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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WHEN: Tuesday, September 23, 2008
9:00 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741-6008

Printed on recycled paper.

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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.

Federal Register
Vol. 73, No. 184
Monday, September 22, 2008

Presidential Documents

Title 3—

The President

Memorandum of September 18, 2008

Designation of Officers of the Council on Environmental Quality to Act as Chairman of the Council on Environmental Quality

Memorandum for the Chairman of the Council on Environmental Quality

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

Section 1. *Order of Succession.* Subject to the provisions of section 2 of this memorandum, the following officials of the Council on Environmental Quality in the order listed, shall act as and perform the functions and duties of the office of the Chairman of the Council on Environmental Quality (Chairman), during any period in which the Chairman has died, resigned, or otherwise become unable to perform the functions and duties of the office of Chairman until such time as the Chairman is able to perform the functions and duties of that office:

(a) Chief of Staff;

(b) General Counsel; and

(c) Associate Directors in the order that they shall have been appointed as such.

Sec. 2. *Exceptions.*

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as the Chairman pursuant to this memorandum.

(b) No individual listed in section 1 shall act as Chairman unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Chairman.

Sec. 3. *Judicial Review.* This memorandum is intended to improve the internal management of the executive branch and 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, or entities, its officers, employees, or agents, or any other person.

Sec. 4. You are authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, September 18, 2008

[FR Doc. E8–22245
Filed 9–19–08; 8:45 am]
Billing code 3125–W7–M

Federal Register

Vol. 73, No. 184

Monday, September 22, 2008

Presidential Documents

Title 3—

The President

Notice of September 18, 2008

Continuation of the National Emergency With Respect to Persons Who Commit, Threaten to Commit, or Support Terrorism

On September 23, 2001, by Executive Order 13224, I declared a national emergency with respect to persons who commit, threaten to commit, or support terrorism, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706). I took this action to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks in New York, in Pennsylvania, and against the Pentagon committed on September 11, 2001, and the continuing and immediate threat of further attacks against United States nationals or the United States. Because the actions of these persons who commit, threaten to commit, or support terrorism continue to pose an unusual and extraordinary threat to the United States, the national emergency declared on September 23, 2001, and the measures adopted on that date to deal with that emergency, must continue in effect beyond September 23, 2008. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to persons who commit, threaten to commit, or support terrorism.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,

Washington, September 18, 2008

[FR Doc. E8–22248

Filed 9–19–08; 8:45 am]

Billing code 3195–01–P

Rules and Regulations

Federal Register
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Monday, September 22, 2008

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0264; Directorate Identifier 2008–NE–07–AD; Amendment 39–15679; AD 2008–19–12]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. TFE731–4, –4R, –5, –5AR, –5BR, and –5R Series Turbofan Engines

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Honeywell International Inc. TFE731–4, –4R, –5, –5AR, –5BR, and –5R series turbofan engines, with interstage turbine transition (ITT) duct, part number (P/N) 3075292–1; 3075292–3; 3074766–1; 3077063–1; 3075655–1; 3075655–2; 3075699–1; or 3075699–3, installed. This AD requires replacing the affected ITT duct with a serviceable and redesigned ITT duct. This AD results from reports of 49 low-pressure turbine (LPT) blade separation events. Six of those events resulted in circumferential failure of the LPT2 or LPT3 nozzle assembly, leading to deformation of the ITT duct and uncontainment of the turbine blades and fragments of the LPT nozzle assembly. We are issuing this AD to prevent uncontainment of turbine blades and fragments of the LPT nozzle assembly, which could result in damage to the airplane.

DATES: This AD becomes effective October 27, 2008.

ADDRESSES: You can get the service information identified in this AD from Honeywell Engines and Systems Technical Publications and Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170, telephone: (602) 365–2493 (General Aviation), (602) 365–5535 (Commercial Aviation), fax: (602) 365–5577 (General Aviation and Commercial Aviation).

The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; e-mail: *joseph.costa@faa.gov;* telephone: (562) 627–5246; fax: (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to Honeywell International Inc. TFE731–4, –4R, –5, –5AR, –5BR, and –5R series turbofan engines, with ITT duct, P/N 3075292–1; 3075292–3; 3074766–1; 3077063–1; 3075655–1; 3075655–2; 3075699–1; or 3075699–3, installed. We published the proposed AD in the **Federal Register** on April 4, 2008 (73 FR 18461). That action proposed to require replacing the affected ITT duct with a serviceable and redesigned ITT duct.

Examining the AD Docket

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

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the proposal or on the determination of the cost to the public. However, we did find that we misidentified two part numbers in the Summary and Applicability Sections of the NPRM. We identified in the NPRM P/Ns 30756599–1; or 30756599–3 that should have been identified as P/Ns 3075699–1; or 3075699–3. We changed the AD to use the correct P/Ns. We also changed the AD by adding a prohibition of affected ITT ducts, for clarity.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD with the change described previously.

Costs of Compliance

We estimate that this AD will affect 1,500 engines installed on airplanes of U.S. registry. We also estimate that it will take about 4 work-hours per engine to perform the actions, and that the average labor rate is $80 per work-hour. Reworked ITT ducts to the redesign will cost about $25,000 per engine. New ITT ducts that are redesigned will cost about $127,000. We estimate that 30 engines will require new ITT ducts. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $41,040,000.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

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 Federal Aviation Administration 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:

2008–19–12 Honeywell International Inc. (formerly AlliedSignal Inc., formerly Garret Turbine Engine Company): Amendment 39–15679. Docket No. FAA–2008–0264; Directorate Identifier 2008–NE–07–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 27, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Honeywell International Inc. TFE731–4, –4R, –5, –5AR, –5BR, and –5R series turbofan engines, with interstage turbine transition (ITT) duct, part number (P/N) 3075292–1; 3075292–3; 3074766–1; 3077063–1; 3075655–1; 3075655–2; 3075699–1; or 3075699–3, installed. These engines are installed on, but not limited to, Avions Marcel Dassault Mystere-Falcon 50 series, Dassault-Aviation 20, 50, 900, MF900 series, Cessna Model 650, Cessna Citation VII, and Raytheon Corporate Jets (formerly British Aerospace) Hawker 800 and 850XP series airplanes.

Unsafe Condition

(d) This AD results from reports of 49 low-pressure turbine (LPT) blade separation events. Six of those events resulted in circumferential failure of the LPT2 or LPT3 nozzle assembly, leading to deformation of the ITT duct and uncontainment of the turbine blades and fragments of the LPT nozzle assembly. We are issuing this AD to prevent uncontainment of turbine blades and fragments of the LPT nozzle assembly, which could result in damage to the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed at the next Major Periodic Inspection of the engine or at next access of the ITT duct, whichever occurs first, but not to exceed 2,600 hours time-in-service after the effective date of this AD, unless the actions have already been done.

Replacement of the ITT Duct

(f) Replace the affected ITT ducts listed by part number in paragraph (c) of this AD, with a serviceable and redesigned ITT duct.

Definitions

(g) For the purpose of this AD, a serviceable and redesigned ITT duct is one not having a part number listed in this AD.

(h) For the purpose of this AD, next access of the ITT duct is when the ITT duct is removed from the engine.

Prohibition of Affected ITT Ducts

(i) After the effective date of this AD, do not install any ITT duct listed by P/N in paragraph (c) of this AD, onto any engine.

Alternative Methods of Compliance

(j) The Manager, Los Angeles Aircraft Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(k) Honeywell International Inc. Service Bulletin (SB) No. TFE731–72–3727, dated September 12, 2007, and SB No. TFE731–72–3728, dated September 12, 2007, pertain to the subject of this AD.

(l) Contact Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; e-mail: *joseph.costa@faa.gov;* telephone: (562) 627–5246; fax: (562) 627–5210, for more information about this AD.

Issued in Burlington, Massachusetts, on September 12, 2008.

Peter A. White,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E8–21835 Filed 9–19–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0674; Directorate Identifier 2008–NM–086–AD; Amendment 39–15675; AD 2008–19–08]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 10 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to all Avions Marcel Dassault-Breguet Model Falcon 10 airplanes. That AD currently requires either revising the airplane flight manual and installing a placard in the flight deck to prohibit flight into known or forecasted icing conditions, or repetitively inspecting for delamination of the flexible hoses in the wing (slat) anti-icing system and performing corrective actions if necessary. The existing AD also requires replacement of the flexible hoses installed in the slat anti-icing systems, which ends the repetitive inspections. This new AD continues to require replacement of the flexible hoses installed in the slat anti-icing systems with new hoses, but at intervals defined in flight hours instead of flight cycles. This AD results from information we received from operators and the airplane manufacturer indicating that the repetitive interval for the required replacement deviated from the referenced service information. We are issuing this AD to prevent collapse of the flexible hoses in the slat anti-icing system, which could lead to insufficient anti-icing capability and, if icing is encountered in this situation, could result in reduced controllability of the airplane.

DATES: This AD becomes effective October 27, 2008.

On October 11, 2007 (72 FR 51161, September 6, 2007), the Director of the Federal Register approved the incorporation by reference of Dassault Service Bulletin F10–313, Revision 1, dated May 10, 2006.

ADDRESSES: For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606.

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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2007–18–08, amendment 39–15188 (72 FR 51161, September 6, 2007). The existing AD applies to all Avions Marcel Dassault-Breguet Model Falcon 10 airplanes. That NPRM was published in the **Federal Register** on June 27, 2008 (73 FR 36473). That NPRM proposed to continue to require either revising the airplane flight manual and installing a placard in the flight deck to prohibit flight into known or forecasted icing conditions, or repetitively inspecting for delamination of the flexible hoses in the wing (slat) anti-icing system and performing corrective actions if necessary. That NPRM also proposed to require replacement of the flexible hoses installed in the slat anti-icing systems with new hoses, but at intervals defined in flight hours instead of flight cycles.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been received on the NPRM or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD. The average labor rate is $80 per work hour.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Hose replacement	8	$880	$1,520, per replacement cycle	Up to 146.	Up to $221,920, per replacement cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–15188 (72 FR 51161, September 6, 2007) and by adding the following new airworthiness directive (AD):

2008–19–08 Dassault Aviation (Formerly Avions Marcel Dassault-Breguet Aviation (AMD/BA)): Amendment 39–15675. Docket No. FAA–2008–0674; Directorate Identifier 2008–NM–086–AD.

Effective Date

(a) This AD becomes effective October 27, 2008.

Affected ADs

(b) This AD supersedes AD 2007–18–08.

Applicability

(c) This AD applies to all Dassault Model Falcon 10 airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from information we received from operators and the airplane manufacturer indicating that the repetitive interval for the required replacement deviated from the referenced service information. We are issuing this AD to prevent collapse of the flexible hoses in the slat anti-icing system, which could lead to insufficient anti-icing capability and, if icing is encountered in this situation, could result in reduced controllability of the airplane.

Compliance

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

Certain Requirements of AD 2007–18–08

Hose Replacement

(f) Within 330 flight hours or 7 months after October 11, 2007 (the effective date of AD 2007–18–08), whichever occurs first: Replace the flexible hoses installed in the slat anti-icing system with new hoses having part number (P/N) FAL1007, in accordance with the Accomplishment Instructions of Dassault Service Bulletin F10–313, Revision 1, dated May 10, 2006. Repeat the hose replacement thereafter at intervals not to exceed 700 flight cycles, except as provided by paragraph (h) of this AD.

(g) Replacement of a hose before October 11, 2007, in accordance with Dassault Service Bulletin F10–313, dated August 10, 2005, is acceptable for compliance with the requirements of paragraph (f) of this AD.

New Requirements of This AD:

New Repetitive Interval

(h) As of the effective date of this AD, repeat the hose replacement required by paragraph (f) of this AD within 700 flight hours since the last replacement, or within 100 flight hours after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 700 flight hours.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, International Branch, ANM–116, FAA, ATTN: Tom Rodriguez, Aerospace Engineer, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149; 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.

Related Information

(j) European Aviation Safety Agency airworthiness directive 2006–0114, dated May 10, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use Dassault Service Bulletin F10–313, Revision 1, dated May 10, 2006, to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) On October 11, 2007 (72 FR 51161, September 6, 2007), the Director of the Federal Register approved the incorporation by reference of Dassault Service Bulletin F10–313, Revision 1, dated May 10, 2006.

(2) Contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606, for a copy of this service information.

(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 September 12, 2008.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–22033 Filed 9–19–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 29334; Amendment No. 71–40]

Airspace Designations; Incorporation by Reference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 relating to airspace designations to reflect the approval by the Director of the Federal Register of the incorporation by reference (IBR) of FAA Order 7400.9R, Airspace Designations and Reporting Points. This action also explains the procedures the FAA will use to amend the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points incorporated by reference.

DATES: *Effective Date:* These regulations are effective September 16, 2008 until October 31, 2008. The incorporation by reference of FAA Order 7400.9R is approved by the Director of the Federal Register as of September 16, 2008 until October 31, 2008.

FOR FURTHER INFORMATION CONTACT: Tameka Bentley, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9239.

SUPPLEMENTARY INFORMATION:

History

FAA Order 7400.9R, Airspace Designations and Reporting Points, effective September 15, 2007, listed Class A, B, C, D and E airspace areas; air traffic service routes; and reporting points. Due to the length of these descriptions, the FAA requested approval from the Office of the **Federal Register** to incorporate the material by reference in the Federal Aviation Regulations section 71.1. During the incorporation by reference period, from September 15, 2007 through September 15, 2008, the FAA processed all proposed changes of the airspace listings in FAA Order 7400.9R in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings were published in full text as final rules in the **Federal Register**. This rule reflects the continued incorporation of 7400.9R, pending a revised edition of the Order. The Director of the Federal Register has extended the IBR approval of FAA Order 7400.9R in section 71.1, as of September 16, 2008 until October 31, 2008. This rule also explains the procedures the FAA will use to amend the airspace designations incorporated by reference in part 71. Sections 71.5, 71.15, 71.31, 71.33, 71.41, 71.51, 71.61, 71.71, and 71.901 are amended to reflect the incorporation by reference of FAA Order 7400.9R.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9R, effective September 16, 2008. This rule reflects the continued incorporation of 7400.9R, pending a revised edition of the Order. During the incorporation by reference, the FAA will continue to process all proposed changes of the airspace listings in the Order. Likewise, all amendments of these listings will be published in full text as final rules in the **Federal Register**. The FAA will periodically integrate all final rule amendments into a revised edition of the Order, and submit the revised edition to the Director of the Federal Register for approval for incorporation by reference in section 71.1.

The FAA has determined that this action: (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. This action neither places any new restrictions or requirements on the public, nor changes the dimensions or operation requirements of the airspace listings incorporated by reference in part 71. Consequently, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Because this action will continue to update the changes to the airspace designations, which are depicted on aeronautical charts, and to avoid any unnecessary pilot confusion, I find that good cause exists, under 5 U.S.C. 553(d), for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

■ 2. Section 71.1 is added to read as follows:

§ 71.1 Applicability.

A listing for Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points can be found in FAA Order 7400.9R, Airspace Designations and Reporting Points. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The approval to incorporate by reference FAA Order 7400.9R is effective September 16, 2008 until October 31, 2008. During the incorporation by reference, proposed changes to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as proposed rule documents in the **Federal Register**. Amendments to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as final rules in the **Federal Register**. Periodically, the final rule amendments will be integrated into a revised edition of the Order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. Copies of FAA Order 7400.9R may be obtained from Airspace and Rules Group, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–8783. An electronic version of the Order is available on the FAA Web site at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/*. Copies of FAA Order 7400.9R may be inspected in Docket No. 29334 on the **Federal Register** Web site at *http://www.regulations.gov.*

■ 3. Section 71.5 is revised to read as follows:

§ 71.5 Reporting points.

The reporting points listed in subpart H of FAA Order 7400.9R (incorporated by reference, see § 71.1) consist of geographic locations at which the position of an aircraft must be reported in accordance with part 91 of this chapter.

■ 4. Section 71.15 is revised to read as follows:

§ 71.15 Designation of jet routes and VOR Federal airways.

Unless otherwise specified, the place names appearing in the descriptions of airspace areas designated as jet routes in subpart A of FAA Order 7400.9R, and as VOR Federal airways in subpart E of FAA Order 7400.9R, are the names of VOR or VORTAC navigation aids. FAA Order 7400.9R is incorporated by reference in § 71.1.

■ 5. Section 71.31 is revised to read as follows:

§ 71.31 Class A airspace.

The airspace descriptions contained in § 71.33 and the routes contained in subpart A of FAA Order 7400.9R (incorporated by reference, see § 71.1) are designated as Class A airspace within which all pilots and aircraft are subject to the rating requirements, operating rules, and equipment requirements of part 91 of this chapter.

■ 6. In § 71.33 revise paragraph (c) to read as follows:

§ 71.33 Class A airspace areas.

* * * * *

(c) The airspace areas listed as offshore airspace areas in subpart A of FAA Order 7400.9R (incorporated by reference, see § 71.1) that are designated in international airspace within areas of domestic radio navigational signal or ATC radar coverage, and within which domestic ATC procedures are applied.

■ 7. Section 71.41 is revised to read as follows:

§ 71.41 Class B airspace.

The Class B airspace areas listed in subpart B of FAA Order 7400.9R (incorporated by reference, see § 71.1) consist of specified airspace within which all aircraft operators are subject to the minimum pilot qualification requirements, operating rules, and aircraft equipment requirements of part 91 of this chapter. Each Class B airspace area designated for an airport in subpart B of FAA Order 7400.9R (incorporated by reference, see § 71.1) contains at least one primary airport around which the airspace is designated.

■ 8. Section 71.51 is revised to read as follows:

§ 71.51 Class C airspace.

The Class C airspace areas listed in subpart C of FAA Order 7400.9R (incorporated by reference, see § 71.1) consist of specified airspace within which all aircraft operators are subject to operating rules and equipment requirements specified in part 91 of this chapter. Each Class C airspace area designated for an airport in subpart C of FAA Order 7400.9R (incorporated by reference, see § 71.1) contains at least one primary airport around which the airspace is designated.

■ 9. Section 71.61 is revised to read as follows:

§ 71.61 Class D airspace.

The Class D airspace areas listed in subpart D of FAA Order 7400.9R (incorporated by reference, see § 71.1) consist of specified airspace within which all aircraft operators are subject to operating rules and equipment requirements specified in part 91 of this chapter. Each Class D airspace area designated for an airport in subpart D of FAA Order 7400.9R (incorporated by reference, see § 71.1) contains at least one primary airport around which the airspace is designated.

■ 10. Section 71.71 is revised to read as follows:

§ 71.71 Class E airspace.

Class E Airspace consists of:

(a) The airspace of the United States, including that airspace overlying the waters within 12 nautical miles of the coast of the 48 contiguous states and Alaska, extending upward from 14,500 feet MSL up to, but not including 18,000 feet MSL, and the airspace above FL600, excluding—

(1) The Alaska peninsula west of longitude 160°00′00″ W.; and

(2) The airspace below 1,500 feet above the surface of the earth.

(b) The airspace areas designated for an airport in subpart E of FAA Order 7400.9R (incorporated by reference, see § 71.1) within which all aircraft operators are subject to the operating rules specified in part 91 of this chapter.

(c) The airspace areas listed as domestic airspace areas in subpart E of FAA Order 7400.9R (incorporated by reference, see § 71.1) which extend upward from 700 feet or more above the surface of the earth when designated in conjunction with an airport for which an approved instrument approach procedure has been prescribed, or from

1,200 feet or more above the surface of the earth for the purpose of transitioning to or from the terminal or en route environment. When such areas are designated in conjunction with airways or routes, the extent of such designation has the lateral extent identical to that of a Federal airway and extends upward from 1,200 feet or higher. Unless otherwise specified, the airspace areas in the paragraph extend upward from 1,200 feet or higher above the surface to, but not including, 14,500 feet MSL.

(d) The Federal airways described in subpart E of FAA Order 7400.9R (incorporated by reference, see § 71.1).

(e) The airspace areas listed as en route domestic airspace areas in subpart E of FAA Order 7400.9R (incorporated by reference, see § 71.1). Unless otherwise specified, each airspace area has a lateral extent identical to that of a Federal airway and extends upward from 1,200 feet above the surface of the earth to the overlying or adjacent controlled airspace.

(f) The airspace areas listed as offshore airspace areas in subpart E of FAA Order 7400.9R (incorporated by reference, see § 71.1) that are designated in international airspace within areas of domestic radio navigational signal or ATC radar coverage, and within which domestic ATC procedures are applied. Unless otherwise specified, each airspace area extends upward from a specified altitude up to, but not including, 18,000 feet MSL.

■ 11. Section 71.901 is revised to read as follows:

§ 71.901 Applicability.

Unless otherwise designated:

(a) Each reporting point listed in subpart H of FAA Order 7400.9R (incorporated by reference, see § 71.1) applies to all directions of flight. In any case where a geographic location is designated as a reporting point for less than all airways passing through that point, or for a particular direction of flight along an airway only, it is so indicated by including the airways or direction of flight in the designation of geographical location.

(b) Place names appearing in the reporting point descriptions indicate VOR or VORTAC facilities identified by those names.

Issued in Washington, DC, on September 16, 2008.

Barry C. Davis,

Acting Director, Systems Operations, Airspace, and AIM.

[FR Doc. E8–21986 Filed 9–16–08; 4:40 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30627; Amdt. No. 3286]

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 September 22, 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 September 22, 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 September 5, 2008.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, 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 25 SEP 2008

Bethel AK, Bethel, NDB RWY 18, Amdt 8C, CANCELLED
Bethel AK, Bethel, VOR RWY 18, Amdt 8C, CANCELLED
Bethel AK, Bethel, VOR/DME–B Orig-A, CANCELLED

Effective 23 OCT 2008

Willimantic, CT, Windham, Takeoff Minimums and Obstacle DP, Amdt 5
Eastman, GA, Heart of Georgia Rgnl, ILS OR LOC RWY 2, Amdt 1A
Owensboro, KY, Owensboro-Daviess County, Takeoff Minimums and Obstacle DP, Amdt 4
Tulsa, OK, Richard Lloyd Jones Jr, Take Off Minimums and Obstacle DP, Amdt 6
Greer, SC, Greenville-Spartanburg Intl-Roger Milliken, ILS OR LOC RWY 4, ILS RWY 4
(CAT II), ILS RWY 4 (CAT III), Amdt 22

Effective 20 NOV 2008

Hutchinson, KS, Hutchinson Muni, GPS RWY 13, Orig, CANCELLED
Hutchinson, KS, Hutchinson Muni, GPS RWY 31, Amdt 1, CANCELLED
Hutchinson, KS, Hutchinson Muni, RNAV (GPS) RWY 13, Orig
Hutchinson, KS, Hutchinson Muni, RNAV (GPS) RWY 31, Orig
Detroit, MI, Detroit Metropolitan Wayne County, ILS Y RWY 4L, Orig
Detroit, MI, Detroit Metropolitan Wayne County, ILS Y RWY 22R, Orig
Willoughby, OH, Willoughby Lost Nation Muni, VOR RWY 28, Orig-C, CANCELLED
Willoughby, OH, Willoughby Lost Nation Muni, VOR–A, Orig-B, CANCELLED
Willoughby, OH, Willoughby Lost Nation Muni, VOR–B, Orig-B, CANCELLED
Renton, WA, Renton Muni, NDB RWY 15, Amdt 5
Renton, WA, Renton Muni, RNAV (GPS) Y RWY 15, Amdt 2
Renton, WA, Renton Muni, RNAV (GPS) Z RWY 15, Orig

[FR Doc. E8–21794 Filed 9–19–08; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

14 CFR Part 97

[Docket No. 30628; Amdt. No. 3287]

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 September 22, 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 September 22, 2008.

ADDRESSES: Availability of matter 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 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 Division, 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, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic 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 contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. 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 as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these 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 DOT Regulatory 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 September 5, 2008.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 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:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	Subject
08/05/08	CA	BAKERSFIELD	MEADOWS FIELD	8/1393	RNAV (GPS) RWY 12L, ORIG
08/25/08	MS	PHILADELPHIA	PHILADELPHIA MUNI	8/4919	NDB RWY 18, AMDT 1
08/25/08	MS	PHILADELPHIA	PHILADELPHIA MUNI	8/4920	NDB RWY 36, AMDT 1
08/27/08	NH	PORTSMOUTH	PORTSMOUTH INTERNATIONAL AT PEASE.	8/5210	ILS OR LOC RWY 16, AMDT 1A
08/29/08	NC	RALEIGH/DURHAM	RALEIGH-DURHAM INTL	8/5728	ILS OR LOC RWY 23L, AMDT 7A
08/29/08	NC	RALEIGH/DURHAM	RALEIGH-DURHAM INTL	8/5730	ILS OR LOC RWY 23R, AMDT 10

FDC date	State	City	Airport	FDC No.	Subject
08/29/08	NC	RALEIGH/DURHAM	RALEIGH-DURHAM INTL	8/5731	RNAV (GPS) RWY 23R, ORIG–A
08/29/08	AK	AKHIOK	AKHIOK	8/5763	RNAV (GPS) A, ORIG
08/29/08	CA	SAN BERNARDINO	SAN BERNARDINO INTL	8/5765	ILS OR LOC Z RWY 6, AMDT 2
08/29/08	CA	SACRAMENTO	SACRAMENTO MATHER	8/5766	RNAV (GPS) RWY 22L, ORIG
08/29/08	CA	SACRAMENTO	SACRAMENTO MATHER	8/5767	RNAV (GPS) RWY 4R, AMDT 1
08/29/08	CA	SACRAMENTO	SACRAMENTO MATHER	8/5769	ILS OR LOC RWY 22L, AMDT 4
08/29/08	CA	SACRAMENTO	SACRAMENTO MATHER	8/5771	VOR RWY 4R, ORIG–D
08/29/08	CA	SACRAMENTO	SACRAMENTO MATHER	8/5775	VOR/DME RWY 22L, ORIG–D
09/02/08	GA	GREENSBORO	GREENE COUNTY REGIONAL	8/6053	LOC RWY 24, AMDT 2
09/02/08	GA	GREENSBORO	GREENE COUNTY REGIONAL	8/6054	RNAV (GPS) RWY 6, ORIG
09/02/08	OR	BAKER CITY	BAKER CITY MUNI	8/6061	RNAV (GPS) RWY 13, ORIG
09/02/08	OR	BAKER CITY	BAKER CITY MUNI	8/6062	VOR A, AMDT 1
09/03/08	GQ	AGANA	GUAM INTL	8/6494	TACAN RWY 24R, ORIG
09/03/08	CQ	AGANA	GUAM INTL	8/6495	VOR/DME OR TACAN RWY 6L, ORIG–B
09/03/08	CQ	AGANA	GUAM INTL	8/6496	NDB/DME RWY 24R, ORIG
09/03/08	CQ	AGANA	GUAM INTL	8/6499	VOR–A, ORIG–B
09/03/08	GQ	AGANA	GUAM INTL	8/6502	ILS OR LOC RWY 6R, ORIG
07/24/08	FM	POHNPEI ISLAND	POHNPEI INTL	8/9242	NDB OR GPS–C, AMDT 3A. THIS NOTAM PUBLISHED IN TL08–19 IS HEREBY RESCINDED IN ITS ENTIRETY.

[FR Doc. E8–21796 Filed 9–19–08; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 736 and 744

[Docket No. 0809021173–81210–01]

RIN 0694–AE46

Addition of Certain Persons to the Entity List; Removal of General Order From the Export Administration Regulations (EAR)

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by adding additional persons to the Entity List (Supplement No. 4 to Part 744) on the basis of section 744.11 of the EAR. These additional persons being added to the Entity List have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States.

Two types of persons are being added to the Entity List by this rule. The first type is persons that were listed on General Order No. 3 prior to publication of this rule, that are now moved to the Entity List with publication of this rule. There were 33 persons listed on the general order and all of those persons are now listed on the Entity List with the publication of this rule. These were persons concerning whom the U.S. Government possessed information regarding the acquisition or attempted acquisition of electronic components and devices (''commodities'') capable of being used in the construction of Improvised Explosive Devices (''IEDs''). These commodities have been, and may continue to be, employed in IEDs or other explosive devices used against Coalition Forces in Iraq and Afghanistan.

The second type of persons being added to the Entity List with this rule are certain additional persons that were not previously listed on the general order, but are of concern to the U.S. Government for the same reasons as those other persons that were previously listed on the general order. This rule adds these additional persons to the Entity List also on the basis of section 744.11.

This rule removes and reserves the general order because all of the persons from the general order are now listed on the Entity List with the publication of this rule. The Entity List provides notice to the public that certain exports and reexports to parties identified on the Entity List require a license from the Bureau of Industry and Security (BIS) and that availability of License Exceptions in such transactions is limited.

DATES: This rule is effective September 22, 2008. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694–AE46, by any of the following methods:

E-mail: publiccomments@bis.doc.gov. Include ''RIN 0694–AE46'' in the subject line of the message.

Fax: (202) 482–3355. Please alert the Regulatory Policy Division, by calling (202) 482–2440, if you are faxing comments.

Mail or Hand Delivery/Courier: Timothy Mooney, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, *Attn:* RIN 0694–AE46.

Send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet Seehra, Office of Management and Budget (OMB), by e-mail to *jseehra@omb.eop.gov,* or by fax to (202) 395–7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Comments on this collection of information should be submitted separately from comments on the final rule (i.e. RIN 0694–AE46)—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT: Karen Nies-Vogel, End-User Review Committee, Office of the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–3811, Fax: (202) 482–3911, e-mail: *kniesv@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

In Supplement No. 4 to part 744 (The Entity List), this rule adds 108 persons to the Entity List on the basis of section 744.11 of the EAR. In total, this rule adds 115 new entries to the Entity List, including seven (7) additional entries for newly added persons with multiple addresses. Eight (8) of the entries being added include aliases for persons being added. The Entity List provides notice to the public that certain exports and reexports to parties identified on the Entity List require a license from the Bureau of Industry and Security (BIS) and that availability of License Exceptions in such transactions is limited.

These additional persons being added to the Entity List have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. Specifically, these parties are of concern to the United States Government under section 744.11 (License Requirements that Apply to Entities Acting Contrary to the National Security or Foreign Policy Interests of the United States) of the EAR.

