, hereby order:

Section 1. Except to the extent provided in section 203(b)(1), (3), and (4) of IEEPA (50 U.S.C. 1702(b)(1), (3), and (4)), the Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX, Public Law 106–387), or regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, all property and interests in property of the following persons that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(a) the persons listed in the Annex attached and made a part of this order; and

(b) any person determined by the Secretary of the Treasury, after consultation with the Secretary of State:

(i) to be owned or controlled by, directly or indirectly, the Government of Burma or an official or officials of the Government of Burma;

(ii) to have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of, the Government of Burma, the State Peace and Development Council of Burma, the Union Solidarity and Development Association of Burma, any successor entity to any of the foregoing, any senior official of any of the foregoing, or any person whose property and interests in property are blocked pursuant to Executive Order 13310, Executive Order 13448, or this order; or

(iii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to Executive Order 13310, Executive Order 13448, or this order.

Sec. 2. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. For purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) the term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States; and

(d) the term ''Government of Burma'' means the Government of Burma (sometimes referred to as Myanmar), its agencies, instrumentalities and controlled entities, and the Central Bank of Burma.

Sec. 4. I hereby determine that the making of donations of the type specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of, persons whose property and interests in property are blocked pursuant to section 1 of this order would seriously impair my ability to deal with the national emergency declared in Executive Order 13047, relied upon for additional steps taken in Executive Order 13310, and expanded in Executive Order 13448, and hereby prohibit such donations as provided by section 1 of this order.

Sec. 5. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render these measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in Executive Order 13047, relied upon for additional steps taken in Executive Order 13310, and expanded in Executive Order 13448, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

Sec. 6. The Secretary of the Treasury, after consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and section 4 of the Burmese Freedom and Democracy Act of 2003 as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 7. The Secretary of the Treasury, after consultation with the Secretary of State, is hereby authorized to determine, and to take necessary action to give effect to that determination, that circumstances no longer warrant the blocking of the property and interests in property of, or the prohibiting of transactions with, a person listed in the Annex to this order.

Sec. 8. Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders, licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under 31 C.F.R. chapter V, except as expressly terminated, modified, or suspended by or pursuant to this order.

Sec. 9. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

Sec. 10. This order is effective at 12:01 a.m. eastern daylight time on May 1, 2008.

THE WHITE HOUSE,
April 30, 2008.

Billing code 3195–01–P

Annex

1. Myanmar Gem Enterprise (a.k.a. Myanma Gem Enterprise; MGE); Yangon, Burma
2. Myanmar Timber Enterprise (a.k.a Myanma Timber Enterprise; MTE); Yangon, Burma
3. Myanmar Pearl Enterprise (a.k.a. Myanma Pearl Enterprise; MPE); Naypyitaw, Burma

Note: The bracketed identifying information with respect to each individual and entity listed in this Annex reflects information currently available and is provided solely to facilitate compliance with this order. Each individual listed in this Annex remains subject to the prohibitions of this order notwithstanding any change in title, position, or affiliation.

[FR Doc. 08–1215
Filed 5–1–08; 11:16 am]
Billing code 4810–25–C

Federal Register

Friday,
May 2, 2008

Part IV

Office of the Federal Register

Correction; Announcement of Withdrawal and Republication; Notice

OFFICE OF THE FEDERAL REGISTER

Correction; Announcement of Withdrawal and Republication

AGENCY: Office of the Federal Register.

ACTION: Correction; Announcement of Withdrawal and Republication.

SUMMARY: The Office of the Federal Register (OFR) published a Department of Energy, Bonneville Power Administration document (FR Doc. E8–9572, 73 FR 24059, May 1, 2008), in error, prior to the requested publication date.

The OFR received this notice from the Bonneville Power Administration, as sent to interested parties:

''The **Federal Register** notice announcing the commencement of the Tiered Rate Methodology (TRM–12) rate case was prematurely published yesterday (May 1, 2008). BPA wishes to inform all potential rate case parties that it is withdrawing the May 1, 2008 **Federal Register** notice. Another notice, formally announcing the initiation of the Tiered Rates Methodology rate case will be published on May 6, 2008. We regret any confusion created by the early publication of the notice.''

FOR FURTHER INFORMATION CONTACT: Michael White, (202) 741–6002, or by e-mail at: *michael.white@nara.gov*.

Authority: The authority for this action is 44 U.S.C. 1502 and 1 CFR 2.4 and part 5.

Dated: May 1, 2008.

Michael L. White,

Acting Director of the Federal Register.