Pursuant to Supplement No. 5 to Part 744 (Procedures for End-User Review Committee Entity List Decisions), the End-User Review Committee (ERC) made the decision to add these 108 persons to the Entity List on the basis of section 744.11. The ERC, composed of representatives of the Departments of Commerce, State, Defense, Energy and, where appropriate, the Treasury, make all decisions to make additions to, removals from or changes to the Entity List. The ERC is chaired by the Department of Commerce and will make all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote.

The ERC reviewed section 744.11(b) (Criteria for revising the Entity List) in making the determinations to add these persons to the Entity List. Under that paragraph, entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entity has been involved, is involved, or poses a significant risk of being or becoming involved in activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such entities may be added to the Entity List pursuant to section 744.11. Paragraph (b) includes an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States, including paragraph (b)(1) (Supporting persons engaged in acts of terror).

As was noted in the final rule that added section 744.11 to the EAR on August 21, 2008 (73 FR 49311), the persons described in General Order No. 3 in Supplement No. 1 to part 736 of the EAR would be considered persons engaged in acts of terror for purposes of section 744.11 of the EAR. However, given that the general order predated the expansion of the Entity List (i.e., the general order was first published on June 5, 2006 and later amended on September 6, 2006 and June 8, 2007), BIS had to rely on the ad hoc procedure of issuing a general order and later amending that general order to impose a license requirement on these persons of concern. With the addition of section 744.11 to the EAR, BIS can now move these persons from the general order to the Entity List, which BIS believes will simplify the EAR by reducing the need to issue general orders to impose license requirements on specific parties, thereby reducing the number of EAR provisions that the public would be required to review to determine license requirements under the EAR.

Introduction to the General Order

Pursuant to 15 CFR parts 736 and 744, General Order No. 3, which was published on June 5, 2006 and subsequently amended on September 6, 2006, imposes a license requirement for exports and reexports of all items subject to the EAR (15 CFR 730–774) where the transaction involved Mayrow General Trading (''Mayrow'') or related entities. The initial general order and the subsequent September 2006 amendment listed persons who were related to Mayrow and concerning whom the U.S. Government possessed information regarding the acquisition or attempted acquisition of electronic components and devices (''commodities'') capable of being used in the construction of Improvised Explosive Devices (''IEDs''). These commodities have been, and may continue to be, employed in IEDs or other explosive devices used against Coalition Forces in Iraq and Afghanistan.

In light of additional information that the U.S. Government received regarding continuing activity relating to commodities that are capable of use in the construction of IEDs, as well as a broader concern relating to the risk of diversion of commodities for such a purpose, the general order was subsequently amended in a rule published on June 8, 2007 that expanded the scope of the general order. Sixteen additional persons who fit within the expanded scope of the order were also listed at that time.

Pursuant to the June 8, 2007 expansion, the general order imposes a license requirement for exports and reexports of all items subject to the EAR where the transaction involves persons in one of two groups. First, the general order covers persons whom the U.S. Government has reason to believe, based on specific and articulable facts, are affiliated with or related to Mayrow. Inclusion of such persons guards against the risk that persons may attempt to evade the general order's bar on unlicensed exports or reexports to Mayrow by diverting commodities to Mayrow or to persons who are affiliated with or related to Mayrow. The general order covers such persons by specifically listing them.

Second, the general order covers persons whom the U.S. Government has reason to believe, based on specific and articulable facts, have acquired or attempted to acquire commodities that are capable of being used in the construction of IEDs. These commodities have been, and may continue to be, employed in IEDs or other explosive devices used against Coalition Forces in Iraq and Afghanistan. The general order covers such persons by specifically listing them. To guard against the risk of diversion of such commodities for IED-related purposes, the order also specifically lists the persons who are affiliated with or related to such persons.

Removal of General Order From the EAR

In Supplement No. 1 to part 736 (General Orders), this rule removes and reserves the general order because all of the persons from the general order will now be listed on the Entity List with the publication of this rule.

Persons Being Added to the Entity List

The persons being added to the Entity List with this rule can be broken down into two types of persons. The first type is persons that were listed on General Order No. 3, prior to publication of this rule, that are now moved to the Entity List with publication of this rule. There were 33 persons listed on the general order and all of those persons are now listed on the Entity List with the publication of this rule.

The second type of persons being added to the Entity List with this rule is 75 additional persons that were not previously listed on the general order, but are of concern to the U.S. Government for the same reasons as those other persons that were previously listed on the general order. This rule adds these additional persons to the Entity List also on the basis of section 744.11.

Implementation of the ERC Decision

This rule implements the decision of the ERC to add these 108 persons to the Entity List on the basis of section 744.11 of the EAR. For these persons being added to the Entity List, the ERC decided to specify a license requirement for all items subject to the EAR and establish a license application review policy of a general policy of denial. A license requirement applies to any transaction in which items are to be exported or reexported to such persons or in which such persons acts as purchaser, intermediate consignee, ultimate consignee, or end-user. In addition, the ERC decided that no license exceptions are available for shipments to those persons being added to the Entity List.

In addition, the ERC decided to add separate listings on the Entity List for persons that had additional addresses in multiple countries (seven had addresses in multiple countries). Persons with aliases were included in the same entries (eight persons had aliases). In total, 115 additional entries are being added to the Entity List with this rule. For those entries with multiple addresses a note will be included in the Entity List column entry for each of those entries that will direct exporters to the alternate listing on the Entity List. BIS is adding these additional entries to assist the public in better identifying these persons of concern.

Specifically, this rule adds the following 108 persons under 115 entries, to account for the 7 persons with addresses in multiple countries, to the Entity List:

Note: Persons designated by an asterisk in the following list were listed on the general order. Persons with multiple addresses have separate listings on the Entity List with cross references. Persons with aliases are listed in the same entry.

Canada

(1) *Ali Bakhshien,* 909–4005 Bayview Ave., Toronto, Canada M2M 3Z9; and
(2) *Kitro Corporation,* 909–4005 Bayview Ave., Toronto, Canada M2M 3Z9.

China, People's Republic of

(3) *A.C. International,* Room 1104, North Tower Yueziu City Plaza, No. 445 Dong Feng Zhong Rd., Guangzhou, China;
(4) *Asia International Trading Company,* Room 1104, North Tower Yueziu City Plaza, No. 445 Dong Feng Zhong Rd., Guangzhou, China; and
(5) *Tracy Little,* Room 1104, North Tower Yueziu City Plaza, No. 445 Dong Feng Zhong Rd., Guangzhou, China.

Egypt

(6) *H Logic,* Behind 14 Mahmoud Sedky St., El Ekbal, Alexandria, Egypt;
(7) *Hesham Yehia,* Behind 14 Mahmoud Sedky St., El Ekbal, Alexandria, Egypt; and
(8) *Najeeb Al Awadhi,* 14 Mahmoud Sedky St., El Ekbal, Alexandria, Egypt.

Germany

*(9) *Akbar Ashraf Vaghefi,* Koburgerstr 10, D–10825, Berlin, Germany (See alternate address under U.A.E.);
(10) *Djamshid Nezhad*, Poppentrade 25, D–24148, Kiel, Germany;
*(11) *IKCO Trading GmbH,* Schadowplatz 5, 40212 Dusseldorf, Germany; and
(12) *Nezhad Enterprise Company,* Poppentrade 25, D–24148 Kiel, Germany.

Hong Kong

(13) *Amy So,* Room 1701, New Commerce Centre, 19 On Sum St., Siu Lek Yuen, Shatin, N.T., Hong Kong;
(14) *Antony Emmanuel,* No: 3 & 4; 12F Commercial VIP Building, 112–116 Canton Rd, Tsim Sha Tsui, Hong Kong (See alternate address under U.A.E.);
(15) *Asia Link,* Flat 1022, 10/F, No. 1 Hung To Rd, Kwun Tong, Kowloon, Hong Kong;
(16) *Britestone,* 4/F, Chinabest International Centre, 8 Kwai On Rd, Kwai Chung, N.T., Hong Kong;
(17) *Bruce Lam,* 11/F Excelsior Bldg., 68–76 Sha Tsui Rd., Tsuen Wan, New Territories, Hong Kong;
(18) *Creative Electronics,* Room 2202c, 22/F, Nan Fung Centre, 264–298 Castle Peak Road, Hong Kong and G/F 1_J Wong Chuk Street Shamshuipo, Kowloon, Hong Kong;
*(19) *Frank Lam,* 1206–7, 12/F New Victory House, Hong Kong;
(20) *Gary Chan,* 4/F, Chinabest International Centre, 8 Kwai On Rd, Kwai Chung, N.T., Hong Kong;
(21) *Green Channel Electronics Company,* Unit 902, Ricky Center, 36 Chong Yip St., Kwun Tong, Kowloon, Hong Kong;
(22) *Kong Fat Electronic Trading Limited,* Unit 5, 1/F, Block A, Hoplite Industrial Centre, 3–5 Wang Tai Rd., Kowloon Bay, Kowloon, Hong Kong;
(23) *Pelorus Enterprises Limited,* 12F Commercial VIP Building, 112–116 Canton Rd, Tsim Sha Tsui, Hong Kong;
(24) *Polar Star International Co. Ltd.,* 1905 Yen Sheng Center, 64 Hoi Yuen Rd., Kwun Tong, Kin, Hong Kong;
*(25) *Speedy Electronics Ltd.,* 1206–7, 12/F New Victory House, Hong Kong;
(26) *Techlink Electronics,* Unit 5, 18/F, Laurels Industrial Centre, 32 Tai Yau St., San Po Kong, Kowloon, Hong Kong;
(27) *TLG Electronics,* Room 1701, New Commerce Centre, 19 On Sum St., Siu Lek Yuen, Shatin, N.T., Hong Kong;
(28) *Unite Chance Technology Company,* Workshop A14, 5/F, Block A Sheung Shui Plaza, 3 Ka Fu Close Sheung Shui, N.T., Hong Kong;
*(29) *United Sources Industrial Enterprises,* 11/F, Excelsior Building, 68–76 Sha Tsui Road, Hong Kong;
(30) *Wing Shing Computer Components Company (H.K.) Ltd.,* Unit E, 9/F, Lladro Centre, 72 Hoi Yuen Rd, Kwon Tong, Kin, Hong Kong;
*(31) *Y-Sing Components Limited,* Unit 401, Harbour Ctr., Tower 2, 8 Hok Cheung Street, Hung Hom, Kowloon, Hong Kong.

Iran

(32) *Aflak Micro Electronics,* Tehranno 14, Golkade St., Arash Mehr Ave, Tehran, Iran;
(33) *Ahmad Rahzad, a.k.a., Saeb Karim,* 29, 1st Floor, Amjad Bldg, Jomhoori Ave, Tehran, Iran (See alternate address under Malaysia);
(34) *Ali Reza Seif,* 34 Mansour Street, Tehran, Iran;
(35) *Arash Dadgar,* No. 10, 64th St., Yousafabad, Tehran, Iran, 14368;
(36) *Bahman Ghandi, a.k.a., Brian Ghandi,* No, 14, Golkadeh St. Arashmehr St. Tehran, Iran;
(37) *Elecomponents,* Iran;
(38) *Faradis Production,* No 33, Second Floor, Amjad Electronic Center, Jomhouri Ave, Tehran, Iran;
(39) *Farhad Maani,* 67, 1st Floor, No. 3, Ebn-E Sina St., Mr. ValiAsr Ave, W. of Beheshti, Tehran, Iran;
*(40) *GBNTT,* No. 34 Mansour Street, Tehran, Iran;
(41) *Golza Engineering Company,* No. 80/1, Fourth Floor, North Sindokht St., Dr. Fatemi Ave, Tehran, 14118, Iran;
(42) *Hamid Reza Ansarian,* P.O. Box 19575–354, Tehran, Iran;
*(43) *Iraj Najmi,* No. 80/1, Fourth Floor, North Sindokht St., Dr. Fatemi Ave, Tehran, 14118, Iran;
(44) *Maryan Jahanshahi,* 34 Mansour St, Motahari-ValiAsr Street Junction, Tehran, Iran;
(45) *Mohammed Narjespour,* 34 Mansour St, ValiAsr-Motahari Crossing, Tehran, Iran;
(46) *Moslem Nasiri,* 34 Mansour St, ValiAsr-Motahari Crossing, Tehran, Iran;

(47) *M.R. Ahmadi,* P.O. Box 19575/199, Tehran, Iran;
(48) *NBC Navegan Bar Co. Ltd.,* # 135 Khorramshahr Ave, Tehran 15338;
*(49) *Neda Industrial Group,* No. 10 and 12, 64th St. Jamalodin Asadabadi Avenue, Tehran, Iran;
*(50) *Nedayeh Micron Electronics,* No. 34 Mansour St., Tehran, Iran;
(51) *Niasan Century Industry,* Unit 2, GF, No:1, Marzban Name Alley, Mofateh St., Motahari Ave, 1588875333, Tehran, Iran;
(52) *Rad Tavan Afza Company,* 3rd Floor, No. 210, W. Fatemi, Tehran, Iran 14185387; and 1st Pars Bldg, Beg. Pars Alley, Betw Khosh & Behboudi St., Azadi Ave, Tehran, Iran;
(53) *Sanaye Electronic Arman Ertebat Nemad Company (SAEN CO.),* 67, 1st Floor, No. 3, Ebn-E Sina St., Mr. ValiAsr Ave, W. of Beheshti, Tehran, Iran;
(54) *Simin Neda Industrial and Electrical Parts,* No. 22, Second Floor, Amjad Bldg, Jomhoori Ave, Tehran, Iran;
(55) *Toos Electronics,* 29, 1st Floor, Amjad Bldg, Jomhoori Ave, Tehran, Iran; and
(56) *Vizneh Trading Company,* 34 Mansour St., Motahari and ValiAsr Junction, Tehran, Iran, 1595747764.

Kuwait

(57) *Advanced Technology General Trading Company,* Hawalli, Bin Khaldoun St., Fadhalah Complex, Mizzanin, Office #4, P.O. Box 22682, Safat, 13087, Kuwait. (See alternate address under U.A.E.);
(58) *Abubakr Abuelazm,* Hawalli, Bin Khaldoun St., Fadhalah Complex, Mizzanin, Office #4, P.O. Box 22682, Safat, 13087, Kuwait (See alternate address under U.A.E.).

Lebanon

*(59) *EKT Electronics,* 1st floor, Hujij Building, Korniche Street, P.O. Box 817 No. 3, Beirut, Lebanon (See alternate address under Syria); and
*(60) *Mohammed Katranji,* 1st floor, Hujij Building, Korniche Street, P.O. Box 817 No. 3, Beirut, Lebanon (See alternate address under Syria).

Malaysia

(61) *Ace Hub System,* No. 15, Jalan PJS 11/16, Taman Bandar Sunway, 46150 Petaling Jaya, Selangor, Malaysia;
(62) *Ahmad Rahzad, a.k.a., Saeb Karim,* 27–06, Amcorp Bldg, Jalan 18, Persiaran Barat, Petaling Jaya, 46050 Selangor, Malaysia (See alternate address under Iran);
(63) *Analytical Solutions,* #GB (Ground Floor), Pearl Tower, O.G. Heights, Jalan Awan Cina, 58200 Kuala Lampur, Malaysia;
(64) *Ann Teck Tong,* 97C, Jalan Kenari 23, Puchong Jaya, Puchong, Selangor, Malaysia Suite D23, Tkt. 2, Plaza Pekeliling, Jalan Tun Razak, Kuala Lumpur, Wilayah, Peresekkutuan, Malaysia;
(65) *Antcorp System,* 5–02 Wisma Pantai, Jalan Wisma Pantai, 12200 Butterworth, Penang, Malaysia;
(66) *Brian Kaam, a.k.a., Kaam Chee Mun,* No. 15, Jalan PJS 11/16, Taman Bandar Sunway, 46150 Petaling Jaya, Selangor, Malaysia;
(67) *East Tech,* Malaysia;
(68) *Eco Biochem SDN BHD,* No. 15, Jalan PJS 11/16, Taman Bandar Sunway, 46150 Petaling Jaya, Selangor D.E., Malaysia;
(69) *Festsco Marketing SDN BHD,* 97C, Jalan Kenari 23, Puchong Jaya, Puchong, Selangor, Malaysia and Suite D23, Tkt. 2, Plaza Pekeliling, Jalan Tun Razak; Kuala Lumpur, Wilayah Persekkutuan, Malaysia;
*(70) *Majid Seif, a.k.a., Mark Ong and Matti Chong,* 27–06 Amcorp Building, Jalan 18, Persiaran Barat 46050 Petaling Jaya, Selangor, Malaysia;
(71) *Mohd Ansari,* #GB (Ground Floor), Pearl Tower, O.G. Heights, Jalan Awan Cina, 58200 Kuala Lampur, Malaysia;
(72) *Nexus Empire, a.k.a., Vast Solution* 2706, Amcorp Bldg, Jalan Persiaran Barat, Petaling Jaya, Selangor, Malaysia;
*(73) *Vast Solution Sdn Bhd.,* 27–06 Amcorp Building, Jalan 18, Persiaran Barat, 46050 Petaling Jaya, Selangor, Malaysia; and
(74) *VTE Industrial Automation SDN BHD,* 97C, Jalan Kenari 23, Puchong Jaya, Puchong, Selangor, Malaysia.

Singapore

(75) *Cyberinn PTE LTD,* 1 Rochor Canal Road, #06–07 Sim Lim Square, 188504, Singapore;
(76) *Strive Components,* Block 10 Toa Payoh Industrial Park Lor 8 #01–1221, Singapore, 319062; and
(77) *Synoptics Imaging Systems Pte Ltd.,* 12 Lor Bakar Batu #06–09, Singapore, 348745.

South Korea

(78) *WASTEC, Inc., a.k.a., With Advanced Systemic Technology,* Room 3303, 3304, Na-Dong Chungang Circulation Complex, #1258, Gurobon-Dong, Guro-gu, Seoul, South Korea.

Syria

*(79) *EKT Electronics,* 1st floor, Abbasieh Building, Hijaz Street, P.O. Box 10112, Damascus, Syria (See alternate address under Lebanon);
*(80) *Encyclopedia Electronics Center,* Musalam Al-Baroudi Street, Halbouni, Damascus, Syria; and
(81) *Mohammed Katranji,* 1st floor, Abbasieh Building, Hijaz Street, P.O. Box 10112, Damascus, Syria (See alternate address under Lebanon).

United Arab Emirates

*(82) *A.H. Shamnad,* P.O. Box 42340, Dubai, U.A.E.; and No. 3–4 Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai 396, U.A.E.;
(83) *Abubakr Abuelazm,* Dubai, U.A.E. (See alternate address under Kuwait);
(84) *Advanced Technology General Trading Company,* Hawalli, Bin Khaldoun St., Fadhalah Complex, Mizzanin, Office #4, P.O. Box 22682, Safat, 13087, Dubai, U.A.E. (See alternate address under Kuwait);
*(85) *Akbar Ashraf Vaghefi,* Shop No. 3–4 Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai, U.A.E.; (See alternate address under Germany);
*(86) *Al-Faris,* RAK Free Zone, P.O. Box 10559, Ras Al Khaimah, U.A.E.;
*(87) *Ali Akbar Yahya,* 505 Siraj Building 17B Street, Mankhool, Dubai, U.A.E.;
(88) *Ali Reza Divanizadeh,* Al Ras Center Building, Behind Al Ras Hotel, Shop No. B–05, P.O. Box 5680, Dubai, U.A.E.;
*(89) *Amir Mohammad Zahedi,* RAK Free Zone, P.O. Box 10559, Ras Al Khaimah, U.A.E.;
(90) *Antony Emmanuel,* No: 3 & 4; Sharifia Ahmed Ali Bldg, P.O. Box 42340, Al Nakheel, Deira, Dubai, U.A.E. (See alternate address under Hong Kong);
*(91) *Atlinx Electronics,* Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.;
(92) *Danoush Trading Company,* No. 104, Beside Kheibar Hotel, Morshed Market St., Dubai, U.A.E.;
(93) *Divanizadeh General Trading Company,* Al Ras Center Building, Behind Al Ras Hotel, Shop No. B–05, P.O. Box 5680, Dubai, U.A.E.;
*(94) *Farrokh Nia Yaghmaei, a.k.a., Farrokh Nia Yaghmayi,* Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.;
(95) *Feroz Jafar,* Al Salam St., P.O. Box 2946, Abu Dhabi, U.A.E.;
*(96) *H. Ghasir,* Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, UAE; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.;
(97) *Hamed Al Fahid Trading Company,* Shop No. 3–4 Ahmed Ali Bldg, Al Jalel, Deira, Dubai, U.A.E.;

*(98) *Hamed Athari,* No. 3–4 Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai 396, U.A.E.;
*(99) *Majidco Micro Electronics,* Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.;
*(100) *Mayrow General Trading,* Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.; P.O. Box 42340, Deira, Dubayy, U.A.E.; and P.O. Box 171978, Deira, Dubayy, U.A.E.;
*(101) *Mayrow Technics Co.,* No. 3–4 Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai 396, U.A.E.;
(102) *Mehdi Rafie,* Shop No. 3 & 4, Sharafia Ahmed Ali Bldg, Al Nakheel St., Deira, P.O. Box 171978, Dubai, U.A.E.;
(103) *Mehran Kamalinia, a.k.a., Ronald Simon,* Shop No. 3 & 4, Sharafia Ahmed Ali Bldg, Al Nakheel St., Deira, P.O. Box 171978, Dubai, U.A.E.;
*(104) *Micatic General Trading,* Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.;
*(105) *Micro Middle East Electronics,* Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.;
(106) *Mohsen Saghafi,* Shop No. 3 & 4, Sharafia Ahmed Ali Bldg, Al Nakheel St., Deira, P.O. Box 171978, Dubai, U.A.E.;
(107) *Mostafa Salehi,* No. 308, 3rd Floor, Rafi Center, Al Nakheel, Deira, Dubai, U.A.E.;
*(108) *Narinco,* Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.;
(109) *Neda Kargar,* No. 308, 3rd Floor, Rafi Center, Al Nakheel, Deira, Dubai, U.A.E.;
*(110) *Neda Overseas Electronics L.L.C.,* No. 308, 3rd Floor, Rafi Center, Al Nakheel, Deira, Dubai, U.A.E.;
*(111) *Pyramid Technologies,* P.O. Box 42340, Dubai, U.A.E.; and No. 3–4, Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai 396, U.A.E.;
*(112) *S. Basheer,* No. 3–4 Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai 396, U.A.E.;
*(113) *Sayed-Ali Hosseini,* 201 Latifah Building, Al Maktoum St., Dubai, U.A.E.;
(114) *Shaji Muhammed Basheer,* Shop No. 3 & 4, Sharafia Ahmed Ali Bldg, Al Nakheel St., Deira, P.O. Box 171978, Dubai, U.A.E.; and
(115) *Telectron,* Al Salam St., P.O. Box 2946, Abu Dhabi, U.A.E.

Under these entries on the Entity List, a BIS license is required for the export or reexport of any item subject to the EAR to any of the persons listed above, including any transaction in which any of the listed persons will act as purchaser, intermediate consignee, ultimate consignee, or end-user of the items. This listing of these persons also prohibits the use of License Exceptions (*see* part 740 of the EAR) for exports and reexports of items subject to the EAR involving such persons.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of July 23, 2008, 73 FR 43603 (July 25, 2008), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This rule has been determined to be significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by the OMB under control numbers 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. Miscellaneous and recordkeeping activities account for 12 minutes per submission. Total burden hours associated with the Paperwork Reduction Act and Office of Management and Budget control number 0694–0088 are expected to increase slightly as a result of this rule.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)) Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable.

List of Subjects

15 CFR Part 736

Exports, Foreign trade.

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

■ Accordingly, parts 736 and 744 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

PART 736—[AMENDED]

■ 1. The authority citation for 15 CFR part 736 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 2151 note; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, May 13, 2004; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008); Notice of November 8, 2007, 72 FR 63963 (November 13, 2007).

■ 2. General Order 3 to Supplement No. 1 to part 736 is removed and reserved.

Part 744—[AMENDED]

■ 3. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008); Notice of November 8, 2007, 72 FR 63963 (November 13, 2007).

■ 4. Supplement No. 4 to part 744 is amended:

(a) By adding, in alphabetical order, the countries of Canada, Egypt, Germany, Hong Kong, Kuwait, Lebanon, Malaysia, Singapore, and South Korea, and two Canadian entities, three Egyptian entities, four German entities, nineteen Hong Kong entities, two Kuwaiti entities, two Lebanese entities, fourteen Malaysian entities, three Singaporean entities, and one South Korean entity;

(b) By adding under China, in alphabetical order, three Chinese entities;

(c) By adding under Iran, in alphabetical order, twenty-five Iranian entities;

(d) By adding under Syria, in alphabetical order, three Syrian entities; and

(e) By adding under United Arab Emirates, in alphabetical order, thirty-four UAE entities to read as follows:

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST

Country	Entity	License requirement	License review policy	Federal Register citation
*	* *	* *	*	*
Canada	*Ali Bakhshien,* 909–4005 Bayview Ave., Toronto, Canada M2M 3Z9	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Kitro Corporation, 909–4005 Bayview Ave., Toronto, Canada M2M 3Z9.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
*	* *	* *	*	*
China, People's Republic of.	*A.C. International,* Room 1104, North Tower Yueziu City Plaza, No. 445 Dong Feng Zhong Rd., Guangzhou, China.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Asia International Trading Company, Room 1104, North Tower Yueziu City Plaza, No. 445 Dong Feng Zhong Rd., Guangzhou, China.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
*	* *	* *	*	*
	Tracy Little, Room 1104, North Tower Yueziu City Plaza, No. 445 Dong Feng Zhong Rd., Guangzhou, China.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
*	* *	* *	*	*
Egypt	*H Logic,* Behind 14 Mahmoud Sedky St., El Ekbal, Alexandria, Egypt.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Hesham Yehia, Behind 14 Mahmoud Sedky St., El Ekbal, Alexandria, Egypt.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Najeeb Al Awadhi, 14 Mahmoud Sedky St., El Ekbal, Alexandria, Egypt.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
Germany	*Akbar Ashraf Vaghefi,* Koburgerstr 10, D–10825, Berlin, Germany (See alternate address under U.A.E.).	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Djamshid Nezhad, Poppentrade 25, D–24148, Kiel, Germany.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	IKCO Trading GmbH, Schadowplatz 5, 40212, Dusseldorf, Germany.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Nezhad Enterprise Company, Poppentrade 25, D–24148, Kiel, Germany.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
Hong Kong	*Amy So,* Room 1701, New Commerce Centre, 19 On Sum St., Siu Lek Yuen, Shatin, N.T., Hong Kong.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Antony Emmanuel, No.: 3 &4; 12F Commercial VIP Building, 112–116 Canton Rd., Tsim Sha Tsui, Hong Kong (See alternate address under U.A.E.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Asia Link, Flat 1022, 10/F, No. 1 Hung To Rd., Kwun Tong, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Britestone, 4/F, Chinabest International Centre, 8 Kwai On Rd., Kwai Chung, N.T., Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Bruce Lam, 11/F Excelsior Bldg., 68–76 Sha Tsui Rd., Tsuen Wan, New Territories, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Creative Electronics, Room 2202c, 22/F, Nan Fung Centre, 264–298 Castle Peak Road, Hong Kong and G/F 1_J Wong Chuk Street Shamshuipo, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Frank Lam, 1206–7, 12/F New Victory House, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Gary Chan, 4/F, Chinabest International Centre, 8 Kwai On Rd., Kwai Chung, N.T., Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Green Channel Electronics Company, Unit 902, Ricky Center, 36 Chong Yip St., Kwun Tong, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Kong Fat Electronic Trading Limited, Unit 5, 1/F, Block A, Hoplite Industrial Centre, 3–5 Wang Tai Rd., Kowloon Bay, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Pelorus Enterprises Limited, 12F Commercial VIP Building, 112–116 Canton Rd., Tsim Sha Tsui, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Polar Star International Co. Ltd., 1905 Yen Sheng Center, 64 Hoi Yuen Rd., Kwun Tong, Kin, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Speedy Electronics Ltd., 1206–7, 12/F New Victory House, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Techlink Electronics, Unit 5, 18/F, Laurels Industrial Centre, 32 Tai Yau St., San Po Kong, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	TLG Electronics, Room 1701, New Commerce Centre, 19 On Sum St., Siu Lek Yuen, Shatin, N.T., Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Unite Chance Technology Company, Workshop A14, 5/F, Block A Sheung Shui Plaza, 3 Ka Fu Close Sheung Shui, N.T., Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	United Sources Industrial Enterprises, 11/F, Excelsior Building, 68–76 Sha Tsui Road, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Wing Shing Computer Components Company (H.K.) Ltd., Unit E, 9/F, Lladro Centre, 72 Hoi Yuen Rd., Kwon Tong, Kin, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Y-Sing Components Limited, Unit 401, Harbour Ctr., Tower 2, 8 Hok Cheung Street, Hung Hom, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
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Iran	*Aflak Micro Electronics,* Tehranno 14, Golkade St., Arash Mehr Ave., Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Ahmad Rahzad, a.k.a., Saeb Karim, 29, 1st Floor, Amjad Bldg., Jomhoori Ave., Tehran, Iran (See alternate address under Malaysia).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Ali Reza Seif, 34 Mansour Street, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Arash Dadgar, No. 10, 64th St., Yousafabad, Tehran, Iran, 14368.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
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	Bahman Ghandi, a.k.a., Brian Ghandi, No. 14, Golkadeh St., Arashmehr St., Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Elecomponents, Iran	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Faradis Production, No. 33, Second Floor, Amjad Electronic Center, Jomhouri Ave., Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Farhad Maani, 67, 1st Floor, No. 3, Ebn-E Sina St., Mr. ValiAsr Ave., W. of Beheshti, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	GBNTT, No. 34 Mansour Street, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Golza Engineering Company, No. 80/1, Fourth Floor, North Sindokht St., Dr. Fatemi Ave., Tehran, 14118, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Hamid Reza Ansarian, P.O. Box 19575–354, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Iraj Najmi, No. 80/1, Fourth Floor, North Sindokht St., Dr. Fatemi Ave., Tehran, 14118, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
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	Maryan Jahanshahi, 34 Mansour St., Motahari-ValiAsr Street Junction, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
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	Mohammed Narjespour, 34 Mansour St., ValiAsr-Motahari Crossing, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Moslem Nasiri, 34 Mansour St., ValiAsr-Motahari Crossing, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	M.R. Ahmadi, P.O. Box 19575/199, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	NBC Navegan Bar Co. Ltd., # 135 Khorramshahr Ave., Tehran 15338.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Neda Industrial Group, No. 10 and 12, 64th St. Jamalodin Asadabadi Avenue, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Nedayeh Micron Electronics, No. 34 Mansour St., Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Niasan Century Industry, Unit 2, GF, No.:1, Marzban Name Alley, Mofateh St., Motahari Ave., 1588875333, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Rad Tavan Afza Company, 3rd Floor, No. 210, W. Fatemi, Tehran, Iran 14185387 and 1st Pars Bldg., Beg. Pars Alley, Betw Khosh & Behboudi St., Azadi Ave., Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Sanaye Electronic Arman Ertebat Nemad Company (SAEN CO.), 67, 1st Floor, No. 3, Ebn-E Sina St., Mr. ValiAsr Ave., W. of Beheshti, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
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	Simin Neda Industrial and Electrical Parts, No. 22, Second Floor, Amjad Bldg., Jomhoori Ave., Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Toos Electronics, 29, 1st Floor, Amjad Bldg., Jomhoori Ave., Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Vizneh Trading Company, 34 Mansour St., Motahari and ValiAsr Junction, Tehran, Iran, 1595747764.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
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Kuwait	*Advanced Technology General Trading Company,* Hawalli, Bin Khaldoun St., Fadhalah Complex, Mizzanin, Office #4, P.O. Box 22682, Safat, 13087, Kuwait. (See alternate address under U.A.E.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Abubakr Abuelazm, Hawalli, Bin Khaldoun St., Fadhalah Complex, Mizzanin, Office #4, P.O. Box 22682, Safat, 13087, Kuwait (See alternate address under U.A.E.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
Lebanon	*EKT Electronics,* 1st floor, Hujij Building, Korniche Street, P.O. Box 817 No. 3, Beirut, Lebanon (See alternate address under Syria).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Mohammed Katranji, 1st floor, Hujij Building, Korniche Street, P.O. Box 817 No. 3, Beirut, Lebanon (See alternate address under Syria).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
Malaysia	*Ace Hub System,* No. 15, Jalan PJS 11/16, Taman Bandar Sunway, 46150 Petaling Jaya, Selangor, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Ahmad Rahzad, a.k.a., Saeb Karim, 27–06, Amcorp Bldg., Jalan 18, Persiaran Barat, Petaling Jaya, 46050 Selangor, Malaysia (See alternate address under Iran).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Analytical Solutions, #GB (Ground Floor), Pearl Tower, O.G. Heights, Jalan Awan Cina, 58200 Kuala Lampur, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Ann Teck Tong, 97C, Jalan Kenari 23, Puchong Jaya, Puchong, Selangor, Malaysia Suite D23, Tkt. 2, Plaza Pekeliling, Jalan Tun Razak, Kuala Lumpur, Wilayah, Peresekkutuan, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Antcorp System, 5–02 Wisma Pantai, Jalan Wisma Pantai, 12200 Butterworth, Penang, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Brian Kaam, a.k.a., Kaam Chee Mun, No. 15, Jalan PJS 11/16, Taman Bandar Sunway, 46150 Petaling Jaya, Selangor, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	East Tech, Malaysia	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Eco Biochem SDN BHD, No. 15, Jalan PJS 11/16, Taman Bandar Sunway, 46150 Petaling Jaya, Selangor D.E., Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Festsco Marketing SDN BHD, 97C, Jalan Kenari 23, Puchong Jaya, Puchong, Selangor, Malaysia and Suite D23, Tkt. 2, Plaza Pekeliling, Jalan Tun Razak; Kuala Lumpur, Wilayah Persekkutuan, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Majid Seif, a.k.a., Mark Ong and Matti Chong, 27–06 Amcorp Building, Jalan 18, Persiaran Barat 46050 Petaling Jaya, Selangor, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Mohd Ansari, #GB (Ground Floor), Pearl Tower, O.G. Heights, Jalan Awan Cina, 58200 Kuala Lampur, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Nexus Empire, a.k.a., Vast Solution 2706, Amcorp Bldg., Jalan Persiaran Barat, Petaling Jaya, Selangor, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Vast Solution Sdn Bhd., 27–06 Amcorp Building, Jalan 18, Persiaran Barat, 46050 Petaling Jaya, Selangor, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	VTE Industrial Automation SDN BHD, 97C, Jalan Kenari 23, Puchong Jaya, Puchong, Selangor, Malaysia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
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Singapore	*Cyberinn PTE LTD,* 1 Rochor Canal Road, #06–07 Sim Lim Square, 188504, Singapore.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Strive Components, Block 10 Toa Payoh Industrial Park Lor 8 #01–1221, Singapore, 319062.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Synoptics Imaging Systems Pte Ltd., 12 Lor Bakar Batu #06–09, Singapore, 348745.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
South Korea	*WASTEC, Inc., a.k.a., With Advanced Systemic Technology,* Room 3303, 3304, Na-Dong Chungang Circulation Complex, #1258, Gurobon-Dong, Guro-gu, Seoul, South Korea.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
Syria	*EKT Electronics,* 1st floor, Abbasieh Building, Hijaz Street, P.O. Box 10112, Damascus, Syria (See alternate address under Lebanon).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Encyclopedia Electronics Center, Musalam Al-Baroudi Street, Halbouni, Damascus, Syria.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
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	Mohammed Katranji, 1st floor, Abbasieh Building, Hijaz Street, P.O. Box 10112, Damascus, Syria; (See alternate address under Lebanon).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
*	* *	* *	*	*
United Arab Emirates	*A.H. Shamnad,* P.O. Box 42340, Dubai, U.A.E.; and No. 3–4 Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai 396, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Abubakr Abuelazm, Dubai, U.A.E. (See alternate address under Kuwait).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Advanced Technology General Trading Company, Hawalli, Bin Khaldoun St., Fadhalah Complex, Mizzanin, Office #4, P.O. Box 22682, Safat 13087, Dubai, U.A.E. (See alternate address under Kuwait).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Akbar Ashraf Vaghefi, Shop No. 3–4 Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai, U.A.E.; (See alternate address under Germany).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Al-Faris, RAK Free Zone, P.O. Box 10559, Ras Al Khaimah, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Ali Akbar Yahya, 505 Siraj Building 17B Street, Mankhool, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Ali Reza Divanizadeh, Al Ras Center Building, Behind Al Ras Hotel, Shop No. B–05, P.O. Box 5680, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Amir Mohammad Zahedi, RAK Free Zone, P.O. Box 10559, Ras Al Khaimah, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Antony Emmanuel, No. 3 & 4, Sharifia Ahmed Ali Bldg., P.O. Box 42340, Al Nakheel, Deira, Dubai, U.A.E. (See alternate address under Hong Kong).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Atlinx Electronics, Flat 401-Bin Yas Center Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
*	* *	* *	*	*
	Danoush Trading Company, No. 104, Beside Kheibar Hotel, Morshed Market St., Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Divanizadeh General Trading Company, Al Ras Center Building, Behind Al Ras Hotel, Shop No. B–05, P.O. Box 5680, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
*	* *	*	* *	*
	Farrokh Nia Yaghmaei, a.k.a. Farrokh Nia Yaghmayi, Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Feroz Jafar, Al Salam St., P.O. Box 2946, Abu Dhabi, U.A.E..	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	H. Ghasir, Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Hamed Al Fahid Trading Company, Shop No. 3–4, Ahmed Ali Bldg., Al Jalel, Deira, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Hamed Athari, No. 3–4 Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai 396, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Majidco Micro Electronics, Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Mayrow General Trading, Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.; P.O. Box 42340, Deira, Dubayy, U.A.E. and P.O. Box 171978, Deira, Dubayy, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Mayrow Technics Co., No. 3–4 Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai 396, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Mehdi Rafie, Shop No. 3 & 4, Sharafia Ahmed Ali Bldg., Al Nakheel St., Deira, P.O. Box 171978, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Mehran Kamalinia, a.k.a. Ronald Simon, Shop No. 3 & 4, Sharafia Ahmed Ali Bldg., Al Nakheel St., Deira, P.O. Box 171978, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Micatic General Trading, Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Micro Middle East Electronics, Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Mohsen Saghafi, Shop No. 3 & 4, Sharafia Ahmed Ali Bldg., Al Nakheel St., Deira, P.O. Box 171978, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Mostafa Salehi, No. 308, 3rd Floor, Rafi Center, Al Nakheel, Deira, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Narinco, Flat 401-Bin Yas Center—Al Maktum Road, P.O. Box 42340, Dubai, U.A.E.; and Shops 3–4, Sharafia Ahmed Ali Building, al-Nakheel, Deira, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Neda Kargar, No. 308, 3rd Floor, Rafi Center, Al Nakheel, Deira, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Neda Overseas Electronics L.L.C., No. 308, 3rd Floor, Rafi Center, Al Nakheel, Deira, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Pyramid Technologies, P.O. Box 42340, Dubai, U.A.E.; and No. 3–4, Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai 396, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	S. Basheer, No. 3–4 Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai 396, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Sayed-Ali Hosseini, 201 Latifah Building, Al Maktoum St., Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Shaji Muhammed Basheer, Shop No. 3 & 4, Sharafia Ahmed Ali Bldg., Al Nakheel St., Deira, P.O. Box 171978, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.
	Telectron, Al Salam St., P.O. Box 2946, Abu Dhabi, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR [INSERT FR PAGE NUMBER] 09/22/08.

Dated: September 17, 2008.

Christopher R. Wall,

Assistant Secretary for Export Administration.

[FR Doc. E8–22088 Filed 9–19–08; 8:45 am]

BILLING CODE 3510–33–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 10

[PS Docket No. 07–287; FCC 08–184]

Commercial Mobile Alert System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) adopts rules to further enable Commercial Mobile Service (CMS) alerting capability for CMS providers who elect to transmit emergency alerts to their subscribers. This Commercial Mobile Alert System Third R&O (CMAS Third R&O) represents our next step in establishing a Commercial Mobile Alert System (CMAS), under which CMS providers may elect to transmit emergency alerts to the public. We take this step pursuant to the mandate of section 602(b) of the WARN Act, which requires the Commission to adopt rules allowing any CMS provider to transmit emergency alerts to its subscribers; requires CMS providers that elect, in whole or in part, not to transmit emergency alerts to provide clear and conspicuous notice at the point of sale of any CMS devices that they will not transmit such alerts via that device; and requires CMS providers that elect not to transmit emergency alerts to notify their existing subscribers of their election.

DATES: Effective October 22, 2008.

FOR FURTHER INFORMATION CONTACT: Thomas J. Beers, Chief, Policy Division, Public Safety and Homeland Security Bureau, Federal Communications Commission at (202) 418–0952.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's CMAS Third R&O in PS Docket No. 07–287, adopted and released on August 7, 2008. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., in person at 445 12th Street, SW., Room CY–B402, Washington, DC 20554, via telephone at (202) 488–5300, via facsimile at (202) 488–5563, or via e-mail at *FCC@BCPIWEB.com.* Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities or by sending an e-mail to *FCC504@fcc.gov* or calling the Consumer and Governmental Affairs Bureau at (202) 418–0530, TTY (202) 418–0432. This document is also available on the Commission's Web site at *http://www.fcc.gov.*

Paperwork Reduction Act of 1995 Analysis:

The initial election that CMS providers must make pursuant to section 602(b)(2)(A) of the WARN Act has been granted pre-approval by OMB (OMB Control Number 3060–1113). The FCC received OMB pre-approval for this collection on February 4, 2008. Public reporting burden for this collection of information is estimated to be 6 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This collection of information is for the purpose of assisting the Commission in overseeing the Commercial Mobile Service Alert System. This collection is mandatory under the Warning, Alert and Response Network Act, § 602(b)(2)(A), Title VI of the Security and Accountability for Every Port Act of 2006, Public Law No. 109–347, 120 Stat. 1884 (2006). Send comments regarding this burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden to Federal Communications Commission, AMD–PERM, Washington, DC 20554, Paperwork Reduction Project (3060–1113), or via the Internet to *PRA@fcc.gov.* DO NOT SEND ELECTION LETTERS TO THIS ADDRESS.

Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB Control Number. This collection has been assigned OMB Control Number 3060–1113 and its expiration date is February 28, 2011.

In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see 44* U.C.S. 3506(c)(4), we previously sought specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

This R&O also contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. These collections will be submitted to the Office of Management and Budget (OMB) for review under section 3507 of the PRA at any appropriate time. At that time, OMB, the general public and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.C.S. 3506(c)(4), we will seek specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Synopsis

Introduction

1. This Commercial Mobile Alert System Third R&O (CMAS Third R&O) represents our next step in establishing a Commercial Mobile Alert System (CMAS), under which Commercial Mobile Service (CMS) providers may elect to transmit emergency alerts to the public. We take this step pursuant to the mandate of section 602(b) of the WARN Act, which requires the Commission to adopt rules allowing any CMS provider to transmit emergency alerts to its subscribers; requires CMS providers that elect, in whole or in part, not to transmit emergency alerts to provide clear and conspicuous notice at the point of sale of any CMS devices that they will not transmit such alerts via that device; and requires CMS providers that elect not to transmit emergency alerts to notify their existing subscribers of their election.

2. In the CMAS Third R&O, we adopt rules implementing section 602(b) of the WARN Act. Specifically, we:

- Adopt notification requirements for CMS providers that elect not to participate, or to participate only in part, with respect to new and existing subscribers;
- Adopt procedures by which CMS providers may elect to transmit emergency alerts and to withdraw such elections;
- Adopt a rule governing the provision of alert opt-out capabilities for subscribers;
- Allow participating CMS providers to recover costs associated with the development and maintenance of equipment supporting the transmission of emergency alerts; and
- Adopt a compliance timeline under which participating CMS providers must begin CMAS deployment.

3. By adopting these rules, we take another significant step towards achieving one of our highest priorities—to ensure that all Americans have the capability to receive timely and accurate alerts, warnings and critical information regarding disasters and other emergencies irrespective of what communications technologies they use. As we have learned from recent disasters, including Hurricane Katrina in 2005 and the recent floods that have impacted our Midwestern and Southern states, it is essential to enable Americans to take appropriate action to protect their families and themselves from loss of life or serious injury. This CMAS Third R&O also is consistent with our obligation under Executive Order 13407 to ''adopt rules to ensure that communications systems have the capacity to transmit alerts and warnings to the public as part of the public alert and warning system,'' and our mandate under the Communications Act to promote the safety of life and property through the use of wire and radio communication.

4. This CMAS Third R&O is the latest step in the Commission's ongoing effort to enhance the reliability, resiliency, and security of emergency alerts to the public by requiring that alerts be distributed over diverse communications platforms. In the 2005 EAS First R&O, we expanded the scope of the Emergency Alert System (EAS) from analog television and radio to include participation by digital television and radio broadcasters, digital cable television providers, Digital Audio Radio Service (DARS), and Direct Broadcast Satellite (DBS) systems. As we noted in the Further Notice of Proposed Rulemaking that accompanied the EAS First R&O, wireless services are becoming equal to television and radio as an avenue to reach the American public quickly and efficiently. As of June 5, 2008, the wireless industry reports that approximately 260 million Americans subscribed to wireless services. Wireless service has progressed beyond voice communications and now provides subscribers with access to a wide range of information critical to their personal and business affairs. In times of emergency, Americans increasingly rely on wireless telecommunications services and devices to receive and retrieve critical, time-sensitive information. A comprehensive wireless mobile alerting system would have the ability to alert people on the go in a short timeframe, even where they do not have access to broadcast radio or television or other sources of emergency information. Providing critical alert information via wireless devices will ultimately help the public avoid danger or respond more quickly in the face of crisis, and thereby save lives and property.

Background

5. On October 13, 2006, the President signed the Security and Accountability For Every Port (SAFE Port) Act into law. Title VI of the SAFE Port Act, the WARN Act, establishes a process for the creation of the CMAS whereby CMS providers may elect to transmit emergency alerts to their subscribers. The WARN Act requires that we undertake a series of actions to accomplish that goal, including requiring the Commission, by December 12, 2006 (within 60 days of enactment) to establish and convene an advisory committee to recommend technical requirements for the CMAS. Accordingly, we formed the Commercial Mobile Service Alert Advisory Committee (CMSAAC), which had its first meeting on December 12, 2006. The WARN Act further required the CMSAAC to submit its recommendations to the Commission by October 12, 2007 (one year after enactment). The CMSAAC submitted its report on that date.

6. On December 14, 2007, we released a Notice of Proposed Rulemaking requesting comment on issues related to implementation of section 602 of the WARN Act. The Commission has received over 60 comments and ex parte filings. On April 9, 2008, we released a First R&O, adopting technical standards, protocols, processes and other technical requirements ''necessary to enable commercial mobile service alerting capability for commercial mobile service providers that voluntarily elect to transmit emergency alerts.'' On July 8, 2008, we adopted a Second R&O establishing rules requiring noncommercial educational and public broadcast television station licensees and permittees to install necessary equipment and technologies on, or as part of, the broadcast television digital signal transmitter to enable the distribution of geographically targeted alerts by CMS providers that have elected to participate in the CMAS. This Third R&O implements further WARN Act requirements consistent with the Commission's goal of establishing an effective and efficient CMAS.

Discussion

A. Notification by CMS Providers Electing Not To Transmit Alerts

1. Notification at Point of Sale

7. *Background.* Section 602(b)(1) provides that ''within 120 days after the date on which [the Commission] adopts relevant technical standards and other technical requirements pursuant to subsection (a), the Commission shall complete a proceeding to allow any licensee providing commercial mobile service * * * to transmit emergency alerts to subscribers to, or users of, the commercial mobile service provided by such licensee.'' Pursuant to this section, the Commission must ''require any licensee providing commercial mobile service that elects, in whole or in part, under paragraph (2) [Election] not to transmit emergency alerts to provide clear and conspicuous notice at the point of sale of any devices with which its commercial mobile service is included, that it will not transmit such alerts via the service it provides for the device.''

8. In its October 12, 2007 report, the CMSAAC recommended that carriers retain the discretion to determine how to provide specific information regarding (1) whether or not they offer wireless emergency alerts, and (2) which devices are or are not capable of receiving wireless emergency alerts, as well as how to tailor additional notice, if necessary, for devices offered at other points of sale. Nevertheless, the CMSAAC recommended specific language to be used by carriers that elect, in part or in whole, not to transmit emergency alerts. With respect to carriers who intend to transmit emergency alerts ''in part,'' the CMSAAC-recommended language reads as follows:

Notice Regarding Transmission of Wireless Emergency Alerts (Commercial Mobile Alert Service)

[[WIRELESS PROVIDER]] has chosen to offer wireless emergency alerts within portions of its service area, as defined by the terms and conditions of its service agreement, on wireless emergency alert capable devices. There is no additional charge for these wireless emergency alerts.

Wireless emergency alerts may not be available on all devices or in the entire service area, or if a subscriber is outside of the [[WIRELESS PROVIDER'S]] service area. For details on the availability of this service and wireless emergency alert capable devices, please ask a sales representative, or go to [[INSERT WEBSITE URL]]. Notice required by FCC Rule XXXX (Commercial Mobile Alert Service).

The CMSAAC recommended the following language for carriers that ''in whole'' elect not to transmit emergency alerts:

NOTICE TO NEW AND EXISTING SUBSCRIBERS REGARDING TRANSMISSION OF WIRELESS EMERGENCY ALERTS (Commercial Mobile Alert Service)

[[WIRELESS PROVIDER]] presently does not transmit wireless emergency alerts. Notice required by FCC Rule XXXX (Commercial Mobile Alert Service).

In the *CMAS NPRM,* we sought comment on the CMSAAC recommendation and whether it sufficiently addressed the requirements of the statute. We also sought comment on the CMSAAC's suggestion that, because the WARN Act does not impose a notice requirement on CMS providers who have elected to participate in full, the Commission should not adopt a notice requirement for those providers. We also sought comment on the definition of ''any point of sale,'' which we specified as any means—retail, telephone, or Internet-based—by which a service provider facilitates and promotes its services for sale to the public. We suggested that third party, separately branded resellers also would be subject to point of sale notification requirements.

9. We also requested comment on what constitutes clear and conspicuous notice at the point of sale. For example, we asked whether a general notice in the form of a statement attesting to the election not to provide emergency alerts would satisfy the statutory requirement and whether the statutory language requires the posting of a general notice in clear view of subscribers in the service provider's stores, kiosks, third party reseller locations, Web site (proprietary or third party), and any other venue through which the service provider's devices and services are marketed or sold. We also asked what form the general notice should take. In addition, we asked whether a service provider meets the condition of clear and conspicuous notification if the service provider requires subscribers to read and indicate their understanding that the service provider does not offer emergency alerts.

10. *Comments.* Many commenters supported the CMSAAC's recommendation that CMS providers be afforded discretion in determining how best to provide notice at the point of sale. For example, SouthernLINC argues that ''general guidance from the FCC regarding suggested format and procedures for providing notice to subscribers would be sufficient to meet the requirements of the WARN Act,'' but that we should ''refrain from adopting specific requirements for each carrier, regardless of the carrier's size, business model, or customer preferences.'' CTIA agrees, stating that ''a single type of notice is not appropriate in all situations,'' and that different points of sale and business circumstances lend themselves more readily to particular notice solutions. CTIA further argues

that, rather than focusing on the mechanics of the notice, the Commission should encourage wireless providers to ''furnish customers with the information they need to make an informed decision.'' CTIA argues that a ''combination of business incentive and statutory requirements'' will ensure that customers are given adequate notice at the point of sale. This is particularly the case, argues CTIA, where a wireless carrier intends to deploy the CMAS on a market-by-market basis, in which case a standardized message ''may lead to confusion and dissatisfaction'' among customers. MetroPCS argues that any discretion given to carriers with respect to the provision of ''clear and conspicuous'' notice also should extend to how carriers provide notice through their ''indirect distribution channels,'' and that since indirect distribution is not owned or operated by the carriers, ''carriers should not be held responsible for the indirect distribution retail outlet's failure to follow a carrier's directives, provided that the provider has put the distributor on notice and took reasonable steps to ensure prompt compliance.''

11. Other commenters from the wireless industry also expressed support for the CMSAAC's recommended text language. MetroPCS supports the adoption of a ''safe harbor'' under which carriers that use the model text developed by the CMSAAC are deemed to have provided adequate notice. Wireless industry commenters also agreed with the CMSAAC that CMS providers electing to participate in the CMAS should not be required to disclose such participation to subscribers. AAPC, for example, argues that such a requirement is unnecessary because participating CMS providers will have every incentive to advertise and promote the fact of their participation.

12. Other commenters argue that the Commission should adopt specific notice requirements. California Public Utilities Commission (CPUC) recommends that CMS providers be required to provide notice to and receive confirmations from new customers acknowledging their understanding that the service provider does or does not offer emergency alerts. CPUC also recommends that notices be in large print and placed prominently on placards or their equivalent and that each device sold by service providers should include a notice that emergency alerts are or are not included as a feature of the device or the service provider's service. Wireless Rehabilitation Engineering Research Center argues that such procedures should also include audio and video procedures (*e.g.*, provision of CMAS information in large print, Braille and audio formats) so that persons with disabilities will be fully informed about the CMAS. It also recommends that CMS providers be required to instruct subscribers that technical limitations might prevent alert message reception even in areas with signal coverage and that such no-alert areas should be detailed in coverage maps.

13. *Discussion.* As an initial matter, we find that the statute does not require CMS providers to provide notice in the event they elect to transmit alerts to all subscribers. For those carriers that have elected in whole or in part not to transmit emergency alerts, we find that the statute requires that they ''provide clear and conspicuous notice at point-of sale'' of their non-election or partial election to provide emergency alerts. Additionally, we find that the statute provides specific and limiting guidance. Therefore, we agree with commenters that a one-size-fits-all approach to notification may not adequately address the range of methods by which service providers communicate with their customers. Nevertheless, the CMSAAC has crafted plain language notifications that we believe are consistent with the intent of the statute and which convey concisely a service provider's non-election or partial election at the point of sale. We find that this language will convey sufficient information and serve as the minimum standard for clear and conspicuous notice under the WARN Act. Our decision allows, but does not require, CMS providers to provide their customers with additional information relating to CMAS. Specifically, CMS providers electing to transmit alerts ''in part'' shall use the following notification, at a minimum:

Notice Regarding Transmission of Wireless Emergency Alerts (Commercial Mobile Alert Service)

[[CMS PROVIDER]] has chosen to offer wireless emergency alerts within portions of its service area, as defined by the terms and conditions of its service agreement, on wireless emergency alert capable devices. There is no additional charge for these wireless emergency alerts.

Wireless emergency alerts may not be available on all devices or in the entire service area, or if a subscriber is outside of the [[CMS PROVIDER's]] service area. For details on the availability of this service and wireless emergency alert capable devices, please ask a sales representative, or go to [[CMS PROVIDER'S URL]].

Notice required by FCC Rule 47 CFR 10.240 (Commercial Mobile Alert Service). CMS providers electing in whole not to transmit alerts shall use the following notification language, at a minimum:

NOTICE TO NEW AND EXISTING SUBSCRIBERS REGARDING TRANSMISSION OF WIRELESS EMERGENCY ALERTS (Commercial Mobile Alert Service)

[[CMS PROVIDER]] presently does not transmit wireless emergency alerts. Notice required by FCC Rule 47 CFR 10.240 (Commercial Mobile Alert Service).

14. We define the point of sale as the physical and/or virtual environment in which a potential subscriber judges the products and services of the service provider and the point at which the potential subscriber enters into a service agreement with the service provider. Thus, we adopt the CMSAAC recommended language as a minimum standard of necessary information for use by all service providers and their agents in point-of-sale venues, which shall include stores, kiosks, third party reseller locations, Web sites (proprietary and third party), and any other venue through which the service provider's devices and services are marketed or sold. Section 601(b)(1)(2) specifically places the responsibility of notification on the CMS provider. Therefore, CMS providers are responsible for ensuring that clear and conspicuous notice is provided to customers at the point-of-sale, regardless of whether third party agents serve as the distribution channel.

15. We expect service providers selling through an indirect distribution channel may meet their statutory requirements through appropriate agency contract terms with their distribution partners or by other reasonable means. However, the statute assigns responsibility for conveying clear and conspicuous notice to CMS providers and, consistent with this statutory language, we decline to shift this burden onto a non-Commission licensed party. Therefore, CMS providers are solely responsible for ensuring that clear and conspicuous notice is provided to customers at the point-of-sale.

16. We decline at this time to adopt specific requirements, such as those put forth by CPUC (*e.g.*, certain sized posters, type-size, brochures) for displaying the notification, preferring instead to allow carriers to create and position notifications that are consistent with the marketing and service notification methodologies in use at any given time by the service provider. Similarly, with respect to Wireless RERC's concerns that procedures be mandated that include audio and video

notifications so that persons with disabilities will be fully informed about a service provider's election in part or in whole not to transmit emergency alerts, we believe that service providers will make use of existing facilities and procedures to convey the necessary notification. The statute requires clear and conspicuous notification, which we interpret to include the provision of notification that takes into account the needs of persons with disabilities. Thus, clear and conspicuous notification for persons with disabilities would include enhanced visual, tactile or auditory assistance in conveying the required notification. However, we agree with commenters and the CMSAAC that wireless service providers are in the best position to determine the proper method of providing this notice and leave it to the discretion of providers to provide clear and conspicuous notice at the point-of-sale. In addition, our decision allows, but does not require, additional information regarding the technical limitations of CMAS alerts, as requested by Wireless RERC (*i.e.*, that technical limitations might prevent alert message reception even in areas with signal coverage).

17. We disagree with the concerns raised by some commenters that, without a written acknowledgement from a subscriber, notification requirements under the WARN Act are not met. The statute requires the CMS provider to provide clear and conspicuous notice, but does not require the Commission to mandate an affirmative response from customers. Service agreements usually define the carrier's and subscriber's rights and responsibilities and describe any limitations of the service or products offered. We expect that many CMS providers will provide clear and conspicuous notice in their service agreements. To the extent they do so, subscribers in effect acknowledge such notice by signing the agreement. However, we do not require that this notification be placed into a service agreement, nor do we require that CMS providers otherwise obtain subscriber acknowledgements. We find that by implementing the statutory requirement of clear and conspicuous notice at the point of sale, adopting an acknowledgment requirement would be unnecessary.

2. Notifications to Existing Subscribers

18. *Background.* Section 602(b)(1)(C) states that the Commission shall ''require any licensee providing commercial mobile service that elects under paragraph (2) not to transmit emergency alerts to notify its existing subscribers of its election.'' In the *CMAS NPRM,* we asked whether CMS providers should be granted the discretion to determine how to provide notice of non-election, including the methods and duration of a service provider's notification to existing subscribers of an election. We also asked about the use of existing marketing and billing practices for purposes of notification, and whether service providers should be required to notify existing subscribers by sending them a separate notice of a change in their terms and conditions of their service. In addition, we asked how service providers should notify pre-paid customers. We also asked whether service providers should be required to demonstrate to the Commission that they have met this requirement and, if so, how. Finally, we asked whether service providers should be required to maintain a record of subscribers who have acknowledged receipt of the service provider's notification.

19. *Comments.* Wireless service providers generally argue that the Commission should provide CMS providers with flexibility regarding notice to existing subscribers, and oppose any requirement that CMS providers maintain records of subscriber acknowledgements of the notification. RCA argues, for example, that a requirement to maintain records of subscriber acknowledgement exceeds the authority granted to the Commission by the WARN Act, which only requires the provision of notice. SouthernLINC opposes ''the imposition of any burdensome notice or record keeping requirements on regional and small, rural carriers.'' Further, SouthernLINC argues that it would be ''unrealistic to expect every customer to affirmatively respond to notices and that it would be counterproductive for carriers to expend tremendous resources in tracking down customers that choose not to respond.'' MetroPCS argues that the need for flexibility is particularly necessary in the case of pre-paid carriers, who offer flat-rate service and who may not send written bills to their customers or keep current addresses of their customers on-file. According to MetroPCS, it corresponds with its customers mainly through short message service (SMS) messages delivered to the handsets of its subscribers.

20. Wireless RERC argues that CMS providers should be required to ''fully inform'' subscribers about the alert capabilities of the service provider's network and wireless devices, including pre-paid devices. Further, it argues that labeling on wireless devices or packages of wireless devices should be available in alternative formats, such as large print to aid those with visual impairments, and the Commission should establish ''CMAS standards of performance consistent with the Americans with Disabilities Act and other federal regulations regarding providing services to people with disabilities.'' CPUC urges the Commission to require, at a minimum, notification requirements similar to that required for VoIP providers for E911 service, recommending that any notice requirement be flexible so as to allow for the use of direct mailings, paper bills, e-mails and Web site notices. It argues that CMS providers should also be required to verify that acknowledgment was received from incumbent customers at a time and date designated by the Commission but prior to CMAS implementation, including requiring customers ''to indicate their understanding that the service provider does not offer emergency alerts and should be required to sign a document (or otherwise demonstrate, such as through electronic acceptance) indicating that they have read and understood the notice [and] [t]his notice should in no case be combined with other direct mailings containing marketing materials.'' In those cases where subscribers declined to receive direct mailings from service providers, CPUC suggests that carriers be required to demonstrate that they have taken reasonable steps to inform subscribers of the decision not to transmit alert messages.

21. CTIA disagrees with the CPUC's notification recommendations (modeled after the Commission's VoIP 9–1–1 notification requirements) arguing that, ''such rules cannot serve as a guideline because they were created in response to a specific issue that is inapplicable to CMAS.'' CTIA argues that those notice requirements ''were tailored to the notion that customers may have faulty assumptions about the availability of 911 services on their IP-enabled phones,'' whereas that concern is not present for CMAS because clear and conspicuous notice will be given to customers at the point of sale.

22. *Discussion.* We again base our analysis on the explicit language of section 602(b)(1)(C), which requires any licensee providing commercial mobile service that elects not to transmit emergency alerts ''to notify its existing subscribers of its election.'' As an initial matter, we find that section 602(b)(1)(C) is not limited to CMS providers that elect not to provide emergency alerts in whole. Rather, we interpret section 602(b)(1)(C) in concert with section 602(b)(1)(B) to also require CMS

providers that elect not to transmit emergency alerts in part to notify existing subscribers of their election. Thus, we require CMS providers to notify existing subscribers of their election, in whole or in part, not to transmit emergency alerts. Likewise, we require that this notice be ''clear and conspicuous.'' Additionally, as in the case of notice at point-of-sale, clear and conspicuous notification for persons with disabilities would include enhanced visual, tactile or auditory assistance in conveying the required notification.

23. Turning next to how CMS providers are to make such notifications, we find that the way CMS providers typically convey changes in terms and conditions to their subscribers to be sufficiently analogous. Thus, while an election not to transmit alerts, in whole or in part, is not necessarily a change in an existing term or condition, we require service providers to notify existing subscribers of their election by means of an announcement amending the existing subscriber's terms and conditions of service agreement. We agree with commenters who suggest that service providers should be given discretion in determining how to provide such notice to existing subscribers. Service providers regularly use various means to announce changes in service to subscribers, including, for instance, direct mailing, bill inserts, and other billing-related notifications. In order to ensure that subscribers receive the necessary notification, we require service providers to use, at a minimum, the notification language recommended by the CMSAAC that we have adopted for use in point of sale notification.

24. At this time, we will not require service providers to obtain a written or verbal acknowledgment from existing subscribers. We conclude that section 602(b)(1)(C) does not require an affirmative response from subscribers. Rather, it requires only that a provider notifies customers of its election not to participate. We agree with SouthernLINC that it would be unrealistic and unwarranted to require an affirmative response from every subscriber. While we recognize that some service providers allow their subscribers to opt out of receiving any information from the service provider, this usually applies to additional marketing or advertising communications and not to communications relating to changes in the terms and conditions of service. Finally, we recognize that service providers with pre-paid subscribers generally do not send a monthly billing statement to them and in some cases limit any customer notification to SMS messages. Further, service providers may not maintain customer information that can be used to communicate a change to the terms and conditions of service. Accordingly, in order to ensure that pre-paid customers are notified of the carrier's election, we require carriers to communicate the election through any reasonable means at their disposal, including, but not limited to, mailings, text messaging, and SMS messaging.

3. Timing of Notification

25. *Background.* Under section 602(b)(2)(A), ''within 30 days after the Commission issues its order under paragraph (1), each licensee providing commercial mobile service shall file an election with the Commission with respect to whether or not it intends to transmit emergency alerts.'' As discussed above, carriers electing not to transmit, in part or in whole, are required to notify prospective and existing subscribers of their election, but the statute does not state that this notification shall be concomitant with the carrier's election on its intent to transmit emergency alerts. The record is silent on the timing of notification. Significantly, on May 30, 2008, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) announced that it will perform the CMAS Alert Aggregator/Gateway role. FEMA noted, however, that the Alert Aggregator/Gateway system has not yet been designed or engineered, and did not indicate when it would make the Government Interface Design specifications available to the other CMAS participants. Further, the CMSAAC estimated that development, testing and deployment would require 18–24 months from standardization of the alerting protocol. Thus, a period of time will pass between the election filings and the commercial availability of CMAS.

26. *Discussion.* Accordingly, we find that it would not be in the public interest to require the commencement of customer notification upon the filing of elections with the Commission and well in advance of the commercial availability of CMAS. A principal goal of the customer notification requirement is to ensure that, upon the commercial availability of CMAS and the expected marketing of this service and supporting handsets by carriers that have elected to provide alerts, prospective and existing subscribers of carriers electing not to transmit alerts are fully informed of the limitations of that carrier's alerting capabilities and better able to make an informed decision about which carriers can provide critical public safety notifications. We believe the relevance of this decision may be lost if notification is delivered to prospective and existing subscribers too far in advance of CMAS' commercial availability. Further, by not tying the customer notification requirements to the 30-day election requirement, we provide time for CMS providers that may initially elect not to provide alerting capability to alter such decisions, particularly when the future availability and details of the CMAS Alert Aggregator/Gateway are made known. Because commercial availability of alerts is dependent upon the activation of the Alert Aggregator/Gateway system to support transmission of emergency alerts, we find it reasonable to require customer notification upon the availability of the transmission of emergency alerts. Thus, we will require CMS providers that have elected, in whole or in part, not to provide alerts to provide point of sale and existing subscriber notifications as described *supra* to be made no later than 60 days following an announcement by the Commission that the Alert Aggregator/Gateway system is operational and capable of delivering emergency alerts to participating CMS providers. We find that this policy is consistent with the WARN Act. Although section 602(b)(2)(A) of the WARN Act requires that CMS licensees file an election with the Commission within 30 days after the Commission issues this Third R&O, section 602(b)(1)(B) does not otherwise provide a specific deadline by which CMS providers must provide notice to subscribers regarding non-election.

B. Election Procedures

27. *Background.* Sections 602(b)(2)(A), (B), and (D) establish certain requirements for CMS providers electing to provide or not to provide emergency alerts to subscribers. In several instances, the statute requires service providers to submit notifications to the Commission indicating their election, non-election, or their withdrawal from providing emergency alerts. Section 602(b)(2)(A) requires that, ''within 30 days after the Commission issues its order under [section 602(b)], each licensee providing commercial mobile service shall file an election with the Commission with respect to whether or not it intends to transmit emergency alerts.'' Similarly, under section 602(b)(2)(B), a service provider that elects to transmit emergency alerts must ''notify the Commission of its election'' and ''agree to transmit such alerts in a manner consistent with the technical

standards, protocols, procedures, and other technical requirements implemented by the Commission.'' Further, section 602(b)(2)(D) requires the Commission to establish procedures relating to withdrawal of an election and the filing of late election notices with the Commission. Under section 602(b)(2)(D)(i), ''the Commission shall establish a procedure for a commercial mobile service licensee that has elected to transmit emergency alerts to withdraw its election without regulatory penalty or forfeiture upon advance written notification of the withdrawal to its affected subscribers.'' Finally, section 602(b)(2)(D)(ii) requires ''the Commission to establish a procedure for a commercial mobile service licensee to elect to transmit emergency alerts at a date later than provided in subparagraph (A).''

28. In the *CMAS NPRM*, we sought comment on all of these filing requirements. Specifically, we asked for comment on the most efficient method for accepting, monitoring and maintaining service provider election and withdrawal information. With respect to the initial election, we asked what CMS providers should provide in their filing if they indicate an intention to provide emergency alerts. For example, we sought comment on the CMSAAC's recommendation that, at a minimum, a CMS provider should explicitly commit to support the development and deployment of technology for the following: The ''C'' interface, the CMS provider Gateway, the CMS provider infrastructure, and the mobile device with CMAS functionality. Noting that the CMSAAC suggested that the required technology may not be in place for some time, we asked whether electing CMS providers should specify when they will be able to offer mobile alerting.

29. In addition, we sought comment about how service providers should notify the Commission and attest to their adoption of the Commission's standards, protocols, procedures and other technical requirements. We asked whether we should require electronic filing of the submission and what CMS providers should submit in their report to the Commission if they indicate an intention to provide emergency alerts. Finally, we sought comment on the proper mechanism for service providers to file a withdrawal of election with the Commission. We identified two scenarios: First, where the service provider has elected to provide emergency alerts, but does not build the infrastructure, and second, where the service provider elects to provide emergency alerts and does so to all or some portion of its coverage area, but later chooses to discontinue the service. With respect to the latter scenario, we asked how much advance notification to subscribers the Commission should require prior to the service provider's withdrawal. We also asked what methods service providers should use to notify all existing subscribers at the service provider's various points of sale as well as whether the Commission should impose the same set of requirements considered under section 602(b)(1)(C) regarding notification to existing subscribers and potential subscribers that a service provider has elected not to provide emergency alerts.

30. *Comments.* Wireless stakeholders agreed with the CMSAAC's recommendation regarding what notice service providers should include in their elections. For example, MetroPCS argues that the most effective way to provide notice to the Commission of a carrier's election should be through a written election provided at the time the election is required and, thereafter, within a reasonable time after the carrier decides to change its election. For CMS providers commencing service after the initial election deadline, MetroPCS recommends the submission of elections within 90 days after the licensee begins to market service in the licensed area. MetroPCS suggests that the election notice be on a license-by-license basis, but with the flexibility to consolidate elections over all or a portion of the CMS providers' licenses. MetroPCS recommends that service providers deciding to change their elections ''should be required to provide written notice to the Commission within 30 days of effectuating the change in election.''

31. Some commenters suggest that the Commission maintain a register listing the carriers that elect to participate as well as those that do not. CPUC argues that it is ''essential'' that states have access to CMS providers' election notices and that such notices should include, at a minimum, the ''C'' reference point, the CMS provider Gateway, the CMS provider infrastructure, the mobile device with CMAS functionality and any geographic variations in the commitment to provide emergency alerts. CPUC further argues that CMS providers should also be required to file a report attesting to their adoption of the Commission's standards, protocols, procedures, and other technical requirements, and reporting on the CMS providers' arrangements for working with the Alert Aggregator, their technical connections with the Alert Gateway, the links used to provide that connection and a description of their technical capability for providing state, regional and local alerts. Verizon Wireless opposes any requirement to provide detailed information about its network capabilities, arguing that such information is competitively sensitive and highly confidential.

32. *Discussion.* We find that the most efficient method for accepting, monitoring and maintaining service provider election and withdrawal information is to accept electronic submissions to the Commission. Accordingly, we require CMS providers to file electronically in PS Docket No. 08–146 a letter describing their election. Carriers electing, in part or in whole, to transmit emergency alerts shall attest that they agree to transmit such alerts in a manner consistent with the technical standards, protocols, procedures, and other technical requirements implemented by the Commission. Further, we accept the recommendation of the CMSAAC that a CMS provider electing to transmit, in part or in whole, emergency alerts, indicates its commitment to support the development and deployment of technology for the following: The ''C'' interface, the CMS provider Gateway, the CMS provider infrastructure, and mobile devices with CMAS functionality and support of the CMS provider selected technology. We require CMS providers to submit their letter of election within 30 days after the release of this Order. Due to the ongoing development of the Alert Aggregator/Gateway system and the Government Interface Design specifications, we do not require CMS providers electing to transmit, in part or in whole, emergency alerts to specify when they will be able to offer mobile alerting. With respect to commenters seeking the submission of detailed information about the links used to provide that connection and a description of their technical capability for providing state, regional and local alerts, we find that the statutory language does not require provision of this information. Further, we find that it would be unduly burdensome for carriers to provide such information and, therefore, reject those suggestions. We agree with Verizon Wireless that requiring such information could force providers to divulge competitively sensitive information. Additionally, requiring such information imposes substantial administrative and technical burdens on providers that are inconsistent with the voluntary nature of the CMAS program.

33. Section 602(b)(2)(D)(i) requires the Commission to establish a procedure for a commercial mobile service licensee

that has elected to transmit emergency alerts to withdraw its election without regulatory penalty or forfeiture upon advance written notification of the withdrawal to its affected subscribers. Thus, we require a CMS provider that withdraws its election to transmit emergency alerts to notify all affected subscribers 60 days prior to the withdrawal of the election. Carriers that withdraw their election to transmit alerts shall be subject to the notification requirements described in paragraph 37. We also require carriers to notify the Commission of their withdrawal, including information on the scope of their withdrawal, at least 60 days prior to electing to do so. Such a requirement is consistent with the requirement under section 602(b)(2)(D)(i) that we establish procedures for election withdrawal, and with the WARN Act's provision requiring providers to inform the Commission of their election to participate in the CMAS.

34. With respect to section 602(b)(2)(D)(ii), requiring that the Commission ''establish a procedure for a commercial mobile service licensee to elect to transmit emergency alerts at a date later than provided in subparagraph (A),'' we require such CMS licensees, 30 days prior to offering this service, to file electronically their election to transmit, in part or in whole, or to not transmit emergency alerts in the manner and with the attestations described above. This mirrors the Commission's rules for providers who elect immediately and provides a sufficient and fair amount of time for providers to elect to participate at a later date.

C. Other Issues

1. Subscriber Termination of Service

35. *Background.* Section 602(b)(2)(D)(iii) requires the Commission to establish a procedure ''under which a subscriber may terminate a subscription to service provided by a commercial mobile service licensee that withdraws its election without penalty or early termination fee.'' We sought comment on the procedures necessary to implement this provision. Specifically, we asked whether notification in the terms and conditions of service is sufficient to apprise subscribers of their right to discontinue service without penalty or termination fee, whether the Commission should prescribe specific procedures for subscribers and whether service providers should submit to the Commission a description of their procedure for informing subscribers of their right to terminate service.

36. *Comments.* CTIA argues that the Commission should ''regulate sparingly in the area of customer termination of subscriber agreements in the event that a wireless provider withdraws its election to participate in the CMAS.'' Further, it states that ''heavy-handed regulation and oversight both consumes Commission resources and adds cost to the overall provision of service (and, in turn, adds to subscriber cost)'' and ''adopting a procedure that fits with a company's other procedures and policies will make the option more user-friendly for the customer familiar with the wireless provider.'' CPUC states that the FCC should prescribe specific procedures for informing customers and accomplishing terminations rather than having providers design their own procedures. CPUC argues the Commission should design a process that includes notice to customers in clear and explicit language citing the statute and that the notices should facilitate the ability of a customer to automatically respond and immediately discontinue service. CPUC adds that customer acknowledgment of this information should be required by signature and dating or some corresponding affirmative action as done for non-participating providers at the point of initial sale.

37. *Discussion.* We find that because section 602(b)(2)(D)(iii), on its face, clearly provides rights specifically aimed at subscribers—that they may terminate service without penalty or early termination fee if a provider withdraws its initial election to participate in CMAS—subscribers require individual notice of their rights under the WARN Act. We further find that carriers must notify each affected subscriber individually in clear and conspicuous language, citing the statute, of the subscriber's right to terminate service without penalty or early termination fee should a carrier withdraw its initial election. We do not otherwise adopt any specific methods or procedures for implementing this individualized notice, but rather leave it to CMS providers to determine how best to communicate these statutory rights to their customers.

2. Subscriber Alert Opt-Out

38. *Background.* Section 602(b)(2)(E) provides that ''[a]ny commercial mobile service licensee electing to transmit emergency alerts may offer subscribers the capability of preventing the subscriber's device from receiving such alerts, or classes of such alerts, other than an alert issued by the President.'' The CMSAAC recommended that CMS providers should offer their subscribers a simple opt-out process. With the exception of Presidential messages, which are always transmitted, the CMSAAC recommended that the process should allow the choice to opt out of ''all messages,'' ''all severe messages,'' and AMBER Alerts. The CMSAAC suggested that, because of differences in the way CMS providers and device manufacturers provision their menus and user interfaces, CMS providers and device manufacturers should have flexibility about how to present the opt-out choices to subscribers. In the CMAS First R&O, the Commission further defined these three alert classes as: (1) Presidential Alert, (2) Imminent Threat Alert, and (3) Child Abduction Emergency/AMBER Alert. We sought comment on the recommendations of the CMSAAC with respect to three choices of message types that a subscriber should be allowed to choose to opt out of receiving. Additionally, we sought comment on the CMSAAC recommendation that CMS providers and device manufacturers should have flexibility or whether the Commission should establish baseline criteria for informing subscribers of this capability and if any uniform standards for conveying that information to subscribers is required. We also sought comment on whether more classes of alerts should be considered.

39. *Comments.* Many commenters who addressed this issue expressed support for the CMSAAC's recommendations. For example, T-Mobile argues that, given the different types of handsets and the wide array of menu interfaces offered by CMS providers, the Commission should not impose baseline standards or a uniform methodology for disabling alerts on this array of mobile handsets or devices. AAPC states that carriers should be permitted to manage subscriber opt-outs of alerts at the network terminal level and not just at the subscriber device level. Wireless RERC argues that CMS providers should make it clear to the subscriber what opting-out means—that, for example, they will not receive tornado warnings. CPUC agrees, stating that CMS providers should be required to inform subscribers that they have the choice of opting out of alerts.

40. One party—PTT—objected to the provision of any subscriber opt-out mechanism. PTT states that an opt-out capability will defeat the purpose of the program if a large number of potential users opt out due to concerns about battery usage. It states that if such a ''requirement'' moves forward, it would prefer that subscribers use the SMS filtering features of their own device to

filter undesired messages, rather than making this a universal feature of the program.

41. *Discussion.* We agree with the CMSAAC proposed simple opt-out program. The process should allow the choice to opt out of ''Imminent Threat Alert messages'' and ''Child Abduction Emergency/AMBER Alert messages.'' This allows consumers the flexibility to choose what type of message they wish to receive while still ensuring that customers are apprised of the most severe threats as communicated by Presidential Alert messages, which are always transmitted. However, because of the differences in how CMS providers and device manufacturers provision menus and user interfaces, we afford CMS providers flexibility to provide opt-out choices consistent with their own system. While we assume, as proposed by the Wireless RERC, that providers would make clear to consumers what each option means, and provide examples of what types of messages the customer may not receive as a result of opting-out so that consumers can make an informed choice, we do not require providers to include such information because there is no corresponding requirement in the WARN Act.

42. We disagree with PTT's argument that opt-out capability will defeat the purpose of the program. First, the WARN Act specifically grants providers the option to allow subscribers to opt-out of all but Presidential alerts. It would be inconsistent with the clear intent of Congress for the Commission to disallow this option. Secondly, the Alert Gateway used to transmit CMAS messages will most likely be separate and distinct from the SMS gateway. Therefore, subscribers may be unable to use their SMS filtering feature to filter CMAS messages.

3. Cost Recovery

43. *Background.* Section 602(b)(2)(C) states ''[a] commercial mobile service licensee that elects to transmit emergency alerts may not impose a separate or additional charge for such transmission or capability.'' In the Notice, we asked whether section 602(b)(2)(C)'s reference to ''transmission or capability'' should be read narrowly and sought comment whether this provision precludes a participating CMS provider's ability to recover costs associated with the provision of alerts. Noting, for example, that much of the alert technology will reside in the subscriber's mobile device, we asked whether CMS providers should recover CMAS-related developmental costs from the subscriber through mobile device charges based on a determination that mobile devices lie outside the ''transmission or capability'' language of the section. We also asked about cost recovery in connection with CMAS-related services and technologies that are not used to deliver CMAS.

44. *Comments.* Many of those commenting on the issue argue that participating CMS providers should be allowed to recover development, maintenance and manufacturing costs from their subscribers. AT&T urges the Commission to declare that costs incurred in the development of CMAS and in the provision of mobile emergency alerts are recoverable under the WARN Act and that cost recovery is consistent with the plain language of the Act. AT&T argues that the statutory language concerning separate or additional charges ''only addresses the appearance or presentation of charges on a subscriber's bill for the emergency alert mandate,'' ''does not in any way limit a carrier's ability to recover costs associated with CMAS implementation,'' and ''to limit cost recovery in this way would require the imposition of rate regulation and a regulatory accounting regime, which the Commission specifically has rejected for the competitive wireless industry.'' SouthernLINC argues that section 602(b)(2)(C) should be interpreted to apply only to separate charges associated with the specific costs involved in transmitting each alert and that subscribers should not be charged a per-alert fee. It argues, however, that carriers should be permitted to recover costs associated with the implementation and ongoing system management and any vendor-imposed handset costs. Such an approach, SouthernLINC argues, would encourage greater carrier participation. T-Mobile agrees, stating that it is fair to consumers who choose to buy a more sophisticated handset to cover some or all of the costs of the handset's development. On the other hand, Wireless RERC argues that CMS providers should be treated no differently than EAS participants who must bear the costs of their EAS participation. It states further that ''since CMAS is starting as a voluntary system and CMS providers are not allowed to impose a separate or additional charge for such transmission or capability, the Commission should review its mobile services regulations to implement any incentives that might offset CMS expenses and encourage CMS providers to participate in CMAS.''

45. *Discussion.* We agree with those commenters who urge us to find that section 602(b)(2)(C) precludes CMS providers from imposing a ''separate or additional charge'' for the transmission of CMAS alerts or the capability to transmit such alerts, but that such language does not preclude recovery of CMAS-associated costs, including costs related to the development of customer handsets. Section 602(b)(2)(C) states that ''[a] commercial mobile service licensee that elects to transmit emergency alerts may not impose *a separate or additional charge* for such transmission or capability.'' We interpret this language to mean that CMS providers shall not separately or additionally charge customers for provided alerts. But nothing in this statutory language—and nothing in the statute's legislative history—indicates an intention on the part of Congress to preclude recovery of, for example, CMAS-related development and implementation costs. In this regard, we note that Congress is well aware of this Commission's Title III regulation of wireless carriers, which provides for flexible recovery of costs through assessed rates and other means. We conclude that, if Congress had wanted to preclude cost recovery, as opposed to merely prohibiting separate or additional charges for alert transmission or alert transmission capability, it would have said so. We also find that permitting recoverable costs associated with the provision of CMAS alerts would be consistent with the voluntary nature of the CMAS and our general policy to encourage participation in the CMAS.

46. Although we make clear that section 602(b)(2)(C) does not prevent recovery of CMAS-related costs by CMS providers, we do not mandate any particular method of cost recovery. CMS providers have the discretion to absorb service-related costs or to pass on all or portions of such costs to their customers pursuant to generally-developed service rates. We also find that, because CMS providers operate in a competitive marketplace, market forces will guide decisions by CMS providers in recovering costs. Finally, we find that the language of section 602(b)(2)(C) is, on its face, limited to charges for alert transmissions and the capability to provide such transmissions and, accordingly, does not prohibit cost recovery, as described here, for specially-designed or augmented customer handsets, or in connection with CMAS-related services that share use of common technology but are not themselves CMAS alerts, for example, for provision of traffic alerts.

4. CMAS Deployment Timeline

47. *Background.* In its recommendations, the CMSAAC

proposed a timeline for implementation of the CMAS. According to the CMSAAC, it will take twelve months from the date of submission of the CMSAAC's recommendations to complete an industry standardization process. Participating CMS providers would then need an additional twenty-four months from the date of completion of the standardization process for CMAS development and testing. Initial CMS provider testing and deployment would occur 18–24 months from the date the industry standardization process is completed.

48. The specifics of the timeline recommended by the CMSAAC are indicated in Figure 1 below.

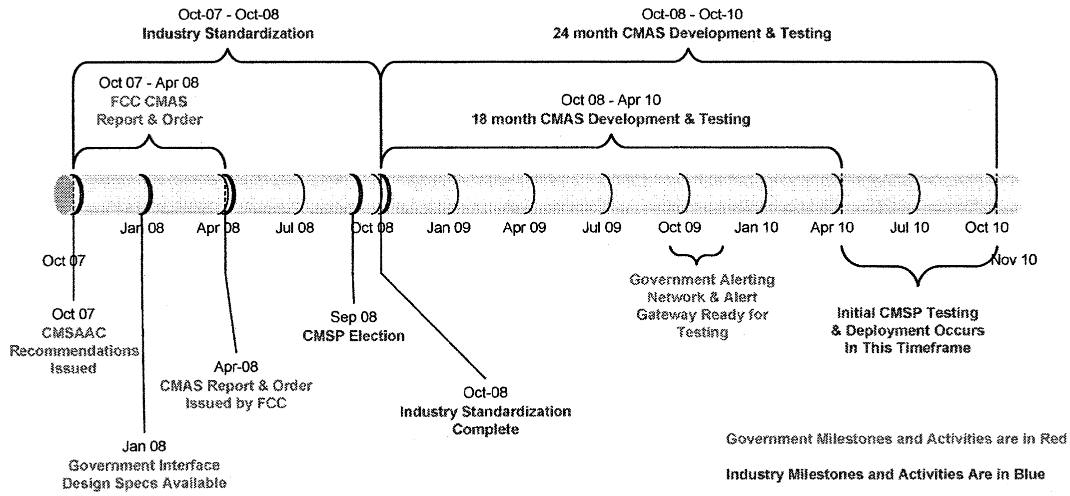

Figure 1

49. The CMSAAC based its proposed deployment timeline upon the assumptions that (1) the CMSAAC recommendations would be accepted without any major technical change and (2) the government documentation and deliverables would be available at the milestone dates indicated on the timeline. As indicated in Figure 1, when creating this timeline, the CMSAAC assumed that the Federal Alert Aggregator and Gateway would provide the Government Interface Design specifications in January 2008. The CMSAAC also identified other factors it stated were outside of the CMS providers' control that would influence the deployment and availability of the CMAS, such as manufacturer development cycles for equipment in the CMS provider infrastructure, manufacturer commitment to support the delivery technology of choice by the CMS provider, and mobile device manufacturer development of the required CMAS functionality on the mobile devices.

50. As discussed above, on May 30, 2008, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) announced that it will perform the CMAS Alert Aggregator/Gateway role. FEMA noted that the Alert Aggregator/Gateway system has not yet been designed or engineered, and did not indicate when it would make the Government Interface Design specifications available to the other CMAS participants. FEMA did note, however, that it would work with DHS Science and Technology scientists to finalize the technical solutions and with the Federal Communications Commission to make the Alert Aggregator system operational. We also note that the Alliance for Telecommunications Industry Solutions (ATIS) and the Telecommunications Industry Association (TIA) are currently developing standards related to the CMAS, particularly regarding the development of standards and protocols for the ''C'' interface.

51. *Comments.* As we indicated in our *CMAS First R&O,* a majority of commenters that addressed the issue supported the CMSAAC's proposed deployment timeline.

52. *Discussion.* In our recent *Order on Reconsideration*, we noted our intent that our rules would be implemented in a manner consistent with the CMSAAC recommended timeline. We agree with commenters who argue that the Alert Aggregator/Gateway must be a centralized, federal entity. As noted above FEMA has only recently indicated that it can serve as the Federal government entity that will provide the Alert Aggregator and Gateway functions, and has not stated when it would be able to provide the Government Interface Design specifications. However, in order to ensure that all Americans have the capability to receive timely and accurate alerts, warnings, and critical information regarding disasters and other emergencies irrespective of what communications technologies they use, we find that if FEMA has not issued its Government Interface Design specifications by December 31, 2008, the Commission will reconvene an emergency meeting of the CMSAAC to address the issuance of Government Interface Design specifications.

53. Because of this ambiguity and the need to ensure timely deployment of the CMAS, regardless of the federal entity serving as the Aggregator/Gateway, the CMAS timeline rules we adopt today do not implement the specific target dates recommended by the CMSAAC. Rather, as stated in our recent *Order on Reconsideration*, participating CMS providers must begin development and testing of the CMAS in a manner consistent with our new part 10 rules no later than ten months from the date that FEMA makes the Government Interface Design specifications available. As we noted in the *Order on Reconsideration*, this 10-month period corresponds to the interval recommended by the CMSAAC for the completion of industry standards necessary for CMAS development and testing. However, we further require that, at the end of this 10-month period, participating CMS providers shall begin

an eighteen month implementation and deployment period before the CMAS can be made available to the public. We recognize that this is an accelerated deployment schedule compared to that recommended by the CMSAAC. Specifically, following the CMSAAC recommendations, the timeframe would be as long as twenty-four months following the 10-month industry standardization process, as compared to the eighteen months that we order today. Because of the important public safety considerations before us, including the need for the provision of timely and vital emergency information to an increasingly mobile society and our continuing mandate under the Communications Act to promote the safety of life and property through the use of wire and radio communications, we find that this accelerated schedule is in the public interest. Moreover, providing an eighteen month implementation and deployment period still allows more than twenty-four months from the date the Government Interface Design specifications are available for deployment to occur.

54. We also agree with the CMSAAC recommendations that during this development and deployment period, the Alert Gateway and Alert Aggregator should collaborate with participating CMS providers to test the CMAS. In light of what we expect to be a collaborative process, the considerable involvement of the carriers to date in the development of the CMAS system and operational parameters, and the compelling need to provide this capability to the public in a prompt fashion, we believe even this accelerated schedule provides a sufficient amount of time to CMS providers for deployment of the CMAS.