[FR Doc. 08–1216 Filed 5–1–08; 1:33 pm]

BILLING CODE 1505–02–P

Reader Aids

Federal Register

Vol. 73, No. 86

Friday, May 2, 2008

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FEDERAL REGISTER PAGES AND DATE, MAY

23939–24138 1
24139–24496 2

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR
1200 24139

3 CFR
Proclamations:
8247 24133
8248 24135
8249 24137
Executive Orders:
EO 13464 24491

12 CFR
Proposed Rules:
712 23982
741 23982

14 CFR
39 ..... 23939, 23942, 24141, 24143, 24145, 24147, 24149, 24151, 24153, 24155, 24157, 24160, 24162, 24164, 24168
95 23944
97 24171
Proposed Rules:
39 ..... 23988, 23990, 23993, 23995

18 CFR
381 23946

21 CFR
101 23947

26 CFR
Proposed Rules:
1 24186

30 CFR
Proposed Rules:
732 24120
785 24120
870 24120
872 24120

32 CFR
204 23953
706 24173

40 CFR
51 24174
52 ..... 23957, 23959, 24174, 24175
70 24174
71 24174
Proposed Rules:
52 ..... 23998, 24187
704 24187
720 24187
721 24187
723 24187

42 CFR
Proposed Rules:
418 24000

44 CFR
64 24178
Proposed Rules:
67 24036

47 CFR
24 24180
27 24180

48 CFR
9904 23961

49 CFR
29 24139
Proposed Rules:
18 24188
19 24188
523 24352
531 ..... 24190, 24352
533 ..... 24190, 24352
534 24352
536 24352
537 24352

50 CFR
17 23966
229 23970
660 23971
679 24184

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MAY 2, 2008

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Importation of Uncooked Pork and Pork Products; published 4-2-08

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Common Crop Insurance Regulations:

Cultivated Wild Rice Crop Insurance Provisions; published 3-3-08

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Special Supplemental Nutrition Program for Women, Infants and Children (WIC):

Implementation of Nondiscretionary WIC Certification and General Administrative Provisions; published 3-3-08

DEFENSE DEPARTMENT

Navy Department

Certifications and Exemptions under the International Regulations for Preventing Collisions at Sea (1972); published 5-2-08

ENVIRONMENTAL PROTECTION AGENCY

California State Implementation Plan Revision:

Bay Area Air Quality Management District; published 4-2-08

HOMELAND SECURITY DEPARTMENT

Coast Guard

Safety Zone:

Kingsmill Resort Fireworks Display, James River, Williamsburg, VA; published 4-21-08

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness Directives:

Various Transport Category Airplanes Equipped with Auxiliary Fuel Tanks Installed in Accordance with Certain Supplemental Type Certificates; published 3-28-08

Standard Instrument Approach Procedures, Takeoff Minimums and Obstacle Departure Procedures; Micellaneous Amendments; published 5-2-08

RULES GOING INTO EFFECT MAY 3, 2008

HOMELAND SECURITY DEPARTMENT

Coast Guard

Security Zone; Cape Fear River, Wilmington, North Carolina; published 3-14-08

COMMENTS DUE NEXT WEEK

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and Threatened Species:

Critical Habitat for Threatened Elkhorn and Staghorn Corals; comments due by 5-6-08; published 2-6-08 [FR 08-00497]

Endangered and Threatened Wildlife and Designating Critical Habitat Listing:

90-day Finding for a Petition to Reclassify Loggerhead Turtles in Western North Atlantic Ocean; comments due by 5-5-08; published 3-5-08 [FR E8-04231]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:

Atlantic Coast Red Drum Fishery off the Atlantic States; Transfer of Management Authority; comments due by 5-5-08; published 4-3-08 [FR E8-06955]

Fisheries of the Economic Exclusive Zone Off Alaska:

Pacific Cod in the Bering Sea and Aleutian Islands; comments due by 5-8-08; published 4-24-08 [FR E8-09006]

International Fisheries; Atlantic Highly Migratory Species; comments due by 5-5-08; published 4-4-08 [FR E8-07068]

National Marine Sanctuaries Regulations; comments due by 5-9-08; published 3-27-08 [FR E8-06189]

DEFENSE DEPARTMENT

Federal Acquisition Regulation:

Socioeconomic Program Parity; comments due by 5-9-08; published 3-10-08 [FR E8-04561]

EDUCATION DEPARTMENT

Family Educational Rights and Privacy; comments due by 5-8-08; published 3-24-08 [FR E8-05790]

ENVIRONMENTAL PROTECTION AGENCY

Pesticide Tolerance:

Acetic acid; comments due by 5-5-08; published 3-5-08 [FR E8-04023]

Pesticide Tolerances and Time-Limited Pesticide Tolerances:

Methoxyfenozide; comments due by 5-5-08; published 3-5-08 [FR E8-04027]

Approval and Promulgation of Implementation Plans Florida:

Prevention of Significant Deterioration; comments due by 5-5-08; published 4-4-08 [FR E8-07073]

Approval and Promulgation of Implementation Plans:

North Carolina; 1-Hour Ozone Maintenance Plan for Raleigh/Durham, Greensboro/Winston-Salem/High Point Areas; Revisions; comments due by 5-8-08; published 4-8-08 [FR E8-07186]

Authorization of State Hazardous Waste Management Program Revisions:

Virginia; comments due by 5-5-08; published 4-3-08 [FR E8-06675]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; NV; comments due by 5-5-08; published 4-3-08 [FR E8-06919]

Delegation of National Emission Standards for Hazardous Air Pollutants, NV; comments due by 5-5-08; published 4-3-08 [FR E8-06920]