Procedural Matters

D. Final Regulatory Flexibility Act Analysis

55. As required by section 604 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 604, the Commission has prepared a Final Regulatory Flexibility Analysis of the possible impact of the rule changes contained in this R&O on small entities. The Final Regulatory Flexibility Act Analysis is set forth in Appendix A, *infra*. The Commission's Consumer & Government Affairs Bureau, Reference Information Center, will send a copy of this R&O, including the Final Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

E. Final Paperwork Reduction Act of 1995 Analysis

56. The initial election that CMS providers must make pursuant to section 602(b)(2)(A) of the WARN Act, discussed above, has been granted pre-approval by OMB. This R&O may also contain new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. If the Commission determines that the R&O contains collection requirements subject to the PRA, it will be submitted to the Office of Management and Budget (OMB) for review under section 3507 of the PRA at the appropriate time and the Commission will publish a separate notice inviting comment. At that time, OMB, the general public and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.C.S. 3506(c)(4), we will seek specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

F. Congressional Review Act Analysis

57. The Commission will send a copy of the R&O to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

G. Alternative Formats

58. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by sending an e-mail to *FCC504@fcc.gov* or calling the Consumer and Governmental Affairs Bureau at (202) 418–0530, TTY (202) 418–0432.

Ordering Clauses

59. *It is ordered*, that pursuant to sections 1, 4(i), and (o), 201, 303(r), 403 and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (o), 201, 303(r) 403, and 606, as well as by sections 602(a), (b), (c), (f), 603, 604 and 606 of the WARN Act, this R&O is hereby adopted. The rules adopted in the R&O become effective October 22, 2008. Election to participate in CMAS must be made no later than 30 days after the release of this order.

It is further ordered that the Commission's Consumer and Government Affairs Bureau, Reference Information Center, *shall send* a copy of this R&O, including the Final Regulatory Flexibility Analysis, to the Chief Council for Advocacy of the Small Business Administration.

Final Regulatory Flexibility Analysis

60. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking in PSHSB Docket 07–287 (*CMAS NPRM*). The Commission sought written public comments on the proposals in the *CMAS NPRM*, including comment on the IRFA. Comments on the IRFA were to have been explicitly identified as being in response to the IRFA and were required to be filed by the same deadlines as that established in section IV of the *CMAS NPRM* for other comments to the *CMAS NPRM*. The Commission sent a copy of the *CMAS NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *CMAS NPRM* and IRFA were published in the **Federal Register**.

H. Need for, and Objectives of, the Order

61. Section 602(b) of the WARN Act requires the Commission to ''complete a proceeding—(A) to allow any licensee providing commercial mobile service * * * to transmit emergency alerts to subscribers to, or users of, the commercial mobile service provided by such license; (B) to require any licensee providing commercial mobile service that elects, in whole or in part, * * * not to transmit emergency alerts to provide clear and conspicuous notice at the point of sale of any devices with which its commercial mobile service is included, that it will not transmit such alerts via the service it provides for the device; and (C) to require any licensee providing commercial mobile service that elects * * * not to transmit emergency alerts to notify its existing subscribers of its election.'' Although the *CMAS NPRM* solicited comment on issues related to section 602(a) (CMS alert regulations) and 602(c) (Public Television Station equipment requirements), this CMAS Third R&O only addresses issues raised by section 602(b) of the WARN Act. Accordingly, this FRFA only addressees the manner in which any commenters to the IRFA addressed the Commission's adoption of standards and requirements for the CMAS as required by section 602(b) of the WARN Act.

62. This CMAS Third R&O adopts rules necessary to allow any CMS provider to transmit emergency alerts to its subscribers; to require that CMS providers that elect, in whole or in part,

not to transmit emergency alerts provide clear and conspicuous notice at the point of sale of any CMS devices that it will not transmit such alerts via that device; and to require CMS providers that elect not to transmit emergency alerts to notify their existing subscribers of their election.

I. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

63. There were no comments filed that specifically addressed the IRFA. The only commenter that explicitly identified itself as a small business was Interstate Wireless, Inc., which supported the Commission's adoption of the Commercial Mobile Service Alert Advisory Committee's (CMSAAC) recommendations. Interstate Wireless did not comment specifically on the IRFA, nor did it comment on any issues directly relating to section 602(b) of the WARN Act.

J. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

64. The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

65. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the SBA has recognized wireless firms within this new, broad, economic census category. Prior to that time, the SBA had developed a small business size standard for wireless firms within the now-superseded census categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the first category of Paging, data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. For the second category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, using the prior categories and the available data, we estimate that the majority of wireless firms can be considered small.

66. *Cellular Service.* As noted, the SBA has developed a small business size standard for small businesses in the category ''Wireless Telecommunications Carriers (except satellite).'' Under that SBA category, a business is small if it has 1,500 or fewer employees. Since 2007, the SBA has recognized wireless firms within this new, broad, economic census category. Prior to that time, the SBA had developed a small business size standard for wireless firms within the now-superseded census categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Accordingly, the pertinent data for this category is contained within the prior *Wireless Telecommunications Carriers (except Satellite)* category.

67. *Auctions.* Initially, we note that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

68. *Broadband Personal Communications Service.* The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission has created a small business size standard for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional small business size standard for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the C Block auctions. A total of 93 ''small'' and ''very small'' business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission reauctioned 155 C, D, E, and F Block licenses; there were 113 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F PCS licenses in Auction 35. Of the 35 winning bidders in this auction, 29 qualified as ''small'' or ''very small'' businesses. Subsequent events concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

69. *Narrowband Personal Communications Service.* The Commission held an auction for Narrowband Personal Communications Service (PCS) licenses that commenced on July 25, 1994, and closed on July 29, 1994. A second commenced on October 26, 1994 and closed on November 8, 1994. For purposes of the first two Narrowband PCS auctions, ''small businesses'' were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission awarded a total of forty-one licenses, 11 of which were obtained by four small businesses. To ensure meaningful participation by small business entities in future auctions, the Commission adopted a two-tiered small business size standard in the *Narrowband PCS Second R&O.* A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. A third auction commenced on October 3, 2001 and closed on October 16, 2001. Here, five bidders won 317 (MTA and nationwide) licenses. Three of these claimed status as a small or very small entity and won 311 licenses.

70. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses in the 2305–2320 MHz and 2345–2360 MHz bands. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small

business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, there were seven bidders that won 31 licenses that qualified as very small business entities, and one bidder that won one license that qualified as a small business entity.

71. *700 MHz Guard Bands Licenses.* In the *700 MHz Guard Bands Order*, the Commission adopted size standards for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. SBA approval of these definitions is not required. An auction of 52 Major Economic Area (MEA) licenses for each of two spectrum blocks commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of remaining 700 MHz Guard Bands licenses commenced on February 13, 2001, and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses. Subsequently, in the *700 MHz Second R&O*, the Commission reorganized the licenses pursuant to an agreement among most of the licensees, resulting in a spectral relocation of the first set of paired spectrum block licenses, and an elimination of the second set of paired spectrum block licenses (many of which were already vacant, reclaimed by the Commission from Nextel). A single licensee that did not participate in the agreement was grandfathered in the initial spectral location for its two licenses in the second set of paired spectrum blocks. Accordingly, at this time there are 54 licenses in the 700 MHz Guard Bands.

72. *700 MHz Band Commercial Licenses.* There is 80 megahertz of non-Guard Band spectrum in the 700 MHz Band that is designated for commercial use: 698–757, 758–763, 776–787, and 788–793 MHz Bands. With one exception, the Commission adopted criteria for defining two groups of small businesses for purposes of determining their eligibility for bidding credits at auction. These two categories are: (1) ''Small business,'' which is defined as an entity that has attributed average annual gross revenues that do not exceed $15 million during the preceding three years; and (2) ''very small business,'' which is defined as an entity with attributed average annual gross revenues that do not exceed $40 million for the preceding three years. In Block C of the Lower 700 MHz Band (710–716 MHz and 740–746 MHz), which was licensed on the basis of 734 Cellular Market Areas, the Commission adopted a third criterion for determining eligibility for bidding credits: An ''entrepreneur,'' which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small size standards.

73. An auction of 740 licenses for Blocks C (710–716 MHz and 740–746 MHz) and D (716–722 MHz) of the Lower 700 MHz Band commenced on August 27, 2002, and closed on September 18, 2002. Of the 740 licenses available for auction, 484 licenses were sold to 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business, or entrepreneur status and won a total of 329 licenses. A second auction commenced on May 28, 2003, and closed on June 13, 2003, and included 256 licenses: Five EAG licenses and 251 CMA licenses. Seventeen winning bidders claimed small or very small business status and won 60 licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses.

74. The remaining 62 megahertz of commercial spectrum is currently scheduled for auction on January 24, 2008. As explained above, bidding credits for all of these licenses will be available to ''small businesses'' and ''very small businesses.''

75. *Advanced Wireless Services.* In the *AWS–1 R&O*, the Commission adopted rules that affect applicants who wish to provide service in the 1710–1755 MHz and 2110–2155 MHz bands. The Commission did not know precisely the type of service that a licensee in these bands might seek to provide. Nonetheless, the Commission anticipated that the services that will be deployed in these bands may have capital requirements comparable to those in the broadband Personal Communications Service (PCS), and that the licensees in these bands will be presented with issues and costs similar to those presented to broadband PCS licensees. Further, at the time the broadband PCS service was established, it was similarly anticipated that it would facilitate the introduction of a new generation of service. Therefore, the *AWS–1 R&O* adopts the same small business size definition that the Commission adopted for the broadband PCS service and that the SBA approved. In particular, the *AWS–1 R&O* defines a ''small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $40 million, and a ''very small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $15 million. The *AWS–1 R&O* also provides small businesses with a bidding credit of 15 percent and very small businesses with a bidding credit of 25 percent.

76. *Common Carrier Paging.* As noted, the SBA has developed a small business size standard for wireless firms within the broad economic census category of ''Wireless Telecommunications Carriers (except Satellite).'' Under this category, the SBA deems a business to be small if it has 1,500 or fewer employees. Since 2007, the SBA has recognized wireless firms within this new, broad, economic census category. Prior to that time, the SBA had developed a small business size standard for wireless firms within the now-superseded census categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the first category of Paging, data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. For the second category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, using the prior categories and the available data, we estimate that the majority of wireless firms can be considered small. Thus, under this

category, the majority of firms can be considered small.

77. In the Paging *Third R&O*, we developed a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small business size standards. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. Also, according to Commission data, 365 carriers reported that they were engaged in the provision of paging and messaging services. Of those, we estimate that 360 are small, under the SBA-approved small business size standard.

78. *Wireless Communications Service.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services (WCS) auction. A ''small business'' is an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' is an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these small business size standards. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as ''very small business'' entities, and one that qualified as a ''small business'' entity.

79. *Wireless Communications Equipment Manufacturers.* While these entities are merely indirectly affected by our action, we are describing them to achieve a fuller record. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: All such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

80. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: All such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

81. *Software Publishers.* While these entities are merely indirectly affected by our action, we are describing them to achieve a fuller record. These companies may design, develop or publish software and may provide other support services to software purchasers, such as providing documentation or assisting in installation. The companies may also design software to meet the needs of specific users. The SBA has developed a small business size standard of $23 million or less in average annual receipts for the category of Software Publishers. For Software Publishers, Census Bureau data for 2002 indicate that there were 6,155 firms in the category that operated for the entire year. Of these, 7,633 had annual receipts of under $10 million, and an additional 403 firms had receipts of between $10 million and $24, 999,999. For providers of Custom Computer Programming Services, the Census Bureau data indicate that there were 32,269 firms that operated for the entire year. Of these, 31,416 had annual receipts of under $10 million, and an additional 565 firms had receipts of between $10 million and $24,999,999. Consequently, we estimate that the majority of the firms in this category are small entities that may be affected by our action.

K. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

82. This R&O may contain new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. If the Commission determines that the R&O contains collection subject to the PRA, it will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA at an appropriate time. At that time, OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.

L. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

83. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

84. As noted in paragraph 2 above, this CMAS Third R&O deals only with the WARN Act section 602(b) requirement that the Commission adopt rules necessary to allow any CMS licensee to transmit emergency alerts to

its subscribers; to require that CMS providers that elect, in whole or in part, not to transmit emergency alerts, provide clear and conspicuous notice at the point of sale of any CMS devices that it will not transmit such alerts via that device; and to require CMS providers that elect not to transmit emergency alerts, to notify their existing subscribers of their election. The entities affected by this order were largely the members of the CMSAAC. In its formation of the CMSAAC, the Commission made sure to include representatives of small businesses among the advisory committee members. Also, as we indicate by our treatment of the comments of Interstate Wireless in paragraph 4 above, the requirements and standards on which the Commission sought comment already contain concerns raised by small businesses. The WARN ACT NPRM also sought comment on a number of alternatives to the recommendations of the CMSAAC, such as the Digital EAS and FM sub-carrier based alerts. In its consideration of these and other alternatives the CMSAAC recommendations, the Commission has attempted to impose minimal regulation on small entities to the extent consistent with our goal of advancing our public safety mission by adopting requirements and standards for a CMAS that CMS providers would elect to provide alerts and warnings to their customers. The affected CMS providers have overwhelmingly expressed their willingness to cooperate in the formation of the CMAS, and we anticipate that the standards and requirements that we adopt in this order will encourage CMS providers to work with other industry and government entities to complete and participate in the CMAS.

List of Subjects in 47 CFR Part 10

Alert and warning, AMBER alert, Commercial mobile service provider.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 10 as follows:

PART 10—COMMERCIAL MOBILE ALERT SYSTEM

■ 1. The authority citation for part 10 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 201, 303(r), 403, and 606, as well as by sections 602(a), (b), (c), (f), 603, 604 and 606 of the WARN Act.

Subpart A—General Information

■ 2. Section 10.10 is amended by adding paragraphs (g) through (j) to read as follows:

§ 10.10 Definitions.

* * * * *

(g) *''C'' Interface.* The interface between the Alert Gateway and CMS provider Gateway.

(h) *CMS provider Gateway.* The mechanism(s) that supports the ''C'' interface and associated protocols between the Alert Gateway and the CMS provider Gateway, and which performs the various functions associated with the authentication, management and dissemination of CMAS Alert Messages received from the Alert Gateway.

(i) *CMS provider infrastructure.* The mechanism(s) that distribute received CMAS Alert Messages throughout the CMS provider's network, including cell site/paging transceivers and perform functions associated with authentication of interactions with the Mobile Device.

(j) *Mobile Devices.* The subscriber equipment generally offered by CMS providers that supports the distribution of CMAS Alert Messages.

■ 3. Section 10.11 is revised to read as follows:

§ 10.11 CMAS Implementation Timeline.

Notwithstanding anything in this part to the contrary, a participating CMS provider shall begin an 18 month period of development, testing and deployment of the CMAS in a manner consistent with the rules in this part no later than 10 months from the date that the Federal Alert Aggregator and Alert Gateway makes the Government Interface Design specifications available.

■ 4. Add a new Subpart B to read as follows:

Subpart B—Election to Participate in Commercial Mobile Alert System

Sec.

Subpart B—Election to Participate in Commercial Mobile Alert System

§ 10.210 CMAS Participation Election Procedures.

(a) A CMS provider that elects to transmit CMAS Alert Messages, in part or in whole, shall electronically file with the Commission a letter attesting that the Provider:

(1) Agrees to transmit such alerts in a manner consistent with the technical standards, protocols, procedures, and other technical requirements implemented by the Commission; and

(2) Commits to support the development and deployment of technology for the ''C'' interface, the CMS provider Gateway, the CMS provider infrastructure, and mobile devices with CMAS functionality and support of the CMS provider selected technology.

(b) A CMS provider that elects not to transmit CMAS Alert Messages shall file electronically with the Commission a letter attesting to that fact.

(c) CMS providers shall file their election electronically to the docket.

§ 10.220 Withdrawal of Election to Participate in CMAS.

A CMS provider that elects to transmit CMAS Alert Messages, in part or in whole, may withdraw its election without regulatory penalty or forfeiture if it notifies all affected subscribers as well as the Federal Communications Commission at least sixty (60) days prior to the withdrawal of its election. In the event that a carrier withdraws from its election to transmit CMAS Alert Messages, the carrier must notify each affected subscriber individually in clear and conspicuous language citing the statute. Such notice must promptly inform the customer that he or she no longer could expect to receive alerts and of his or her right to terminate service as a result, without penalty or early termination fee. Such notice must facilitate the ability of a customer to automatically respond and immediately discontinue service.

§ 10.230 New CMS Providers Participation in CMAS.

CMS providers who initiate service at a date after the election procedure provided for in § 10.210(d) and who elect to provide CMAS Alert Messages, in part or in whole, shall file electronically their election to transmit in the manner and with the attestations described in § 10.210(a).

§ 10.240 Notification to New Subscribers of Non-Participation in CMAS.

(a) A CMS provider that elects not to transmit CMAS Alert Messages, in part or in whole, shall provide clear and conspicuous notice, which takes into account the needs of persons with disabilities, to new subscribers of its non-election or partial election to provide Alert messages at the point-of-sale.

(b) The point-of-sale includes stores, kiosks, third party reseller locations, web sites (proprietary or third party), and any other venue through which the CMS provider's devices and services are marketed or sold.

(c) CMS providers electing to transmit alerts ''in part'' shall use the following notification:

NOTICE REGARDING TRANSMISSION OF WIRELESS EMERGENCY ALERTS (Commercial Mobile Alert Service)

[[CMS provider]] has chosen to offer wireless emergency alerts within portions of its service area, as defined by the terms and conditions of its service agreement, on wireless emergency alert capable devices. There is no additional charge for these wireless emergency alerts.

Wireless emergency alerts may not be available on all devices or in the entire service area, or if a subscriber is outside of the [[CMS provider]] service area. For details on the availability of this service and wireless emergency alert capable devices, please ask a sales representative, or go to [[CMS provider's URL]].

Notice required by FCC Rule 47 CFR 10.240 (Commercial Mobile Alert Service).

(d) CMS providers electing in whole not to transmit alerts shall use the following notification language:

NOTICE TO NEW AND EXISTING SUBSCRIBERS REGARDING TRANSMISSION OF WIRELESS EMERGENCY ALERTS (Commercial Mobile Alert Service)

[[CMS provider]] presently does not transmit wireless emergency alerts. Notice required by FCC Rule 47 CFR 10.240 (Commercial Mobile Alert Service).

§ 10.250 Notification to Existing Subscribers of Non-Participation in CMAS.

(a) A CMS provider that elects not to transmit CMAS Alert Messages, in part or in whole, shall provide clear and conspicuous notice, which takes into account the needs of persons with disabilities, to existing subscribers of its non-election or partial election to provide Alert messages by means of an announcement amending the existing subscriber's service agreement.

(b) For purposes of this section, a CMS provider that elects not to transmit CMAS Alert Messages, in part or in whole, shall use the notification language set forth in § 10.240 (c) or (d) respectively, except that the last line of the notice shall reference FCC Rule 47 CFR 10.250, rather than FCC Rule 47 CFR 10.240.

(c) In the case of prepaid customers, if a mailing address is available, the CMS provider shall provide the required notification via U.S. mail. If no mailing address is available, the CMS provider shall use any reasonable method at its disposal to alert the customer to a change in the terms and conditions of service and directing the subscriber to voice-based notification or to a Web site providing the required notification.

§ 10.260 Timing of Subscriber Notification.

A CMS provider that elects not to transmit CMAS Alert Messages, in part or in whole, must comply with §§ 10.240 and 10.250 no later than 60 days following an announcement by the Commission that the Alert Aggregator/Gateway system is operational and capable of delivering emergency alerts to participating CMS providers.

§ 10.270 Subscribers' Right To Terminate Subscription.

If a CMS provider that has elected to provide CMAS Alert Messages in whole or in part thereafter chooses to cease providing such alerts, either in whole or in part, its subscribers may terminate their subscription without penalty or early termination fee.

§ 10.280 Subscribers' Right To Opt Out of CMAS Notifications.

(a) CMS providers may provide their subscribers with the option to opt out of both, or either, the ''Child Abduction Emergency/AMBER Alert'' and ''Imminent Threat Alert'' classes of Alert Messages.

(b) CMS providers shall provide their subscribers with a clear indication of what each option means, and provide examples of the types of messages the customer may not receive as a result of opting out.

[FR Doc. E8–21946 Filed 9–19–08; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2008–0068]

RIN 2127–AK19

Federal Motor Vehicle Safety Standards; Electronic Stability Control Systems; Controls and Displays

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

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: On April 6, 2007, NHTSA published a final rule establishing a new Federal motor vehicle safety standard requiring light vehicles to be equipped with electronic stability control systems. The final rule was established as part of a comprehensive plan for reducing the serious risk of rollover crashes and the risk of death and serious injury in those crashes. This document responds to several petitions for reconsideration of the final rule. After carefully considering the issues raised, the agency is granting some aspects of the petitions, and denying some aspects. This document amends the final rule accordingly. This document also fulfills the obligations of the United States with respect to initiating rulemaking in order to comply with the global technical regulation (GTR) for ESC, adopted on June 26, 2008.

DATES: This rule is effective October 22, 2008.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, 4th Floor, Washington, DC 20590. Note that all documents received will be posted without change to the docket, including any personal information provided. Please see the Privacy Act discussion under section IV on Rulemaking Analyses and Notices below.

FOR FURTHER INFORMATION CONTACT: For technical issues, contact Nathaniel Beuse, Office of Crash Avoidance Standards, by telephone at (202) 366–4931, or by fax at (202) 366–7002. For legal issues, contact Rebecca Yoon, Office of the Chief Counsel, by telephone at (202) 366–2992, or by fax at (202) 366–3820.

Both persons may be reached by mail at the following address: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Summary of Final Rule; Response to Petitions for Reconsideration

In this document, NHTSA responds to petitions for reconsideration of its April 2007 final rule concerning electronic stability control (ESC) systems. That rule established a new Federal Motor Vehicle Safety Standard (FMVSS) No. 126, *Electronic Stability Control Systems*, which sets forth requirements for these systems on new light vehicles, to be applicable to all light vehicles by September 1, 2011.

We are granting some of the petitions in part. In granting these petitions, today's final rule makes several changes to the regulatory text of 49 CFR 571.126, *Electronic Stability Control Systems*, and of 49 CFR 571.101, *Controls and Displays*. These are generally minor changes, all of which are consistent with agency's goal in the original final rule to encourage rapid installation of this life-saving technology. Changes to the regulatory text are summarized below.

We are denying a petition from the American Association for Justice (AAJ) to withdraw preemption language from the regulatory analysis section of the final rule, and to expand the scope of the final rule to require roll stability control in addition to ESC.

Summary of Changes

1. In FMVSS No. 101, to avoid confusion regarding the compliance date for ESC telltale requirements, the agency is adding ''As of September 1, 2011'' in the relevant places to paragraphs S5.5.2 and S5.5.5 and Table 1.

2. To clarify that related vehicle systems may use the ESC malfunction telltale and that the ESC malfunction telltale may flash to indicate operation of related systems, the agency is slightly revising S5.3.3 and adding a new S5.3.10 to FMVSS No. 126.

3. For purposes of clarification, the agency is revising S5.3.9 in FMVSS No. 126 to remove language that might be interpreted to require the ESC malfunction telltale to illuminate to indicate a disconnection of the ESC Off control.

4. To simplify the telltale requirements, we are also allowing two-part telltales that are able to display both the ''ESC malfunction'' and ''ESC Off'' messages.

5. To avoid any potential negative safety consequences of requiring vehicles to restart in 2-wheel drive when they are using 4-wheel drive to navigate difficult terrain, the agency is expanding the exception to S5.4.1's key cycle automatic ESC reactivation requirement in FMVSS No. 126. We are revising S5.4.1 to tie the exception directly to the low-range 4-wheel drive configuration, and adding a definition for 4-wheel drive low-range configuration. For the same reason, the agency is revising S5.4.1's default mode requirement to refer to ESC modes within the same drive configuration.

6. FMVSS No. 126 requires that ESC systems meet two fundamental performance criteria, stability and responsiveness. It is possible that these performance criteria can conflict in some drive configurations,[1] thereby creating ambiguity with respect to the existing requirement in S5.4.1 that refers to an ESC mode that satisfies the performance requirements ''by the greatest margin.'' To address this, the agency is revising S5.4.1 to specify that upon vehicle restart, ESC systems must revert to the manufacturer's original default mode for that drive configuration. These modes, with some exceptions as noted, must meet the stability and responsiveness requirements of the standard.

7. To clarify that ESC systems need not be operational before they have initialized, the agency is adding S7.10.2's initialization procedure to S7.10.4 and S6.3.1 of FMVSS No. 126.

8. In recognition of the fact that many current ESC system designs cannot hold a malfunction in memory when the ignition is cycled off and then back on as required, S7.10.3 of FMVSS No. 126 will not be mandatory until September 1, 2011.

9. To gain the substantial safety benefits of ESC as quickly as possible, and because we anticipate no negative safety consequences, the agency is accommodating current ESC systems by changing the low-speed cutoff for ESC operation from 15 km/h (9.3 mph) to 20 km/h (12.4 mph) and adding a brake application to all initialization procedures in FMVSS No. 126.

10. To clarify that the final rule did not prohibit multi-function ESC controls, the agency is adding language to that effect in S5.4 of FMVSS No. 126.

11. To clarify changes made to the regulatory text, the agency is adding definitions for ''drive configuration'' and ''mode'' to S4 of FMVSS No. 126.

II. Background

A. Benefits of ESC

Electronic stability control, or ESC, systems use automatic computer-controlled braking of individual wheels to assist the driver in maintaining control in critical driving situations in which the vehicle is beginning to lose directional stability at the rear wheels (spin out) or directional control at the front wheels (plow out). NHTSA's crash data study of existing vehicles equipped with ESC demonstrated that these systems reduce fatal single-vehicle crashes of passenger cars by 36 percent and fatal single-vehicle crashes of sport utility vehicles (SUVs) by 63 percent.[2] NHTSA estimates that ESC has the potential to prevent 70 percent of the fatal passenger car rollovers and 88 percent of the fatal SUV rollovers that would otherwise occur in single-vehicle crashes.[3]

B. April 2007 Final Rule

On April 6, 2007, NHTSA published a final rule establishing the new Federal Motor Vehicle Safety Standard (FMVSS) No. 126, *Electronic Stability Control Systems*, which sets forth requirements for these systems on new light vehicles.[4] FMVSS No. 126 contains performance requirements that include both definitional and dynamic testing elements. These elements together ensure that ESC systems intervene

[1] This is a basic problem of vehicle dynamics: in order to be stable, a vehicle should experience less side-to-side movement, but in order to be responsive, a vehicle must be able to move side-to-side as necessary. Proper and safe vehicle handling, which ESC facilitates, must strike a balance between stability and responsiveness depending on the situation. Thus, it is possible that increasing stability in response to driving conditions could decrease responsiveness—yet S5.4.1 as written requires both stability and responsiveness to be satisfied by the greatest margin, which is not always possible or desirable. This is why the agency is revising this section.

[2] Dang, J., Statistical Analysis of the Effectiveness of Electronic Stability Control (ESC) Systems—Final Report, DOT HS 810 794, U.S. Department of Transportation, Washington, DC (July 2007). *Available at* Docket No. NHTSA–2007–28629, item 2.

[3] *Id.*

[4] Docket No. NHTSA–2007–27662, item 1; 72 FR 17236 (Apr. 6, 2007).

properly to limit oversteer and understeer in order to provide the level of yaw (directional) stability associated with the high level of safety benefits observed in crash data studies of ESC-equipped vehicles. FMVSS No. 126 also requires a standardized set of ESC telltales and controls.

The new standard's requirements for yaw stability control (that is, the parts of the standard with the biggest potential to prevent crashes) can be met by most ESC-equipped vehicles currently being manufactured. However, none of those vehicles appear to use the exact set of telltales and controls required by the new standard. In order to provide the American public with the substantial safety benefits of ESC as soon as possible, NHTSA accelerated the phase-in schedule in the final rule as compared to the schedule proposed in the September 2006 notice of proposed rulemaking (NPRM),[5] but deferred the telltale and display requirements until the end of the phase-in. Thus, the final rule set the phase-in as:

- 55 percent of a manufacturer's light vehicles manufactured during the period from September 1, 2008 to August 31, 2009 are required to comply with the standard;
- 75 percent from September 1, 2009 to August 31, 2010;
- 95 percent from September 1, 2010 to August 31, 2011; and
- All light vehicles thereafter.

This compares to the NPRM's proposal for a 30/60/90/all phase-in schedule over the same time period. The agency noted in the final rule preamble that some manufacturers will have to depend on carry-forward credits for vehicles with complying ESC systems manufactured after June 5, 2007 (the effective date of the final rule) in order to meet the accelerated phase-in schedule.

Regarding the deferral of the telltale and display requirements until the end of the phase-in period, although NHTSA perceived certain advantages with standardizing these requirements, we concluded that it was not practicable to implement the necessary changes under the accelerated phase-in schedule, and we were not willing to delay the phase-in (and the expected safety benefits) for this reason alone. Accordingly, the agency prefaced many of the provisions in FMVSS No. 126 dealing with telltales and displays with the phrase ''as of September 1, 2011.'' However, after the final rule was published, we discovered that that phrase had been inadvertently omitted from two of the relevant provisions. NHTSA published a correction notice on June 22, 2007 to address this issue.[6]

C. Summary of Petitions for Reconsideration to the Final Rule

Four parties petitioned for reconsideration of the April 6, 2007 final rule: the American Association for Justice (AAJ);[7] Porsche Cars North America, Inc. (Porsche);[8] and in a joint petition, the Alliance of Automotive Manufacturers and the Association of International Automobile Manufacturers (Alliance/AIAM).[9] Chrysler also submitted a letter supporting revised recommendations submitted by the Alliance/AIAM following its original petition for reconsideration.[10] Most of the issues presented by the manufacturer petitioners addressed details of the requirements for controls and displays and their effect on phase-in requirements. AAJ petitioned NHTSA to change language in the final rule preamble concerning the preemptive effect of Federal regulations, and also petitioned that the scope of the final rule be expanded to require roll stability control in addition to ESC that focuses on yaw stability.

The next section addresses the petitions issue by issue, and provides the agency's response for each issue.

III. Analysis of and Response to Petitions for Reconsideration

A. Telltale Issues

1. Use of a Two-Part ''ESC Off'' Telltale

The final rule requires an ESC malfunction telltale identified by the ISO symbol for ESC or the abbreviation ''ESC.'' It also requires a second telltale to identify when the ESC system has been turned off by the driver. That telltale must be identified by the ISO symbol for ESC with the word ''Off'' below it, or the words ''ESC Off.''

Porsche Cars North America, Inc. (Porsche) originally commented to the NPRM that instead of requiring two completely separate telltales for the ESC malfunction and ESC Off messages, the rule should allow for a partial telltale with just the word ''Off'' adjacent to the ESC malfunction telltale. The ESC Off message would be created by illuminating the ''Off'' telltale and the ESC malfunction telltale simultaneously. The object of this design would be to save space on the instrument panel.

NHTSA did not include Porsche's suggested change in the final rule because we thought that allowing a partial telltale would have created a conflict with the requirement that the ESC Off status be indicated by the telltale whenever the driver has manually disabled the ESC. In the case where the ESC system detects a fault when it is in the manually disabled state, the ''Off'' part of the partial, two-part telltale would have to be extinguished to indicate the ESC malfunction.[11]

Porsche petitioned for reconsideration on NHTSA's decision on two-part telltales. Specifically, Porsche explained in its petition that ''in the rare case when a malfunction occurs after the driver has manually disabled the system,'' its ESC system ''would operate so that the malfunction event results in the manual control functionality being automatically disabled.'' Thus, the ''ESC Off'' message would no longer be correct, because the ESC would have overridden the manual disablement; and the ''ESC Malfunction'' message would be correct. Porsche petitioned that NHTSA clarify that a two-part telltale would not be prohibited in the situation it described, and requested that NHTSA add a footnote to Table 1 of FMVSS No. 101 that a two-part ESC Off telltale is acceptable if the parts are configured as depicted for the symbol or phrase stipulated by the table to identify the ESC Off telltale.

Porsche also requested that a footnote be added to Table 1 indicating that the ''ESC Off'' telltale ''is mandatory only in the event that the system is manually disabled by the driver.''

Agency Response: We are granting this petition in part and denying in part. We have considered the two-part telltale issue further and have concluded that there will be no significant safety consequences from allowing manufacturers to use a two-part telltale instead of entirely separate telltales for ESC malfunction and ESC Off. The situation that Porsche describes, where the ESC system overrides the driver's ''Off'' command if a malfunction occurs while the ESC system is disabled, would already meet the requirements of the final rule. This is because in that situation, it would be correct to extinguish the ''Off'' portion of the two-part telltale (because ESC would no longer be off), and leave only the ''ESC'' portion illuminated. Thus, for that particular case, a two-part telltale would satisfy NHTSA's original requirement

[5] Docket No. NHTSA–2006–25801, item 1; 71 FR 54712 (Sept. 18, 2006).

[6] Docket No. NHTSA–2007–27662, item 9; 72 FR 34409 (Jun. 22, 2007).

[7] *Id.*, item 6.

[8] *Id.*, item 4.

[9] *Id.*, item 5.

[10] Chrysler letter, *id.*, item 12; Alliance/AIAM revised recommendations, *id.*, item 10.

[11] *See* 72 FR 17236, 17276 (Apr. 6, 2007).

that the ESC malfunction message be displayed without interfering with the ESC Off message, because the ESC would no longer be manually disabled.

More generally, if an ESC system malfunction occurs after a driver has disabled ESC, requiring both telltales to illuminate at the same time, both telltales would convey essentially the same message to the driver: that ESC functionality has been reduced or eliminated. Because of this, and because we anticipate that ESC systems will likely only rarely malfunction after they have been manually disabled, upon further consideration we do not believe that requiring both messages to be presented simultaneously (and thus prohibiting two-part telltales) is necessary for safety. To build on Porsche's example, if an ESC system uses a two-part telltale that illuminates both parts to convey the ''ESC Off'' message, but does not override the driver's ''Off'' command if a malfunction occurs while ESC is disabled, the telltale would simply continue to display ''ESC Off,'' which would indicate to the driver that ESC functionality is reduced. Because the final rule requires ESC to return to ''on'' with each ignition cycle, the ''Off'' telltale must be extinguished, and the malfunction telltale can simply be illuminated at that point. We believe that this would not present significant safety problems, since the driver would still be notified promptly upon restarting the engine that the ESC malfunction exists. There would be no period in which the two-part telltale failed to convey the basic message that ESC functionality was reduced or eliminated.

Implementing this change necessitates revision of paragraph S5.3.3 to clarify that when an ESC system uses a two-part telltale, the malfunction telltale need not illuminate if the ''Off'' telltale is illuminated. We are revising S5.3.3 accordingly.

However, we are denying the request to add a footnote to Table 1 of FMVSS No. 101 stating that a two-part ESC Off telltale is acceptable if the parts are simply configured as described. We do not believe that further clarification is necessary beyond what is already provided here.

Additionally, we are denying Porsche's request to add a footnote to Table 1 stating that the ''ESC Off'' telltale is mandatory only when the system is manually disabled by the driver. S5.4.3 of FMVSS No. 126 requires that the ESC Off telltale indicate the status of the ESC system when certain controls other than the manual ESC Off control have the ancillary effect of turning ESC off. The suggested footnote would conflict with this requirement.

2. Inclusion of ESC-Related Systems in ESC Malfunction Telltale Operational Requirements

In the preamble to the ESC final rule, NHTSA agreed with commenters that a single malfunction telltale that relates generally to vehicle stability systems would be sufficiently informative for drivers, and would be effective in conveying the message that a malfunction has occurred which may require diagnosis and service by a repair facility. Thus, NHTSA included a footnote for Table 1 of FMVSS No. 101 stating, as regards the ESC malfunction telltale, that ''This symbol may also be used to indicate the malfunction of related systems/function including traction control, trailer stability assist, corner brake control, and other similar functions that use throttle and/or individual torque control to operate and share common components with the ESC system.''

The Alliance/AIAM petitioned NHTSA to revise paragraphs S5.3.3 and S5.3.8 of FMVSS No. 126 to clarify that the ESC malfunction telltale may be illuminated to indicate a malfunction of related systems, and also may flash to indicate operation of a related system. Petitioners expressed concern that the omission of this clarification might create an inconsistency with FMVSS No. 101.

Agency response: We are granting this petition in part. We agree that it would improve FMVSS No. 126's clarity to amend the regulatory text to specify that related systems may use the ESC malfunction telltale and that the ESC malfunction telltale may flash to indicate operation of a related system. Instead of revising S5.3.3 and S5.3.8 as suggested by the Alliance/AIAM petition, we are revising S5.3.3 slightly, and are adding a new S5.3.10 to address these issues. S5.3.10 will state:

> Manufacturers may use the ESC malfunction telltale in a steady burning mode to indicate malfunctions of ESC-related systems/functions including traction control, trailer stability assist, corner brake control, and other similar functions that use throttle and/or individual wheel torque control to operate and share common components with the ESC system, and they may use the ESC malfunction telltale in a flashing mode to indicate operation of these ESC-related systems.

We believe this addition will address the Alliance/AIAM's concerns.

3. Compliance Dates for Telltale Requirements

The final rule allowed manufacturers greater lead time to standardize the presentation of ESC controls and displays, deferring many of these requirements until the end of the phase-in, *i.e.*, September 1, 2011. This was because NHTSA wanted to achieve the safety benefits of equipping vehicles with ESC as quickly as possible. Although the agency perceived certain advantages to standardizing controls and displays, it was not practicable to implement those changes in keeping with the accelerated phase-in schedule. Thus, many of the provisions of the final rule concerning controls and displays contain the phrase ''as of September 1, 2011.'' [12]

The Alliance/AIAM petitioned NHTSA to include the phrase ''as of September 1, 2011'' in paragraphs S5.3.3 and S5.4.3 as well, since those paragraphs also concern controls and displays. Petitioners stated that ''Requiring manufacturers to meet the provisions of S5.3.3 and S5.4.3 [in keeping with the phase-in] will preclude the accrual of credits and prevent manufacturers from meeting the accelerated phase-in schedule specified in the final rule.''

The Alliance/AIAM petition also requested that NHTSA clarify that the changes made to FMVSS No. 101 by the ESC final rule would also be mandatory at the same time as the controls and displays requirements in FMVSS No. 126, by changing the mandatory compliance date for the FMVSS No. 101 provisions in the final rule to September 1, 2011.

Agency response: The petition to add the compliance date to S5.3.3 and S5.4.3 of FMVSS No. 126 is moot, because the change requested by the Alliance/AIAM has already been made in a correction notice published by NHTSA on June 22, 2007.[13]

We are granting the petition to add the compliance date to the provisions in question in FMVSS No. 101. As written, FMVSS No. 101 could be read to prohibit controls and displays that FMVSS No. 126 would allow prior to September 1, 2011. NHTSA did not intend this result. Thus, we are adding ''As of September 1, 2011'' to the provisions on ESC telltales and identifiers in S5.5.2, S5.5.5, and Table 1 of FMVSS No. 101.

[12] These include paragraphs S5.3.1, S5.3.2, S5.3.4, S5.4.2, S5.5.2, and S5.5.6.

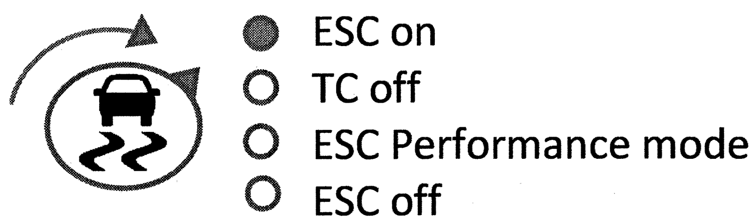
[13] *See supra* note 5.

B. Multi-Function ESC Controls

The Alliance/AIAM petitioned for clarification of paragraphs S5.4.2 and S5.4.3 regarding a control switch or button that combines several functions, which we will call a ''multi-function'' control for simplicity.[14] For background, paragraph S5.4.2 requires that an ESC control whose only purpose is to disable the ESC system or place it in a mode in which it no longer satisfies the performance requirements [15] be labeled either with the ESC symbol plus the word ''Off'' or the phrase ''ESC Off.'' The ''ESC Off'' telltale must also illuminate when ESC is in a state in which it no longer satisfies the performance requirements. Paragraph S5.4.3 creates an exception for a control primarily for another function, such as a four-wheel drive low-range transfer case, that does not specifically control the ESC system directly, but has the ancillary effect of turning off ESC in low range. Such a control need not be labeled an ''ESC Off'' control, but the ''ESC Off'' telltale must still illuminate if ESC is put in a state in which it no longer satisfies the performance requirements.

The Alliance/AIAM offered the example of a multi-function control that could be used to turn ESC off or on, but could also be used to turn traction control off and to select an ESC ''performance mode.'' Because such a control could be seen as neither a control whose only purpose is to disable ESC, nor a control for another system with an ancillary effect, petitioners requested that the agency clarify that multi-function controls like the one described are not prohibited by FMVSS No. 126. Figure 1 below shows a rotary multi-function control (this example was provided in the petition).

Figure 1. Rotary Multi-mode Control Example



Agency response: We are granting the petition to clarify S5.4.3, although we note that this question was already answered in the affirmative in the agency's response to the GM request for interpretation. FMVSS No. 126 does not prohibit multi-function ESC controls that combine the control whose only purpose is to disable the ESC system with controls used for other purposes. Paragraph S5.4 specifically allows controls whose sole purpose is to disable ESC and establishes various requirements for them. The only reason that the standard distinguishes between these controls used only for disabling ESC from those used to control systems with an ancillary effect on ESC is to express the labeling requirements for the control symbols. The multi-function control example presented by the petition combines several controls in a single piece of hardware: one control whose only purpose is to disable ESC, one unregulated control for the traction control system, and another control that places the ESC system in an intermediate ''sport'' or ''performance'' mode.''

In the rotary multi-function control example of Figure 1, the function within the control that disables ESC, because its only purpose is to disable ESC, would be required to be identified using the symbol or text specified in FMVSS No. 101 for ''ESC Off'' (effective September 1, 2011) on or adjacent to that part of the control. We would not consider the precise example given by the Alliance/AIAM petition as satisfying FMVSS No. 101's requirement that the ''ESC Off'' label (''identifier'') be adjacent to the control it identifies, because the telltale lamp is located between the two.[16] However, this problem could be solved by moving the lamp to the other side of the label.

FMVSS No. 126 does not specify requirements for the ''TC off'' function in the example, nor for the ''ESC Performance mode'' function, unless that function within the control places the ESC system in a mode in which it no longer satisfies the standard's performance requirements. If it did, it would be considered an ''ESC Off'' control (because it is a control whose purpose is to place the ESC system in a mode in which it no longer satisfies the performance requirements) and would also have to be labeled accordingly.

The agency notes that in analyzing the applicability of the labeling requirement to the rotary multi-function control identified by the petition, we additionally considered other types of multi-function controls. For example, we considered toggle buttons which must be pressed repeatedly in order to cycle through multiple functions (including ESC Off), as well as controls used to navigate through multiple functions (including ESC Off) displayed in an information center. Just as for rotary multi-function controls, these other multi-function controls must be labeled with ''ESC Off'' if they contain a function whose only purpose is to disable ESC or place it in a mode in which it no longer satisfies the performance requirements. NHTSA reiterates that ESC Off controls, regardless of whether they are contained within a multi-function control, must be labeled with ''ESC Off.'' We believe that this is necessary for the safety of the driver, and to discourage the driver from turning ESC off unless it is absolutely necessary. Unlike rotary controls, however, with a toggle button or a single button or switch for an information center, there is no obvious location for the ''ESC Off'' label. In these situations, we nevertheless require the control to be labeled with ''ESC Off,'' even if it also contains additional labels that the manufacturer believes are necessary to identify the other functions it contains.

[14] This question was also raised in a request for interpretation from Mr. Brian Latouf of General Motors North America, which the agency answered on August 29, 2007 (''the GM request for interpretation''.

[15] Of paragraphs S5.2.1, S5.2.2, and S5.2.3.

[16] FMVSS No. 101, S4 Definitions, defines ''Adjacent'' as ''with respect to a control, telltale or indicator, and its identifier * * * (a) The identifier is in close proximity to the control, telltale or indicator; and (b) No other control, telltale, indicator, identifier or source of illumination appears between the identifier and the telltale, indicator, or control that the identifier identifies.''

The Alliance/AIAM also petitioned NHTSA to remove the word ''only'' from S5.4 and S5.4.2 of the regulatory text in order to allow multi-function controls. The agency is denying this aspect of the petition. S5.4 and S5.4.2 simply permit ESC Off controls and require them to be labeled with ''ESC Off.'' Paragraph S5.4 has been amended to state that ''ESC Off'' controls may be included in multi-function controls. Therefore, we do not believe that removing the word ''only'' from the regulatory text is necessary.

C. ''ESC Off'' Control Labeling

As explained in this response to petitions and in the final rule, paragraph S5.4.2 requires that an ESC control whose only purpose is to disable the ESC system or place it in a mode in which it no longer satisfies the performance requirements, be labeled with either the ESC symbol plus the word ''Off'' or the phrase ''ESC Off.'' NHTSA believes that labeling these controls with ''ESC Off'' is necessary to ensure that drivers clearly understand that they may lose the safety benefits of ESC by using this control.

The Alliance/AIAM petitioned NHTSA to change the control labeling requirements in the final rule to require simply the label ''ESC'' rather than the label ''ESC Off.'' Petitioners argued that requiring the word ''Off'' on even dedicated controls ''will result in customer confusion and dissatisfaction.'' Petitioners also asserted that ''labeling a control with 'Off' is unprecedented and inconsistent with the way that similar controls are handled in various Federal Motor Vehicle Safety Standards.'' Therefore, they requested that the relevant provisions and table sections in FMVSS No. 101 and FMVSS No. 126 be revised to make the current ESC malfunction symbol (that is, the ESC symbol alone or the letters ''ESC'' alone) also the identifier for a control to be called the ''ESC control'' that could turn ESC off as one of its functions. The changes would retain the current ESC Off symbol as an identifier for the ''ESC Off'' telltale, but not for the control.

Agency response: We are denying this petition, because as expressed repeatedly, we believe that labeling a control that disables ESC with ''ESC Off'' is beneficial for safety and for driver comprehension. The final rule permitted ESC to be turned off by the driver only because there are rare circumstances in which turning ESC off could be advantageous. It did not require manufacturers to include an ESC Off control. NHTSA's primary concern in the final rule was to minimize the possibility of a driver turning ESC off accidentally, or being otherwise unsure of the ESC system's status. The control was required to be labeled ''ESC Off'' to discourage drivers from touching the control unless they truly wanted to disable the system. NHTSA remains concerned that using simply the ESC symbol or letters ''ESC'' for these controls could lead drivers to think they had to use the control to select ESC operation, when they would almost always be safer not touching the control at all.

The Alliance/AIAM petition offered no new evidence that the current requirements for labeling the ESC Off control are in any way more confusing or less effective in fulfilling the agency's goal of discouraging drivers from casually or unintentionally disabling ESC than their suggested alternatives. Consequently, we are denying this petition.

D. Disconnection of the Optional ''ESC Off'' Control

In the final rule, NHTSA stated that although it would consider a disconnection of the ''ESC Off'' control to constitute a malfunction suitable for simulation under the standard, because it directly impacts ESC operability, until the end of the phase-in period we would allow manufacturers to not illuminate the ESC malfunction telltale for disconnection of the ''ESC Off'' control.[17] At the time, this was permitted in order to accommodate the current lack of standardization of ESC controls and displays, which would be resolved by the end of the phase-in period. The Alliance/AIAM petitioned NHTSA to clarify that there is no requirement to illuminate the malfunction telltale when the ESC control is disconnected, and in doing so, to remove the exclusion in S5.3.9 that states that ''a disconnection of the ''ESC Off'' control need not illuminate the ESC malfunction telltale.'' S5.3.9 currently reads as follows:

> S5.3.9 Prior to September 1, 2011, a disconnection of the power to the ESC electronic control unit may be indicated by the ABS malfunction telltale instead of the ESC malfunction telltale and a disconnection of the ''ESC Off'' control need not illuminate the ESC malfunction telltale.

The Alliance/AIAM argued that because S5.3.9 provides an exception for vehicles built before September 1, 2011, a requirement is implied after that date. Petitioners further argued that it is neither necessary nor appropriate to require the malfunction telltale to illuminate when the disable control is disconnected, because as a practical matter, a fault in the optional ESC Off control will not affect the ability of the ESC system to function. Thus, the Alliance/AIAM requested that NHTSA remove the last clause of S5.3.9, and simply clarify in the preamble that a disconnection of the ''ESC Off'' control need not illuminate the ESC malfunction telltale.

Agency response: We are granting this petition, because it appears that no vehicles currently have the means to detect an ESC Off switch disconnection, and because upon further consideration we believe that an identical safety level will be maintained. Generally speaking, when an ESC Off switch becomes disconnected, the result will be equivalent to having no ESC Off control at all—which would frequently be preferable from a safety perspective. The driver would only be aware of the disconnection if he or she attempted to use the control to disable ESC and the ''ESC Off'' telltale did not illuminate. The only circumstance that NHTSA can imagine in which a disconnection of the ESC Off control would be different than simply not having an ESC Off control would be if the control became disconnected *after* it had been used to turn off the system, which would affect the control signal to turn ESC back on and could thus conceivably create a safety risk. We believe, however, that this would be a very rare occurrence. Moreover, if the switch is disconnected while the ESC is off, the driver retains the warning of the status indicator, and ESC will be automatically restored as soon as the vehicle is restarted, because that function is controlled by the ESC's electronic control unit, which is not affected by the switch's disconnection.

Thus, we clarify that ESC Off switch disconnections that do not affect ESC operation other than in the narrow circumstance described above would not be considered an ESC system malfunction severe enough for a telltale warning. We are revising paragraph S5.3.9 to remove the text in question.

E. Automatic Return of ESC System to ''On'' Mode for Each Ignition Cycle

The final rule included an ignition cycle default requirement in paragraph S5.4.1, which required the ESC system to return to a mode that satisfied the equipment and performance requirements ''at the initiation of each new ignition cycle, regardless of what mode the driver had previously selected.'' If the system had multiple modes that satisfied the requirements, ''the default mode must be the mode that satisfies the performance requirements * * * by the greatest

[17] 72 FR 17271 (Apr. 6, 2007).

margin.'' However, the final rule included an exception for vehicles from returning to the default mode if the mode previously selected by the driver ''is specifically for enhanced traction during low-speed, off-road driving and is entered by the driver using a mechanical control that cannot be automatically reset electrically.'' This exception was included in response to manufacturer comments that certain low-range, speed-limited 4-wheel drive modes were accessed via use of a mechanical lever, and there was no way to move the lever back automatically to return to the default mode at the start of each new ignition cycle. Additionally, the agency agreed that there could be a safety risk if, for example, a vehicle in 4-wheel drive driving up a steep hill suddenly stalled and had to be restarted, but returned to 2-wheel drive because of the ignition cycle default requirement which required that the default mode be the one that satisfied the performance requirements by the greatest margin.

The Alliance/AIAM petitioned NHTSA to change the word ''mechanical'' in S5.4.1 to ''manual,'' essentially broadening the exclusion from the key cycle automatic ESC reactivation requirement for low-speed off-road modes that are selected by the driver using an electronic control. Petitioners argued that the safety concerns (i.e., preventing ESC from reactivating when it could be harmful, as when the vehicle is stuck in snow or negotiating rugged or steep terrain) applied the same for electrically-selected modes as for mechanically-selected modes. However, petitioners subsequently submitted revised recommendations on this issue, focusing not only on the ''mechanical'' versus ''manual'' distinction, but also more broadly on how the ignition cycle default requirement should be applied for maximum safety when a vehicle offers multiple drive configuration options (like 2-wheel drive, low-range 4-wheel drive, high-range 4-wheel drive with locked center differential, etc.). The discussion below addresses the various aspects of this issue.

Broader exclusion of low-speed off-road modes from ignition cycle reactivation requirement:

The Alliance/AIAM petitioned for a broader exception in S5.4.1 for all low-speed off-road modes, including those induced by non-mechanical driver-selectable controls like touch screens or push buttons. Petitioners argued that safety concerns are still relevant for these modes just as they are for the agency's current exclusion for mechanically-selected low-speed off-road modes. For example, whether a vehicle is placed in an alternate mode mechanically or by pressing a button on a touch screen, if the mode is used for driving up steep hills or navigating rough terrain, requiring it to revert to a mode inappropriate for those conditions if the vehicle stalls and must be restarted could create hazards for the driver.

Agency response: We are granting this petition by tying S5.4.1's exception directly to the low-range configuration of 4WD vehicles actually designed for off-road capability, and defining 4WD low-range configuration to specify minimum low-range gear reduction to assure that the vehicle is limited to low-speed operation. NHTSA agrees that the safety issue raised by petitioners is valid, and believes that the safety concerns associated with allowing a vehicle to remain in low-range 4WD upon restart should be minimized, since the vehicle will be limited to low speeds.

''Opposition'' of S5.2's two requirements of stability and responsiveness and ''by the greatest margin'' requirement for different drive configurations:

The Alliance/AIAM petitioned to revise the exception language of S5.4.1 that provides that the default mode to which ESC must return must be ''the mode that satisfies the performance requirements of S5.2 by the greatest margin.'' Petitioners argued that S5.2's two requirements of stability and responsiveness ''are often in opposition with each other.'' This is because increasing ESC intervention may increase the compliance margin for the stability requirement, but also reduce the margin for responsiveness, while the opposite will happen when ESC intervention is decreased, as in the various ''ESC performance modes'' that petitioners offer on their vehicles. Petitioners had no specific request on this issue, but appear to have incorporated this concern into other requests for changes to regulatory text.

Also on the issue of the S5.2 reference in S5.4.1, the Alliance/AIAM requested that the agency not require vehicles in high-range 4WD locked-differential modes to return automatically to the ESC mode with the greatest margin of compliance with S5.2's requirements. Petitioners argued that this requirement complicates compliance, and thus potential credit earnings, for vehicles with a high-range 4WD mode with a locked center differential, because ESC algorithms must be adjusted to accommodate those modes, so that they intervene differently in those contexts. Thus, even if the ESC system could meet S5.2 in these modes, it might not meet it by the greatest margin as required by S5.4.1, so it would have to be shifted back to 2WD.

Petitioners argued that this result is a problem for several reasons. First, none of the systems on vehicles with high-range 4WD modes with locked center differential are currently capable of automatically switching back to 2WD mode (and unlocking the center differential) with the ignition cycle alone. Second, as for all restarts in a new drive configuration mode, it can conceivably create a safety hazard or severe inconvenience for the driver—a vehicle in 4WD may stall in mud or snow and end up deeply dug in before the driver realizes that it restarted in 2WD. And third, as addressed in the final rule, vehicles that use mechanical controls to access the high-range 4WD mode with locked center differential have no practical way of reverting automatically to 2WD at a new ignition cycle.

Agency response: We are granting these requests by revising S5.4.1's default mode requirement to refer to ESC modes within the same drive configuration mode, and by removing the ''by the greatest margin'' requirement. Unlike in the case of low-range 4WD with a locked center differential, ESC continues to operate in the corresponding high-range mode. However, because 4WD vehicles are not designed to be driven on dry pavement with a locked center differential,[18] there is little information about their results in the FMVSS No. 126 performance test, which is conducted on dry pavement. It is possible that vehicles may pass the test in 4WD with a locked center differential, but the test is much more representative of what the vehicle encounters when operated in 2WD mode. If the vehicle does not pass the test in 4WD with a locked center differential, it would be required to

[18] By way of background, high-range 4WD with locked center differential is designed for driving in snow or on unpaved roads, where there is no particular need to drive slowly, so it is not speed-limited by low gear ratios. ''Locked center differential'' means that the drive gears at the front and rear axles are locked together, so they do not move independently like they ordinarily would. With a locked center differential, tires that would have no traction (when, for example, passing over an ice patch) are able to ''slip'' due to the locked axles and continue moving, so the vehicle avoids getting stuck. Tire slippage can be helpful when a driver is negotiating slippery surfaces like packed snow, but it creates large forces and causes rapid tire wear when the tires are forced to slip on dry pavement, because the axles are essentially fighting one another. Thus, vehicles are capable of driving on regular dry pavement in high-range 4WD with locked center differential, but the driver would probably not want to remain in that mode for long.

revert automatically to 2WD mode at a new ignition cycle.

However, NHTSA realizes that this result would not be beneficial in some of the situations described by petitioners, such as when the vehicle is operating in loose sand or snow and could get dug in by restarting in 2WD. Additionally, we realize that vehicles with mechanical controls cannot automatically revert to another mode when the ignition is cycled. It was not the agency's intent to require these results. Moreover, as a practical matter, the ESC performance test is conducted with the vehicle coasting, so a locked center differential will cause considerable longitudinal wheel slip and slow the vehicle quickly during the test, aiding its stability. For these reasons, NHTSA is revising S5.4.1's default mode requirement to refer to ESC modes within the same drive configuration mode.

However, because ESC can remain operative in high-range 4WD with locked center differential, and may be able to meet FMVSS No. 126's stability performance requirements, we are specifying that a vehicle in high-range 4WD with locked center differential need not revert to 2WD with the next ignition cycle if it can meet the stability performance requirements of S5.2.1 and S5.2.2. As stated, locking the vehicle's center differential will likely result in increased understeer. This will have the inherent effect of improving lateral stability, but at the expense of some responsiveness degradation. However, in the driving situations appropriate for use of the high-range 4-wheel drive configuration with locked center differential mode (i.e., snow- or ice-covered roads, or on unpaved roads), we believe the benefits of improved lateral stability outweigh the ancillary effect of reduced responsiveness. Therefore, for vehicles placed in a high-range 4WD with locked center differential mode, we are only requiring the ESC system to revert at each ignition cycle to a mode that can meet the stability performance requirements. We believe that this solution resolves petitioners' concerns about vehicles not being able to meet both stability and responsiveness requirements in high-range 4WD with locked center differential.

Additionally, we are removing the sentence at the end of S5.4.1 that includes the ''by the greatest margin'' language, and are instead specifying that the default mode must be the ''manufacturer's original'' default mode. The ''by the greatest margin'' language was originally included in FMVSS No. 126 to ensure that the ignition cycle default mode was always the mode that provided the maximum level of safety, particularly if the ESC system included modes that were more ''sporty'' and had a lower compliance margin, even if they met the performance requirements. However, upon further consideration, the agency believes it is highly unlikely that manufacturers would choose to offer ESC systems with default modes that were not the modes with the highest compliance margins. Therefore, we are simply requiring that vehicles return to the manufacturer's original default mode at the next ignition cycle. By ''manufacturer's original default mode,'' the agency means the basic ESC mode for the drive configuration, that is not a driver-selectable mode, that meets the final rule's performance requirements (or in the case of high-range 4WD with locked center differential, that meets the stability performance requirements).

Request to allow technical documentation in lieu of meeting performance requirements:

In their revised recommendations the Alliance/AIAM also argued that ESC modes induced by selecting high-range 4WD with locked center differential should not be required to satisfy S5.1 and S5.2 at the next ignition cycle as called for by S5.4.1. Petitioners requested that NHTSA instead require manufacturers to document, per the ''ESC System Technical Documentation'' provision of S5.6, that a control algorithm appropriate to high-range 4WD operation with a locked center differential is operational above 20 km/h in that drive configuration. With such documentation, the vehicle would not be required to change ESC modes or drive configuration at the initiation of a new ignition cycle.