Environmental Statements; Notice of Intent:

Coastal Nonpoint Pollution Control Programs; States and Territories—

Florida and South Carolina; Open for comments until further notice; published 2-11-08 [FR 08-00596]

Final Authorization of State Hazardous Waste Management Program Revision; Virginia; comments due by 5-5-08; published 4-3-08 [FR E8-06724]

National Emission Standards for Hazardous Air Pollutants:

Area Source Standards for Nine Metal Fabrication and Finishing Source Categories; comments due by 5-5-08; published 4-3-08 [FR E8-06411]

Pesticide Tolerance:

Bifenazate; comments due by 5-5-08; published 3-5-08 [FR E8-04142]

Flumioxazin; comments due by 5-5-08; published 3-5-08 [FR E8-04102]

FEDERAL TRADE COMMISSION

Textile Fiber Products Identification Act; Rules and Regulations; comments due by 5-5-08; published 4-7-08 [FR E8-07179]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation:

Socioeconomic Program Parity; comments due by 5-9-08; published 3-10-08 [FR E8-04561]

HEALTH AND HUMAN SERVICES DEPARTMENT

Children and Families Administration

State Systems Advance Planning Document Process; comments due by 5-6-08; published 3-7-08 [FR E8-04009]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Devices:

General Hospital and Personal Use Devices; Reclassification of Medical Device Data System; comments due by 5-8-08; published 2-8-08 [FR E8-02325]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Financial Responsibility for Water Pollution (Vessels) and OPA 90 Limits of Liability (Vessels and Deepwater Ports); comments due by 5-5-08; published 2-5-08 [FR E8-01516]

Financial Responsibility for Water Pollution (Vessels) and OPA 90 Limits of Liability (Vessels and Deepwater Ports); Correction; comments due

by 5-5-08; published 2-13-08 [FR E8-02685]
Regattas and Marine Parades:
Great Lake annual marine events; comments due by 5-6-08; published 2-6-08 [FR E8-02165]
Safety Zones:
Annual Events requiring safety zones in the Captain of the Port Buffalo Zone; comments due by 5-5-08; published 4-3-08 [FR E8-06896]

LABOR DEPARTMENT
Labor-Management Standards Office
Labor Organization Annual Financial Reports; comments due by 5-5-08; published 3-28-08 [FR E8-06301]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation:
Socioeconomic Program Parity; comments due by 5-9-08; published 3-10-08 [FR E8-04561]

NUCLEAR REGULATORY COMMISSION
Decommissioning Planning; Comment Period Extension; comments due by 5-8-08; published 3-20-08 [FR E8-05650]
Geologic Repository Operations Area Security and Material Control and Accounting Requirements; Comment Period Extension; comments due by 5-5-08; published 2-26-08 [FR E8-03597]

POSTAL SERVICE
Service Barcode Required for Priority Mail Open and Distribute Container Address Labels Address Labels; comments due by 5-5-08; published 4-21-08 [FR E8-08228]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness Directives:
Airbus Model A310 Airplanes; comments due by 5-7-08; published 4-7-08 [FR E8-07163]
Boeing Model 757-200 and 757-300 Series Airplanes; comments due by 5-5-08; published 4-8-08 [FR E8-07302]
Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and Model ERJ 190 Airplanes; comments due by 5-6-08; published 4-11-08 [FR E8-07667]
Rolls-Royce Deutschland Ltd & Co KG (RRD) BR700-715A1-30, etc.; comments due by 5-5-08; published 4-3-08 [FR E8-06866]
Class E Airspace; Amendment:
Danville, KY; comments due by 5-5-08; published 3-21-08 [FR E8-05575]
Class E Airspace; Establishment:
Canon, GA; comments due by 5-5-08; published 3-20-08 [FR E8-05573]
Lady Lake, FL; comments due by 5-5-08; published 3-21-08 [FR E8-05603]
Sunbury, PA; comments due by 5-5-08; published 3-19-08 [FR E8-05168]
Susquehanna, PA; comments due by 5-5-08; published 3-19-08 [FR E8-05167]
Establishment of Class E Airspace; Milford, PA; comments due by 5-5-08; published 3-21-08 [FR E8-05574]
Proposed Establishment of Colored and VOR Federal Airways; Alaska; comments due by 5-9-08; published 3-25-08 [FR E8-05922]

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Advance Construction of Federal-Aid Projects; comments due by 5-5-08; published 3-6-08 [FR E8-04338]

TREASURY DEPARTMENT
Internal Revenue Service
Regarding the Effect of Unrelated Business Taxable Income on Charitable Remainder Trusts; Guidance Under Section 664; comments due by 5-6-08; published 3-7-08 [FR E8-04576]
Time and Manner for Electing Capital Asset Treatment for Certain Self-Created Musical Works; comments due by 5-8-08; published 2-8-08 [FR E8-02307]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 1119/P.L. 110–207

Purple Heart Family Equity Act of 2007 (Apr. 30, 2008; 122 Stat. 719)

Last List April 30, 2008

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