Agency response: We are denying this request. The situation presented by high-range 4WD with locked center differential is not suited to a documentation solution in the way that understeer mitigation is, which is what S5.6 was intended to address. Unlike understeer mitigation, it is possible to perform the test established by the standard even with the vehicle in high-range 4WD with locked center differential, and the test procedure should still be useful to demonstrate objectively that ESC remains functional in this drive configuration without the need to rely on documentation, as discussed above. The agency notes that a docket submission by Chrysler on September 26, 2007 supports the idea that ESC modes available with a locked center differential should be expected to satisfy the stability criteria (S5.2.1 and S5.2.2) of the ESC test used in FMVSS No. 126.[19]

We do not expect that vehicles tested with a locked center differential will meet the responsiveness criterion (S5.2.3) in a similar manner. However, responsiveness on a high coefficient of friction surface in a mode with the center differential locked is not relevant to evaluating the operation of ESC. Any lack of responsiveness in the test would not be the result of ESC operation, but rather the consequence of the front and rear drive axles creating high opposing forces, which cannot be resolved by tire slippage on dry pavement the way they would be on a surface like packed snow. As discussed above, the agency believes that in the case of vehicles in high-range 4WD with locked center differential, which are used primarily for safe handling on slippery surfaces like packed snow and dirt, vehicle stability is a more important property to demonstrate than vehicle responsiveness. Thus, manufacturers would have no obligation to ensure that vehicles in this drive configuration could meet S5.2.3.

Whether the ''ESC Off'' indicator must be illuminated for driver selection of alternate operating modes:

Finally, on the subject of driver-selectable operating modes, the Alliance/AIAM requested that NHTSA remove the requirement in S5.4.3 that the ''ESC Off'' indicator be illuminated whenever a driver-selectable operating mode renders the vehicle incapable of meeting the performance requirements of S5.2. Petitioners expressed concern that, if putting the vehicle in 4WD illuminates the ESC Off telltale, drivers might be discouraged from using 4WD because they might think that ESC is not working even though it has been optimized for that mode, or might seek unnecessary vehicle service for what appears to be a malfunction in their ESC system.

Agency response: This issue is addressed by the agency's revision of S5.4.1 to require vehicles in particular 4WD modes to meet only the stability performance requirements of S5.2.1 and S5.2.2 and not the responsiveness requirement of S5.2.3 as well. If the ESC mode for a high-range 4WD with locked center differential drive configuration is capable of satisfying the stability criteria, it should not be considered as turning ESC off. Thus, there would be no reason to illuminate the ESC Off telltale. NHTSA is revising S5.4.4 and S5.5.4 to clarify this point.

The table below summarizes the ignition cycle default requirements for

[19] Docket No. NHTSA–2007–27662–12.

manually-activated ESC modes in different drive configurations and the required ESC Off telltale response:

SAMPLE OF IGNITION CYCLE DEFAULT REQUIREMENTS OF S5.4.1 WITH TELLTALE STATUS REQUIREMENTS (LIST IS NOT ALL-INCLUSIVE)

Drive configuration	Mode	Meets stability & responsiveness requirements	"Off Telltale" status	ESC default setting (ignition cycle)	"Off Telltale" status
2WD (3 selections avail.).	2WD	yes	off	2WD default meets stability and responsiveness requirements.	off.
	Performance 1	yes	off	2WD default meets stability and responsiveness requirements.	off.
	Performance 2	no	on	2WD default meets stability and responsiveness requirements.	off.
AWD/4WD Auto (1 selection avail.).	AWD/4WD Auto	no (neither)	on	Default to some mode that meets stability and responsiveness requirements.	off.
	AWD/4WD Auto	no (stability—yes) (responsiveness—no).	on	Default to some mode that meets stability and responsiveness requirements.	off.
	AWD/4WD Auto	yes	off	Default to some mode that meets stability and responsiveness requirements.	off.
4WD Hi Locked (1 selection avail.).	Locked	no (neither)	on	Default to some mode that meets stability requirements.	off.
	Locked	no (stability—yes) (responsiveness—no).	off	Default to some mode that meets stability requirements.	off.
	Locked	yes (both)	off	Default to some mode that meets stability requirements.	off.
4WD Low	Low	no	on	Normal low	on.
Any Above	"ESC OFF" Control activated.	no	on	Default to applicable mode within existing drive configuration that meets appropriate performance requirements.	off.

F. Low-Speed Threshold for ESC Operation

The final rule, in both the paragraph S4 definition of an ESC system and in paragraph S5.1.2 as part of the equipment requirements, requires ESC to operate at all speeds above 15 km/h (9.3 mph). NHTSA included a low-speed threshold for ESC operation as a result of comments to the NPRM. 15 km/h (9.3 mph) was chosen largely because that speed was the typical threshold for ABS operation, and ABS shares a number of components with ESC.[20]

The Alliance and AIAM petitioned the agency to remove the low-speed threshold in the ESC system definition of paragraph S4, and to allow the manufacturer to determine the low-speed threshold and initialization period and conditions until the end of the phase-in period in paragraph S5.1.2. The Alliance/AIAM argued that ''Many current vehicles have a design cut-off threshold speed higher than the 15 km/h (9.3 mph) specified in FMVSS 126,'' and that the different initialization periods required by different ESC systems may result in some systems not working until the vehicle has reached 32 km/h (20 mph).[21] Petitioners further argued that the 15 km/h (9.3 mph) low-speed threshold would interfere with manufacturers' ability to accrue carry-forward and phase-in credits.[22]

In a supplemental document to its petition for reconsideration, the Alliance/AIAM requested a specific low-speed threshold of 20 km/h (12.4 mph), but also that the agency still allow the manufacturer to determine the initialization period and conditions before the end of the phase-in period in S5.1.2.[23] The petitioners stated that they had conducted additional research, and determined that their ''member vehicles'' could manage this revised low-speed threshold recommendation.

Agency response: We are granting this petition in part, although we are not adopting the exact language offered by the Alliance/AIAM. Regarding the low-speed threshold, the original proposed language of S4 as contained in the NPRM stated that ESC must be operational ''over the full speed range of the vehicle (except below a low-speed threshold where loss of control is unlikely).'' As stated above, NHTSA included a specific speed designation for the low-speed threshold in the final rule in response to comments, but our goal has always been to avoid requiring ESC to operate at speeds below which loss of control is not a significant concern. NHTSA agrees that a low-speed threshold of 20 km/h (12.4 mph), consistent with the apparent capabilities of most of the existing ESC-equipped fleet, constitutes a limit for ESC operation below which loss of control is unlikely. Thus, the low-speed threshold is revised accordingly in S4 and S5.1.2 of the regulatory text.

Additionally, the Alliance/AIAM petition requested that NHTSA allow manufacturers to determine their own initialization periods until the end of the phase-in period. NHTSA is denying this petition because we are revising S4 and S5.1.2 to clarify that ESC need not be operational during system initialization. This point was already made in our letter of interpretation to GM, but we believe that this minor clarification should also be made to the regulatory text to avoid any further confusion.

G. Fault Detection and Cancellation Test Procedures

The need of the ESC system to initialize affects provisions of FMVSS No. 126 in addition to the definition of ESC system in S4 and the description of the required equipment in S5.1.2. For example, if the system has not completed initialization and is not yet operational, it likely cannot detect malfunctions in the system—a problem which relates to the requirements for ESC malfunction telltales and for their testing. Paragraph S5.3 establishes the requirement for a malfunction telltale

[20] *Id.*, at 17264.

[21] Alliance petition at 5.

[22] *Id.* at 6.

[23] Docket No. NHTSA–2007–27662–10, at 8.

for ESC systems and specifies a number of attributes for the telltale. Paragraph S7.10 of the standard sets forth a test procedure for the malfunction telltale, and S7.10.2 accounts for the need for the vehicle to be driven for up to two minutes to allow the ESC system to initialize and conduct diagnostics in order for it to be able to detect a malfunction.

The Alliance/AIAM petition asked the agency to clarify that the initialization procedure necessary for the system to find a malfunction and illuminate the telltale (in S7.10.2) is also applied to the vehicle when the telltale is tested for extinguishment after the fault is corrected (S7.10.4).[24] Petitioners further requested that the ESC malfunction telltale test procedure be referenced in S5.3 to assure that the test procedures are reflected in the ESC malfunction requirements section of the standard. Additionally, petitioners argued that most current ESC systems require a brake application in order to detect some ESC system malfunctions, and petitioned the agency to include a requirement for a brake application in the initialization procedure.

Agency response: We are granting these requests. As discussed above, the agency did not intend to require ESC to operate when it is still initializing. For a system that needs to initialize before it can discover a malfunction and illuminate the malfunction telltale, like the majority of the ESC systems currently on the market, the system cannot discover that the malfunction is no longer present and extinguish the telltale without completing the same initialization procedure. Therefore, the agency is including the same initialization procedure in S7.10.4 as is already specified in S7.10.2. Similarly, to clarify that the vehicle must be initialized before testing begins, we are including the same initialization procedure in S6.3.1, as part of the test conditions. Additionally, after considering the petitions, we consider the inclusion of a brake application in the initialization procedure requirements to be a very minor amendment. We are revising the regulatory text to reflect these changes.

In considering these requests, the agency also noted that S7.10.3 of the ESC malfunction detection procedure requires that the telltale illuminate immediately when the engine is restarted following an ignition cycle in which a malfunction was detected. In other words, the ESC system must hold the existence of a malfunction in memory, rather than rediscovering it with the new ignition cycle. Some ESC systems currently on the market must initialize before they can identify some specific types of malfunctions, which means that they are unable to hold the existence of a malfunction in memory. For these systems, we recognize that this requirement simply cannot be met, although it may be possible for other ESC systems that do not need to initialize to recognize a malfunction. In order to be consistent with the other provisions of S7.10, the agency is making S7.10.3 effective at the end of the phase-in, and will revise the regulatory text accordingly. However, we note that after the phase-in, all ESC systems must be able to hold malfunctions in memory and illuminate the malfunction telltale immediately upon engine restart if the malfunction still exists.

H. Effective Dates for Amended Procedures and Requirements

The Alliance/AIAM petitioned that the revisions they requested to the final rule be made retroactive to June 5, 2007 (the effective date of the final rule), so that carry-forward credits for complying vehicles built after that date could be used by manufacturers in satisfying the phase-in schedule for that standard.

Agency response: We are granting this petition, to the extent to which we are making the revisions requested in the petition. In the April 2007 final rule, NHTSA provided that manufacturers may earn credits for vehicles manufactured on or after June 5, 2007, that comply with the new ESC standard. In today's final rule, we are making a number of minor amendments to that standard, many of which are of a clarifying nature and none of which affect safety benefits.

Given our decision in the April 2007 final rule to permit manufacturers to earn credits for complying vehicles manufactured on or after June 5, 2007 and given the minor nature of today's amendments, it is our position that manufacturers may earn credits for vehicles manufactured on or after that date if the vehicles comply with the standard as amended by today's rule. We believe it is sufficient to make that point in this preamble.

We are making this final rule effective 30 days after publication. The amendments do not impose new requirements but instead provide clarification and additional flexibility in appropriate areas. We accordingly find good cause for making the rule effective in this timeframe.

I. Inclusion of Roll Stability Control in the Scope of the Final Rule

AAJ petitioned NHTSA to reconsider its decision not to address the need for roll stability control in the final rule. It argued that the agency's statement in the final rule that ''There is currently an insufficient body of data to judge the efficacy of [these] systems'' [25] was incorrect, because ''the agency may be able to obtain the appropriate information through its authority to institute a rulemaking or to issue a subpoena.'' [26] It also argued that if NHTSA declines to reconsider the final ESC rule on this basis, ''the agency must establish a rulemaking to address RSC immediately,'' because doing so ''would develop the statistics to demonstrate the efficacy of such systems.'' [27]

Agency response: We are denying this petition. While we may consider establishing requirements for roll stability control in the future, we reiterate that insufficient data currently exists for the agency to establish such requirements as part of FMVSS No. 126, as we discussed at length in the final rule.[28] In explaining the basis of our decision, we will first explain the difference between the yaw stability control that ESC produces and roll stability control, and then explain briefly why we did not include roll stability control as part of the ESC final rule.

''Yaw stability control'' is the technical term for the action of ESC which keeps the vehicle pointed in the direction the driver is steering through the automatic reduction of engine power and automatic application of braking at individual wheels to turn the vehicle, in order to help drivers avoid imminent loss-of-control situations.[29] ''Roll stability control,'' in contrast, prevents vehicle tip-up by sensing the vehicle's body roll angle and applying a high brake force to the outside front wheel to straighten the vehicle's path and reduce lateral acceleration if the roll angle indicates probable tip-up. Put differently, yaw stability control is based on the vehicle's sensing loss of control on the horizontal plane, and roll stability control is based on the vehicle's sensing loss of control on the vertical plane, although both use brake forces at individual wheels to make the path correction. Additionally, yaw

[24] This point was also answered in the GM letter of interpretation.

[25] 72 FR 17236, 17239 (Apr. 6, 2007).

[26] AAJ petition at 1, *available at* Docket No. NHTSA–2007–27662, item 6.

[27] *Id.* at 2.

[28] *See* 72 FR 17236 at 17253, 17258 (Apr. 6, 2007).

[29] The final rule contains a much more thorough description of how ESC uses yaw stability control. *See id.* at 17243–44 (Apr. 6, 2007).

stability control must be temporarily overridden to allow roll stability control to change the path of the vehicle to reduce lateral acceleration.

NHTSA did not include requirements for roll stability control in the final rule for several reasons. First, roll stability control involved relatively new technology, and none of the vehicles examined in NHTSA's crash data study which proved the substantial safety benefits of yaw stability control also had roll stability control. We do not currently have sufficient information on the effectiveness of roll stability control as a safety technology to include it as part of this safety standard. Moreover, because roll stability control in theory functions by temporarily disabling yaw stability control, NHTSA cannot judge its overall effect without real-world crash data.

Our highest priority is ensuring that the ESC systems required by FMVSS No. 126 are present on all vehicles as soon as possible. Just because the final rule did not include roll stability control as part of FMVSS No. 126, however, does not mean that the agency does not acknowledge that the technology may eventually demonstrate safety benefits. We stated in the final rule that ''The agency will track the rollover rate of vehicles equipped with roll stability control through analysis of State-generated crash data and evaluate its effectiveness once a sufficient sample size becomes available (*i.e.*, approximately three to four years).'' [30] Further, FMVSS No. 126 does not preclude manufacturers from equipping vehicles with roll stability control.

Finally, we are denying AAJ's request that ''the agency * * * establish a rulemaking to address [roll stability control] immediately'' if it denies the petition for reconsideration. As discussed above, NHTSA will continue monitoring roll stability control as a safety technology. We are undertaking our own research on RSC, and are collecting comparative crash data on RSC-equipped vehicles from the states. We will consider initiating rulemaking as we gather more information regarding its practicability and the safety benefits that it provides. As the final rule stated,

> * * * because our data study showed yaw stability control reducing rollovers of SUVs by 84% by reducing and mitigating road departures, and because on-road untripped rollovers are much less common events, the target population of crashes that roll stability control could possibly prevent may be very small. If and when roll stability control can be shown to be cost-effective, then it could be a candidate for inclusion in the standard in subsequent rulemaking.[31]

AAJ provided no additional facts or information in its petition for reconsideration/rulemaking that contributes to the agency's understanding of whether a roll stability control safety standard is necessary or helpful at this time, or whether requiring manufacturers to provide the information on roll stability control that AAJ suggests would, in fact, be necessary or helpful. Therefore, we are denying its request.

J. NHTSA's Discussion of Implied Preemption

AAJ objected to the agency's general statement in the final rule preamble that, in *Geier* v. *American Honda Motor Co.*, the Supreme Court recognized the possibility that state tort law can create an obstacle to a NHTSA safety standard and could therefore be impliedly preempted. AAJ interpreted that statement as a claim by the agency that the ESC rule itself impliedly preempts state tort law and requested that the agency eliminate that statement. (Since the agency cannot ''eliminate'' a discussion in the preamble of an already published final rule, we assume that AAJ is asking that the agency ''disavow'' the discussion.) AAJ argued that ''Geier is an unusual, fact-driven case which cannot be used to establish preemption of state tort law for all NHTSA motor vehicle safety rules.'' Based on its view that the agency had made a claim of preemption, AAJ further argued that, under the Administrative Procedure Act, ''any claim of conflict preemption must be preceded by notice and comment as to whether a direct conflict exists between state law and the electronic stability control rule.''

Agency response: The agency does not consider this portion of AAJ's submission to be a petition for reconsideration, as NHTSA's preemption discussion is not a rule.[32] Accordingly, we are treating this portion as a simple request to disavow the discussion in the final rule preamble.

We provided the general discussion of implied preemption and Geier in accordance with the directive of Executive Order 13132, Federalism, for agencies to analyze the federalism implications of their rulemakings. In that discussion, the agency explained that NHTSA's safety standards can preempt state laws in at least two ways: Either expressly, through the express preemption provision of the Vehicle Safety Act, or impliedly, *if* State requirements create a conflict and thus stand as an obstacle to the accomplishment and execution of a NHTSA safety standard.[33] Per the Order, we considered the nature of the ESC standard and its objectives and whether there might be specific conflicts between the standard and anticipated State tort law. We did not detect any conflicts.[34] Without a conflict, there is no implied preemption. However, we could not then, and cannot now, completely rule out the possibility that such a conflict might become apparent in the future through subsequent experience with the standard. Even if the agency had identified what it believed to be a conflict, the issue of whether there was a conflict and, if so, whether State tort law action would be impliedly preempted would ultimately be a matter for the courts to decide. For the aforementioned reasons, the agency declines to remove the *Geier* language from its discussion of preemption law.

K. International Harmonization and the Global Technical Regulation for ESC

The April 2007 final rule described NHTSA's intent to begin formal work to develop a global technical regulation (GTR) on ESC in that year. Over the course of several meetings of the United Nations' Economic Commission for Europe (UNECE) World Forum for the Harmonization of Vehicle Regulations (WP.29) during 2007 and 2008, the agency participated in successful efforts that culminated in the establishment of the ESC GTR under the 1998 Global Agreement.[35] The U.S., as a Contracting Party of the 1998 Agreement that voted in favor of establishing this GTR, is obligated under the Agreement to initiate the process for adopting the provisions of the GTR.[36] The issuance of this response to petitions for reconsideration fulfills the obligation of

[30] 72 FR 17236, 17258 (Apr. 6, 2007).

[31] 72 FR 17236, 17258 (Apr. 6, 2007).

[32] *See* 49 CFR § 553.35, ''Petitions for Reconsideration,'' paragraph (a), which states that ''Any interested person may petition the Administrator for reconsideration of *any rule* issued under this part. * * * The petition must contain a brief statement of the compliant and an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest.'' (Emphasis added.)

[33] *See* the ''Federalism'' discussion at 72 FR 17300–01 (Apr. 6, 2007).

[34] *Id.*

[35] Although commonly referred to as the 1998 Global Agreement, this provision is more formally titled the ''1998 Agreement Concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles.''

[36] While the 1998 Agreement obligates such Contracting Parties to initiate rulemaking within one year of the establishment of the GTR, it leaves the ultimate decision of whether to adopt the GTR into their domestic law to the parties themselves.

the U.S. to initiate that process. The regulatory text of the April 2007 final rule, as amended by this document, is consistent with that of the GTR.

IV. Rulemaking Analyses and Notices

This rule makes several minor changes to the regulatory text of FMVSS No. 126, and does not increase the regulatory burden of manufacturers. The agency has discussed the relevant requirements of the Vehicle Safety Act, Executive Order 12866, the Department of Transportation's regulatory policies and procedures, the Regulatory Flexibility Act, Executive Order 13132 (Federalism), Executive Order 12988 (Civil Justice Reform), Executive Order 13045 (Protection of Children from Environmental Health and Safety Risks), the Paperwork Reduction Act, the National Technology Transfer and Advancement Act, the Unfunded Mandates Reform Act, and the National Environmental Policy Act in the April 2007 final rule cited above. Those discussions are not affected by these changes.

Privacy Act

Please note that any one is able to search the electronic form of all documents received into any of our dockets by the name of the individual submitting the document (or signing the document, 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.*

V. Regulatory Text

List of Subjects in 49 CFR Parts 571 and 585

Imports, Motor vehicle safety, Report and recordkeeping requirements, Tires.

■ In consideration of the foregoing, NHTSA is amending 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. In Section 571.101, revise S5.5.2, S5.5.5, and Table 1 to read as follows:

§ 571.101 Standard No. 101; Controls and displays.

* * * * *

S5.5.2 The telltales for any brake system malfunction required by Table 1 to be red, air bag malfunction, low tire pressure, electronic stability control malfunction (as of September 1, 2011), passenger air bag off, high beam, turn signal, and seat belt must not be shown in the same common space.

* * * * *

S5.5.5 In the case of the telltale for a brake system malfunction, air bag malfunction, side air bag malfunction, low tire pressure, electronic stability control malfunction (as of September 1, 2011), passenger air bag off, high beam, turn signal, or seat belt that is designed to display in a common space, that telltale must displace any other symbol or message in that common space while the underlying condition for the telltale's activation exists.

* * * * *

BILLING CODE 4910–59–P

Table 1
Controls, Telltales, and Indicators
With Illumination or Color Requirements[1]

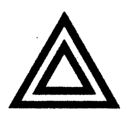
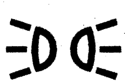
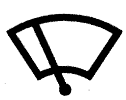
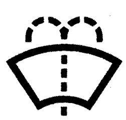
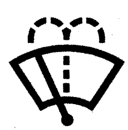
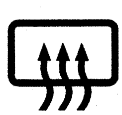
Column 1 ITEM	Column 2 SYMBOL	Column 3 WORDS OR ABBRE-VIATIONS	Column 4 FUNCTION	Column 5 ILLUMIN-ATION	Column 6 COLOR
Highbeam [2]	 [3,5]	—	Telltale	—	Blue or Green [4]
Turn signals [2]	 [3,6]	—	Control	—	—
			Telltale	—	Green [4]
Hazard warning signal	 [3]	Hazard	Control	Yes	—
		—	Telltale [7]	—	—
Position, side marker, end-outline marker, identification, or clearance lamps	 [3] [8]	Marker Lamps or MK Lps [8]	Control	Yes	—
Windshield wiping system		Wiper or Wipe	Control	Yes	—
Windshield washing system		Washer or Wash	Control	Yes	—
Windshield washing and wiping system combined		Washer-Wiper or Wash-Wipe	Control	Yes	—
Windshield defrosting and defogging system		Defrost, Defog or Def.	Control	Yes	—
Rear window defrosting and defogging system		Rear Defrost, Rear Defog, Rear Def., or R-Def.	Control	Yes	—

Table 1
Controls, Telltales, and Indicators
With Illumination or Color Requirements[1]

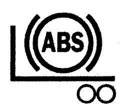
Column 1 ITEM	Column 2 SYMBOL	Column 3 WORDS OR ABBRE-VIATIONS	Column 4 FUNCTION	Column 5 ILLUMIN-ATION	Column 6 COLOR
Brake system malfunction	—	Brake	Telltale	—	Red[4]
Antilock brake system malfunction for vehicles subject to FMVSS 105 or 135	—	Antilock, Anti-lock, or ABS[9]	Telltale	—	Yellow
Malfunction in Variable Brake Proportioning System	—	Brake Proportioning[9]	Telltale	—	Yellow
Regenerative brake system malfunction	—	RBS or ABS/RBS[9]	Telltale	—	Yellow
Malfunction in antilock system for vehicles other than trailers subject to FMVSS 121	—	ABS or Antilock[9]	Telltale	—	Yellow
Antilock brake system trailer fault for vehicles subject to FMVSS 121		Trailer ABS or Trailer Antilock	Telltale	—	Yellow
Brake Pressure (for vehicles subject to FMVSS 105 or 135)	—	Brake Pressure[9]	Telltale	—	Red[4]
Low brake fluid condition (for vehicles subject to FMVSS 105 or 135)	—	Brake Fluid[9]	Telltale	—	Red[4]
Parking brake applied (for vehicles subject to FMVSS 105 or 135)	—	Park or Parking Brake[9]	Telltale	—	Red[4]
Brake lining wear-out condition (for vehicles subject to FMVSS 135)	—	Brake Wear[9]	Telltale	—	Red[4]
Electronic Stability Control System Malfunction (manufact-urer may use this telltale in flashing mode to indicate ESC operation. See FMVSS 126.)[10]		ESC[11]	Telltale	—	Yellow
Electronic Stability Control System "OFF"[10]		ESC OFF	Control	Yes	—
			Telltale	—	Yellow

Table 1
Controls, Telltales, and Indicators
With Illumination or Color Requirements[1]

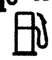
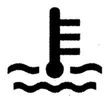
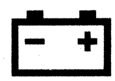
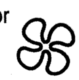
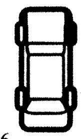
Column 1 ITEM	Column 2 SYMBOL	Column 3 WORDS OR ABBRE-VIATIONS	Column 4 FUNCTION	Column 5 ILLUMIN-ATION	Column 6 COLOR
Fuel Level	 or 	Fuel	Telltale	—	—
			Indicator	Yes	—
Engine oil pressure	 [12]	Oil	Telltale	—	—
			Indicator	Yes	—
Engine coolant temperature	 [12]	Temp	Telltale	—	—
			Indicator	Yes	—
Electrical charge		Volts or Charge or Amp	Telltale	—	—
			Indicator	Yes	—
Engine stop	—	Engine Stop [13]	Control	Yes	—
Automatic vehicle speed (cruise control)	—	—	Control	Yes	—
Speedometer	—	MPH, or MPH and km/h [14]	Indicator	Yes	—
Heating and Air conditioning system	—	—	Control	Yes	—
Automatic transmission control position *(park)* *(reverse)* *(neutral)* *(drive)*	—	P R N D [15]	Indicator	Yes	—
Heating and/or air conditioning fan	 or 	Fan	Control	Yes	—
Low Tire Pressure (including malfunction) (See FMVSS 138)	[16] 	Low Tire [16]	Telltale	—	Yellow

Table 1
Controls, Telltales, and Indicators
With Illumination or Color Requirements[1]

Column 1 ITEM	Column 2 SYMBOL	Column 3 WORDS OR ABBRE-VIATIONS	Column 4 FUNCTION	Column 5 ILLUMIN-ATION	Column 6 COLOR
Low Tire Pressure (including malfunction) that identifies involved tire (See FMVSS 138)	 [16]	Low Tire [16]	Telltale	—	Yellow
Tire Pressure Monitoring System Malfunction (See FMVSS 138)[17]	—	TPMS [16, 18]	Telltale	—	Yellow

Notes:

1. An identifier is shown in this table if it is required for a control for which an illumination requirement exists or if it is used for a telltale for which a color requirement exists. If a line appears in column 2 and column 3, the control, telltale or indicator is required to be identified, however the form of the identification is the manufacturer's option. Telltales are not considered to have an illumination requirement, because by definition the telltale must light when the condition for its activation exists.
2. Additional requirements in FMVSS 108.
3. Framed areas of the symbol may be solid; solid areas may be framed.
4. Blue may be blue-green. Red may be red-orange.
5. Symbols employing four lines instead of five may also be used.
6. The pair of arrows is a single symbol. When the controls or telltales for left and right turn operate independently, however, the two arrows may be considered separate symbols and be spaced accordingly.
7. Not required when arrows of turn signal telltales that otherwise operate independently flash simultaneously as hazard warning telltale.
8. Separate identification not required if function is combined with master lighting switch.
9. Refer to FMVSS 105 or FMVSS 135, as appropriate, for additional specific requirements for brake telltale labeling and color. If a single telltale is used to indicate more than one brake system condition, the brake system malfunction identifier must be used.
10. Requirement effective September 1, 2011.
11. This symbol may also be used to indicate the malfunction of related systems/functions, including traction control, trailer stability assist, corner brake control, and other similar functions that use throttle and/or individual wheel torque control to operate and share common components with ESC.
12. Combination of the engine oil pressure symbol and the engine coolant temperature symbol in a single telltale is permitted.
13. Use when engine control is separate from the key locking system.
14. If the speedometer is graduated in both miles per hour and in kilometers per hour, the scales must be identified "MPH" and "km/h", respectively, in any combination of upper- and lowercase letters.
15. The letters 'P', 'R', 'N', and 'D' are considered separate identifiers for the individual gear positions. Their locations within the vehicle, and with respect to each other, are governed by FMVSS 102. The letter 'D' may be replaced by another alphanumeric character or symbol chosen by the manufacturer.
16. Required only for FMVSS 138 compliant vehicles.
17. Alternatively, either low tire pressure telltale may be used to indicate a TPMS malfunction. See FMVSS 138.
18. Required only for vehicles manufactured on or after September 1, 2007.

BILLING CODE 4910–59–C

■ 3. In Section 571.126, revise S4, S5.1.2, S5.3, S5.3.3, S5.3.9, S5.4, S5.4.1, S5.4.2, S5.4.3, ,S5.5.1, S5.5.4, S6.3.1, S7.10.2, S7.10.3, and S7.10.4 to read as follows; add S5.3.10, S5.4.2, and S5.5.10 to read as follows; and redesignate S5.4.2 and S5.4.3 to S5.4.3 and S5.4.4, respectively to read as follows:

§ 571.126 Standard No. 126; Electronic stability control systems

* * * * *

S4. *Definitions.*

Ackerman Steer Angle means the angle whose tangent is the wheelbase divided by the radius of the turn at a very low speed.

Drive configuration means the driver-selected, or default, condition for distributing power from the engine to the drive wheels (examples include, but are not limited to, 2-wheel drive, front-wheel drive, rear-wheel drive, all-wheel drive, 4-wheel drive high gear with locked differential, and 4-wheel drive low gear).

Electronic stability control system or *ESC system* means a system that has all of the following attributes:

(1) That augments vehicle directional stability by applying and adjusting the vehicle brake torques individually to induce a correcting yaw moment to a vehicle;

(2) That is computer-controlled with the computer using a closed-loop algorithm to limit vehicle oversteer and to limit vehicle understeer;

(3) That has a means to determine the vehicle's yaw rate and to estimate its side slip or side slip derivative with respect to time;

(4) That has a means to monitor driver steering inputs;

(5) That has an algorithm to determine the need, and a means to modify engine torque, as necessary, to assist the driver in maintaining control of the vehicle; and

(6) That is operational over the full speed range of the vehicle (except at vehicle speeds less than 20 km/h (12.4 mph), when being driven in reverse, or during system initialization).

Lateral acceleration means the component of the vector acceleration of a point in the vehicle perpendicular to the vehicle's x-axis (longitudinal) and parallel to the road plane.

Low-range four-wheel drive configuration means a drive configuration that has the effect of locking the drive gears at the front and rear axles together and providing an additional gear reduction between the engine speed and vehicle speed of at least 2.0.

Mode means an ESC performance algorithm, whether driver-selected or not (examples include, but are not limited to, standard (default) mode, performance mode, snow or slippery road mode, or Off mode).

Oversteer means a condition in which the vehicle's yaw rate is greater than the yaw rate that would occur at the vehicle's speed as a result of the Ackerman Steer Angle.

Side slip or *side slip angle* means the arctangent of the lateral velocity of the center of gravity of the vehicle divided by the longitudinal velocity of the center of gravity.

Understeer means a condition in which the vehicle's yaw rate is less than the yaw rate that would occur at the vehicle's speed as a result of the Ackerman Steer Angle.

Yaw rate means the rate of change of the vehicle's heading angle measured in degrees/second of rotation about a vertical axis through the vehicle's center of gravity.

* * * * *

S5.1.2 Is operational during all phases of driving including acceleration, coasting, and deceleration (including braking), except when the driver has disabled ESC, the vehicle speed is below 20 km/h (12.4 mph), the vehicle is being driven in reverse, or during system initialization

* * * * *

S5.3 *ESC Malfunction.* The vehicle must be equipped with a telltale that provides a warning to the driver of the occurrence of one or more malfunctions that affect the generation or transmission of control or response signals in the vehicle's electronic stability control system. When tested according to S7.10, the ESC malfunction telltale:

* * * * *

S5.3.3 As of September 1, 2011, except as provided in paragraphs S5.3.4, S5.3.5, S5.3.8, and S5.3.10, the ESC malfunction telltale must illuminate only when a malfunction(s) of the ESC system exists and must remain continuously illuminated under the conditions specified in S5.3 for as long as the malfunction(s) exists (unless the ''ESC malfunction'' and ''ESC Off'' telltales are combined in a two-part telltale and the ''ESC Off'' telltale is illuminated), whenever the ignition locking system is in the ''On'' (''Run'') position; and

* * * * *

S5.3.9 Prior to September 1, 2011, a disconnection of the power to the ESC electronic control unit may be indicated by the ABS malfunction telltale instead of the ESC malfunction telltale.

S5.3.10 Manufacturers may use the ESC malfunction telltale in a steady-burning mode to indicate malfunctions of ESC-related systems and functions including traction control, trailer stability assist, corner brake control, and other similar functions that use throttle and/or individual wheel torque control to operate and share common components with the ESC system, and may use the ESC malfunction telltale in a flashing mode to indicate operation of these ESC-related systems.

S5.4 *ESC Off and Other System Controls.* The manufacturer may include an ''ESC Off'' control whose only purpose is to place the ESC system in a mode or modes in which it will no longer satisfy the performance requirements of S5.2.1, S5.2.2, and S5.2.3. An ''ESC Off'' control may be combined with other controls in a multi-function control. Manufacturers may also provide controls for other systems that have an ancillary effect upon ESC operation. Controls of either kind that place the ESC system in a mode in which it will no longer satisfy the performance requirements of S5.2.1, S5.2.2, and S5.2.3 are permitted, provided that:

S5.4.1 The vehicle's ESC system must always return to the manufacturer's original default ESC mode that satisfies the requirements of S5.1 and S5.2 at the initiation of each new ignition cycle, regardless of what ESC mode the driver had previously selected, unless (a) the vehicle is in a low-range four-wheel drive configuration selected by the driver on the previous ignition cycle that is designed for low-speed, off-road driving, or (b) the vehicle is in a four-wheel drive configuration selected by the driver on the previous ignition cycle that is designed for operation at higher speeds on snow-, sand-, or dirt-packed roads and that has the effect of locking the drive gears at the front and rear axles together, provided that the vehicle meets the stability performance requirements of S5.2.1 and S5.2.2 in this mode.

S5.4.2 In addition to the requirements of S5.4.1, if the vehicle's ESC system has more than one ESC mode that satisfies the requirements of S5.1 and S5.2 within the drive configuration selected for the previous ignition cycle, the system must return to the manufacturer's original default ESC mode.

S5.4.3 As of September 1, 2011, a control whose only purpose is to place the ESC system in a mode or modes in which it will no longer satisfy the performance requirements of S5.2.1, S5.2.2, and S5.2.3 must be identified by the symbol shown for ''ESC Off'' in Table 1 of Standard No. 101 (49 CFR

571.101), or the text, ''ESC Off'' as listed under ''Word(s) or Abbreviations'' in Table 1 of Standard No. 101 (49 CFR 571.101).

S5.4.4 A control for another system that has the ancillary effect of placing the ESC system in a mode in which it no longer satisfies the performance requirements of S5.2.1, S5.2.2, and S5.2.3 need not be identified by the ''ESC Off'' identifiers in Table 1 of Standard No. 101 (49 CFR 571.101), but the ESC status must be identified by the ''ESC Off'' telltale in accordance with S5.5, as of September 1, 2011, except if the vehicle is in a 4-wheel drive high gear configuration that has the effect of locking the drive gears at the front and rear axles together provided the vehicle meets the stability performance criteria of S5.2.1 and S5.2.2.

* * * * *

S5.5.1 Except as provided in S5.5.10, the vehicle manufacturer must provide a telltale indicating that the vehicle has been put into a mode that renders it unable to satisfy the requirements of S5.2.1, S5.2.2 and S5.2.3, if such a mode is provided.

* * * * *

S5.5.4 Except as provided in paragraph S5.4.4, the ''ESC Off'' telltale must remain continuously illuminated for as long as the ESC is in a mode that renders it unable to satisfy the requirements of S5.2.1, S5.2.2, and S5.2.3, and

* * * * *

S5.5.10 The ''ESC Off'' telltale need not illuminate when the vehicle is in a 4-wheel drive high gear locked differential configuration that has the effect of locking the drive gears at the front and rear axles together provided the vehicle meets the stability performance requirements of S5.2.1 and S5.2.2.

* * * * *

S6.3.1 The ESC system is enabled for all testing, except when it is turned off directly or by simulating a malfunction in accordance with S7.3 and S7.10, respectively. The ESC system shall be initialized as follows: Place the vehicle in a forward gear and obtain a vehicle speed of 48 ± 8 km/h (30 ± 5 mph). Drive the vehicle for at least two minutes including at least one left and one right turning maneuver and at least one application of the service brake.

* * * * *

S7.10.2 With the vehicle initially stationary and the ignition locking system in the ''Lock'' or ''Off'' position, activate the ignition locking system to the ''Start'' position and start the engine. Place the vehicle in a forward gear and obtain a vehicle speed of 48 ± 8 km/h (30 ± 5 mph). Drive the vehicle for at least two minutes including at least one left and one right turning maneuver and at least one application of the service brake. Verify that within two minutes after obtaining this vehicle speed the ESC malfunction indicator illuminates in accordance with S5.3.

S7.10.3 As of September 1, 2011, stop the vehicle, deactivate the ignition locking system to the ''Off'' or ''Lock'' position. After a five-minute period, activate the vehicle's ignition locking system to the ''Start'' position and start the engine. Verify that the ESC malfunction indicator again illuminates to signal a malfunction and remains illuminated as long as the engine is running or until the fault is corrected.

S7.10.4 Deactivate the ignition locking system to the ''Off'' or ''Lock'' position. Restore the ESC system to normal operation, activate the ignition system to the ''Start'' position and start the engine. Place the vehicle in a forward gear and obtain a vehicle speed of 48 ± 8 km/h (30 ± 5 mph). Drive the vehicle for at least two minutes including at least one left and one right turning maneuver and at least one application of the service brake. Verify that within two minutes after obtaining this vehicle speed that the ESC malfunction indicator has extinguished.

* * * * *

Issued: September 16, 2008.

David Kelly,

Acting Administrator.

[FR Doc. E8–22067 Filed 9–19–08; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register

Vol. 73, No. 184

Monday, September 22, 2008

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

DEPARTMENT OF JUSTICE

28 CFR Part 25

[Docket No. FBI 117; AG Order No. 3000–2008]

RIN 1110–AA30

National Motor Vehicle Title Information System (NMVTIS)

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The National Motor Vehicle Title Information System (NMVTIS) has been established pursuant to 49 U.S.C. 30502 and is in operation, or partial operation, in at least 25 states. NMVTIS is intended to provide authorized recipients with instant and reliable access to motor vehicle titling information maintained by the states. The goal of NMVTIS is to assist in efforts to prevent the introduction or reintroduction of stolen motor vehicles into interstate commerce. NMVTIS helps state titling agencies by verifying motor vehicle and title information, information on brands applied to motor vehicles, and information regarding whether motor vehicles have been reported stolen. This rule implements the NMVTIS reporting requirements imposed on junk yards, salvage yards, and insurance carriers pursuant to 49 U.S.C. 30504(c). This rule also clarifies the process by which NMVTIS will be funded and clarifies the various responsibilities of the operator of NMVTIS, states, junk yards, salvage yards, and insurance carriers regarding NMVTIS.

DATES: Written comments must be submitted on or before November 21, 2008.

ADDRESSES: Comments may be mailed to: James Landon, 935 Pennsylvania Ave., NW., Washington, DC 20535. To ensure proper handling, please reference FBI Docket No. 117 on your correspondence. You may submit comments electronically or view an electronic version of this proposed rule at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: David P. Lewis, 810 7th Street, NW., Washington, DC 20531, 202–616–6500.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

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

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

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

Personal identifying information and confidential business information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

Background

The Anti-Car Theft Act of 1992 (Pub. L. 102–519) required the Department of Transportation (DOT) to establish an information system intended to enable states and others to access automobile titling information. As part of the Anti-Car Theft Act of 1992, DOT was authorized to designate a third party to operate the system. Since 1992, the American Association of Motor Vehicle Administrators (AAMVA) has acted in the capacity of the operator of the system. AAMVA is a nonprofit, tax exempt, educational association representing U.S. and Canadian officials who are responsible for the administration and enforcement of motor vehicle laws. The requirements of the Anti-Car Theft Act of 1992 were amended by Public Law 103–272 and the Anti-Car Theft Improvements Act of 1996 (Pub. L. 104–152). The Anti-Car Theft Improvements Act of 1996 renamed the automobile titling system the ''National Motor Vehicle Title Information System'' (NMVTIS) and transferred responsibility for implementing the system from DOT to the Department of Justice (hereinafter, the Anti-Car Theft Act of 1992 and the revisions made by Public Law 103–272 and the Anti-Car Theft Improvements Act of 1996, codified at 49 U.S.C. 30501–30505, are collectively referred to as the ''Anti-Car Theft Act'').

The purpose of NMVTIS is to provide an electronic means for verifying and exchanging title, brand, and theft data among motor vehicle administrators, law enforcement officials, prospective purchasers, and insurance carriers.[1] To date, the implementation of NMVTIS has focused on establishing access by the states and not on providing access to other authorized users. Currently, 33 states are actively involved with NMVTIS, representing more than 60 percent of the U.S. motor vehicle population. Specifically, 13 states are participating fully in NMVTIS, 12 states are regularly providing data to the system, and an additional 8 states are actively taking steps to provide data or participate fully.[2] States that participate fully in the system provide data regularly and have the ability to make NMVTIS inquiries before issuing a new

[1] Brands are descriptive labels regarding the status of a motor vehicle, such as ''junk,'' ''salvage,'' and ''flood'' vehicles.

[2] There are currently 13 states participating fully in NMVTIS: Arizona, Florida, Indiana, Iowa, Kentucky, Massachusetts, New Hampshire, Nevada, Ohio, South Dakota, Virginia, Washington, and Wisconsin. Twelve states are providing regular data updates to NMVTIS: Alabama, Georgia, Idaho, Louisiana, Nebraska, New Jersey, New York, North Carolina, Pennsylvania, Tennessee, Texas, and Wyoming. Eight states are actively taking steps to provide data or participate fully: Arkansas, Delaware, Montana, New Mexico, Oklahoma, South Carolina, Vermont, and West Virginia.

title. These states also send updates to the system when necessary. States that regularly provide data to the system provide data to NMVTIS through a batch upload process.

In 2006, the Integrated Justice Information Systems (IJIS) Institute, a nonprofit organization made up of technology companies, was asked by Department of Justice's Bureau of Justice Assistance (BJA) to conduct a full review of the NMVTIS system architecture to identify any technological barriers to NMVTIS implementation and to determine if any potential cost savings was available through emerging technology. The IJIS Institute report found that: ''* * * the NMVTIS program provides an invaluable benefit to state vehicle administrators and the public community as a whole. Advantages of the program include improving the state titling process, as well as providing key information to consumers and law enforcement agencies.''

NMVTIS is a powerful tool for state titling agencies. Fully participating state titling agencies are able to use NMVTIS to prevent fraud by verifying the motor vehicle and title information, information on brands applied to a motor vehicle, and information on whether the motor vehicle has been reported stolen—all prior to the titling jurisdiction issuing a new title. In order to perform this check, these states run the vehicle identification number (VIN) against a national pointer file, which provides the last jurisdiction that issued a title on the motor vehicle and requests details of the motor vehicle from that jurisdiction, including the motor vehicle's last reported odometer reading.

Verification of this data allows fully participating states to reduce the issuance of fraudulent titles and reduce odometer fraud. Once the inquiring jurisdiction receives the information, a state is able to decide whether to issue a title. For fully participating states, if a new title is issued, NMVTIS notifies the last titling jurisdiction that another jurisdiction has issued a title. The old jurisdiction then can inactivate its title record. This action allows fully participating jurisdictions to identify and purge inactive titles on a regular basis.

NMVTIS also allows fully participating states to ensure that brands are not lost when a motor vehicle travels from state to state. As noted above, brands are descriptive labels regarding the status of a motor vehicle. Many brands, such as a flood vehicle brand, indicate that a motor vehicle may not be safe for use. Unfortunately, motor vehicles with brands on their titles can have their brands ''washed'' (i.e., removed) from a title if the motor vehicle is retitled in another state that does not check with the state that issued the previous title to determine if it has any existing brands. Because NMVTIS keeps a history of brands applied by any state to the motor vehicle, it protects consumers by helping ensure that unsuspecting purchasers are not defrauded or placed at risk by purchasing an unsafe motor vehicle.

Provisions of This Proposed Rule

The continued implementation of NMVTIS and its effectiveness depends on the participation and cooperation of a number of parties. According to a cost-benefit study conducted by the National Institute of Justice: ''The way NMVTIS is implemented—piecemeal, regionally, or nationally—will affect how criminals respond. Criminals are highly mobile and may avoid NMVTIS states until most of the country is covered by the system. Criminals use technology to their advantage, both to identify potential theft targets and to camouflage stolen vehicles.'' As a result, any states not fully participating in NMVTIS and their citizens may be disproportionately targeted by criminals committing vehicle crimes.

Participation in NMVTIS needs to be expanded to all states. In addition, insurance carriers, junk yards, and salvage yards also need to provide certain information to NMVTIS relevant to the life-cycle of an automobile's title in order for NMVTIS to function as intended. The Anti-Car Theft Act requires junk yards, salvage yards, and insurance carriers to report monthly to NMVTIS on all junk and salvage automobiles they obtain. Pursuant to 49 U.S.C. 30504(c), the Attorney General is authorized to issue regulations establishing ''procedures and practices to facilitate reporting in the least burdensome and costly fashion.''

Accordingly, this rule implements the reporting requirements imposed on junk yards, salvage yards, and insurance carriers pursuant to 49 U.S.C. 30504(c). In addition, this rule clarifies the various responsibilities of the operator of NMVTIS, states, junk yards, salvage yards, and insurance carriers under the Anti-Car Theft Act to help ensure its effectiveness. Finally, this rule also proposes a means by which user fees will be imposed to fund NMVTIS.

1. State Responsibilities

The effectiveness of NMVTIS increases as more states begin to participate. NMVTIS will only be as good as the quality and quantity of information it contains. Consequently, all non-participating states are strongly urged to comply with their obligations under the Anti-Car Theft Act and begin reporting titling information to NMVTIS as soon as possible. While the immediate goal of this proposed rule is to, at a minimum, have all statesa providing regular data updates to NMVTIS, the ultimate goal is for all states to participate fully in the system by providing real time data updates and by making inquiries into NMVTIS prior to issuing new titles.

In accordance with 49 U.S.C. 30502, NMVTIS must provide a means of determining whether a title is valid, where the automobile previously was titled, the automobile's reported mileage, if the automobile is titled as a junk or salvage automobile in another state, and whether the automobile has been reported as a junk or salvage automobile under 49 U.S.C. 30504. Each state is required to make their titling information available to NMVTIS. 49 U.S.C. 30503(a). Further, each state is required ''to establish a practice of performing an instant title verification check before issuing a certificate of title.'' 49 U.S.C. 30503(b). This proposed rule clarifies what information must be reported by states to NMVTIS pursuant to the Anti-Car Theft Act and sets out the procedures and practices that states must follow to provide this needed information. Pursuant to 49 U.S.C. 30503(a), states are required to make the titling information they maintain available for use in NMVTIS. Specifically, states will be required to report an automobile's VIN, any description of the automobile included on the certificate of title, the name of the individual or entity to whom the certificate was issued, and information from junk or salvage yard operators or insurance carriers regarding the acquisition of junk automobiles or salvage automobiles, if this information is being collected by the state.

The Anti-Car Theft Act specifically covers ''automobiles'' as defined at 49 U.S.C. 32901(a). That definition, which is part of the fuel economy laws, was most recently amended by the Energy Independence and Security Act of 2007, Pub. L. 110–140, and generally covers vehicles with 4-wheels that are rated at less than 10,000 pounds gross vehicle weight, but excludes vehicles that operate on rails, certain vehicles manufactured in different stages by two or more manufacturers, and certain work trucks. Participating states, however, have been providing information to NMVTIS on other types of motor vehicles [3] possessing VINs, such as motorcycles and various work trucks. Information on these other types of motor vehicles is very useful to the users of NMVTIS. Therefore, states are strongly encouraged to continue reporting information on all motor vehicles possessing VINs in their state titling systems to NMVTIS.

The Anti-Car Theft Act also requires that the operator of NMVTIS make available the odometer mileage that is disclosed pursuant to 49 U.S.C. 32705 on the date the certificate of title for the automobile was issued and any later mileage information, if noted by the state. Accordingly, the rule proposes to require states to provide such mileage information. In addition, the rule will permit, with the approval of the operator and the state, the state to provide any other information that is included on a certificate of title or that is maintained by the state in relation to the certificate of title.

2. Insurance Carriers

The Anti-Car Theft Act authorized the Attorney General to issue regulations establishing procedures by which insurance companies must report monthly to NMVTIS on the junk and salvage automobiles they obtain. 49 U.S.C. 30504(c). Accordingly, this proposed rule clarifies the reporting requirements imposed on insurance carriers regarding junk and salvage automobiles. Salvage automobiles are defined by the Anti-Car Theft Act to mean ''an automobile that is damaged by collision, fire, flood, accident, trespass, or other event, to the extent that its fair salvage value plus the cost of repairing the automobile for legal operation on public streets, roads, and highways would be more than the fair market value of the automobile immediately before the event that caused the damage.'' 49 U.S.C. 30501(7). For purposes of clarification, the Department of Justice has determined that this definition includes all automobiles found to be a total loss under the laws of the applicable jurisdiction or designated as a total loss by the insurance carrier under the terms of its policies. As a practical matter, the determination that an automobile is a total loss (i.e, that the automobile has been ''totaled'') is the logical event that should trigger reporting by an insurance carrier. Insurance carriers will be required under this proposed rule to provide NMVTIS with the VIN of such automobiles, the date on which the automobile was obtained or designated as a junk or salvage automobile, the name of the individual or entity from whom the automobile was obtained or who possessed it when the automobile was designated as a junk or salvage automobile, and the name of the owner of the automobile at the time of the filing of the report. In accordance with 49 U.S.C. 30504(b), the report must provide such information on ''all automobiles of the current model year or any of the 4 prior model years that the carrier, during the prior month, has obtained possession of and has decided are junk automobiles or salvage automobiles.''

In addition, although not specifically required by the Anti-Car Theft Act or this proposed rule, this rule will permit insurance carriers to provide the NMVTIS operator with information on other motor vehicles, including older model automobiles, and other information relevant to a motor vehicle's title, including the reason why the insurance carrier obtained possession of the motor vehicle. For example, the insurance carrier may have obtained possession of the motor vehicle because it had been subject to flood, water, collision, or fire damage, or as a result of theft and recovery. The reporting of this information by insurance carriers will help reduce instances when thieves use the VINs of junk or salvage motor vehicles on stolen motor vehicles. Also, this information will be useful in making it more difficult for criminals to wash brands in order to defraud purchasers. Accordingly, the Department of Justice strongly encourages insurance carriers to report such additional information to the operator.

3. Junk Yards and Salvage Yards

Under this proposed rule, junk yards and salvage yards will be required to provide NMVTIS with the VIN, the date the automobile was obtained, the name of the individual or entity from whom the automobile was obtained, and a statement of whether the automobile was crushed or disposed of, for sale or other purposes. The reporting of this information will be limited to junk yards and salvage yards located within the United States. Pursuant to the Anti-Car Theft Act, junk and salvage yards are defined as individuals or entities engaged in the business of acquiring or owning junk or salvage automobiles for resale in their entirety or as spare parts or for rebuilding, restoration, or crushing. See 49 U.S.C. 30501(5) and (8). For purposes of the reporting requirement imposed by this rule, the Department of Justice has determined that so-called ''salvage pools'' that acquire junk and salvage automobiles for resale are included within the scope of the definitions of junk and salvage yards. A salvage pool is an entity that acquires junk and salvage automobiles from a variety of parties and consolidates them for resale at a common point of sale. The pooling of junk and salvage automobiles attracts a large number of buyers. It is the Department of Justice's belief that some of these buyers purchase junk and salvage automobiles at salvage pools in order to acquire VINs that can be used on stolen motor vehicles or to create cloned motor vehicles for other illicit purposes.

Pursuant to 49 U.S.C. 30504(a)(2), junk yards and salvage yards will not be required to submit reports to NMVTIS if they already report the required information to the state in which they are located and that state makes that information available to the operator; or if they are issued a verification stating that the automobile or parts from the automobile are not reported as stolen.

4. Lenders and Automobile Dealers

The Anti-Car Theft Act requires the operator to make NMVTIS information available to prospective purchasers, including auction companies and entities engaged in the business of purchasing used automobiles. The Department believes that the scope of prospective purchasers also includes lenders who are financing the purchase of automobiles and automobile dealers. Lenders and dealers are integral components of the automobile purchasing and titling process. The Department also proposes to allow the operator to permit public and private entities involved in the purchasing and titling of automobiles to access NMVTIS if such access will assist in efforts to prevent the introduction or reintroduction of stolen motor vehicles and parts into interstate commerce. Allowing such entities to query NMVTIS information not only will provide a means of identifying stolen motor vehicles, but also will help to prevent fraud and improve public safety.

5. Responsibilities of the Operator of NMVTIS

In accordance with 49 U.S.C. 30502, NMVTIS must provide a means of determining whether a title is valid, where the automobile previously was titled, the automobile's reported mileage, if the automobile is titled as a junk or salvage automobile in another state, and whether the automobile has

[3] Pursuant to 49 U.S.C. 30102(6), a ''motor vehicle'' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

been reported as a junk or salvage automobile under 49 U.S.C. 30504. Further, the operator of NMVTIS must make relevant information available to states, law enforcement officials, prospective purchasers, and prospective and current insurers. This rule clarifies that the operator of NMVTIS will be responsible for collecting the required information and providing the necessary access.

In particular, the operator of NMVTIS will be responsible for ensuring that law enforcement agencies have access to titling information through NMVTIS. NMVTIS is a powerful tool to combat automobile theft. Before NMVTIS, a thief could steal a car, take it over the state line, and then get a valid title by presenting fraudulent ownership documentation to the new state. Thieves often would switch the VIN plate of a stolen motor vehicle with one from a junked car in order to get a valid title for the stolen car. These activities were possible because the states had no instant, reliable way of validating the information on the ownership documentation prior to issuing the new title. NMVTIS will provide law enforcement agencies with access to make inquiries to further their investigations of motor vehicle theft and fraud. This access will allow law enforcement agencies to better identify stolen motor vehicles and enhance their ability to identify vehicle theft rings. NMVTIS will reduce the ability of organized criminal organizations to obtain fraudulent vehicle registrations by linking state and international authorities with real-time verification of information. This system also will provide an additional tool to identify and investigate international organized criminal and terrorist activity. NMVTIS will assist investigations of vehicles involved in violent crimes, smuggling (narcotics, weapons, undocumented aliens, and currency) and fraud.

The operator of NMVTIS also will be responsible for ensuring that a means exists for allowing insurers and purchasers to access information prior to purchasing a motor vehicle, including information regarding brands and odometer readings. As noted above, motor vehicles that incur significant damage are considered ‘‘junk’’ or ‘‘salvage.’’ Fraud occurs when junk or salvage motor vehicles are presented for sale to purchasers without disclosure of their real condition. Not only are unsuspecting purchasers paying more than the motor vehicle is worth, they do not know if the damaged vehicles have been adequately repaired and are safe to drive. For example, during Hurricane Katrina, thousands of motor vehicles were completely flooded and many remained under water for weeks before flood waters subsided. Many of these flooded motor vehicles were taken to other states where they were cleaned and sold as purportedly undamaged used cars, despite the damage caused by the flood which jeopardizes the motor vehicles' electrical and safety systems. This fraud has serious consequences for not only commerce and law enforcement, but highway and citizen safety.

The Department anticipates that the operator will implement a Web-based method of permitting prospective purchasers to access NMVTIS information. The Department welcomes comments on whether access should be provided solely by the operator or the Department of Justice, or if Web-based access should be permitted through other public or private entities, including consumer groups and for-profit organizations. The cost for Web-based prospective purchaser inquiries likely will be nominal and may be combined with fees that may be charged by other public or private entities should that option be exercised.

6. User Fees

Pursuant to 49 U.S.C. 30502(c), NMVTIS is to be ‘‘paid for by user fees and should be self-sufficient and not be dependent on amounts from the United States Government. The amount of fees the operator collects and keeps * * * subject to annual appropriations laws, excluding fees the operator collects and pays to an entity providing information to the operator, may be not more than the costs of operating the System.'' Rather than charge states user fees based on the number of transactions they place with NMVTIS, the operator of NMVTIS currently employs a 10-tiered fee structure. The fee a particular state is charged depends on which tier that state is placed based on the number of titled motor vehicles in that state. As a result of the great disparity between the states in their total number of titled motor vehicles, the per vehicle fee currently charged by the operator of NMVTIS ranges from less than 1 cent per vehicle in the states with the most titled motor vehicles to nearly 7 cents per vehicle in the state with the lowest number of titled motor vehicles. This fee structure was developed by AAMVA and approved by their Board of Directors. As noted above, AAMVA is a nonprofit, tax exempt, educational association representing U.S. and Canadian officials who are responsible for the administration and enforcement of motor vehicle laws.

This rule proposes to continue to allow the operator of NMVTIS to charge user fees to the states based on the total number of motor vehicles titled in the state, but without employing tiers. Such a pro rata fee structure would simplify billing for both the states and the operator of NMVTIS. In addition, a state would not be subject to a significant change in user fees if it moves from one tier to another. Moreover, by eliminating tiers, a state at the low end of a tier with fewer titled motor vehicles would no longer have to pay the same fee as a state at the high end of a tier with more titled motor vehicles.

The Department of Justice also proposes to continue the practice of basing the state fees on the number of motor vehicles, as opposed to the number of automobiles, titled in a state. Participating states currently are providing information on motor vehicles other than automobiles and the total fees paid by a given state would likely be comparable even if the fees were based on the total number of titled automobiles.

In addition, the Department of Justice proposes to allow the operator to charge the user fee to all states, even if a state is not a current participant in NMVTIS. In accordance with 49 U.S.C. 30503(a) and (b), each state is required to make titling information available to NMVTIS and conduct title verification checks before issuing a title. Because all states are required to participate in NMVTIS, this rule proposes to allow the operator to charge the user fee to all states, regardless of their current level of participation.

Under this proposed rule and consistent with the Anti-Car Theft Act, users, such as purchasers, insurers, consumers, and other non-governmental entities, may be charged a transaction fee for inquiries they make to NMVTIS. The operator would not be permitted to charge fees for transactions performed by fully participating states or inquiries made by law enforcement agencies under this proposed rule.

The expenses to be recouped by the operator of NMVTIS through its fees will consist of labor costs, data center operations costs, the cost of providing access to authorized users, annual functional enhancement costs (including labor and hardware), and the cost of technical upgrades. AAMVA currently estimates that the annual cost of operating NMVTIS is approximately $5,650,000. According to DOT's 2005 Highway Statistics, 241,193,974 vehicles were titled in the United States in 2005. Therefore, the cost to fund NMVTIS will be less than 3 cents per motor vehicle title. The operator of

NMVTIS will inform the states of the applicable fees either through publication in the **Federal Register** or by direct notice to the states. AAMVA currently has contracts with the states by which fees to fund NMVTIS are imposed or adjusted.

The operator will be required to recalculate its fees on at least an annual basis. Any fees charged to the states would be offset by transaction fees charged to non-governmental entities. In addition, the total fees charged to the states would be reduced by future funds awarded by the U.S. Government to the operator to assist in implementing the system. Any fee structure imposed by the operator must be approved by the Department of Justice.

As alternatives to a non-tiered fee structure based on the total number of motor vehicles titled in a state, the Department welcomes comments on: (i) Whether the state fee should be limited solely to participating states; (ii) whether the state fee should be based on the total number of titled motor vehicles, the total number of titled automobiles, or some other subset of motor vehicles; (iii) whether the fee structure should be tiered or non-tiered; and (iv) whether all or a portion of the state fee should be based on the number of transactions conducted by a particular state.

Although a transaction-based fee structure would be a more traditional basis for a user fee, such a fee structure would require the operator of NMVTIS to revise its billing process and would likely be more costly to implement. AAMVA estimates that it currently processes approximately 46,213,983 transactions per year. Therefore, the cost to fund NMVTIS would be approximately 13 cents per transaction under a transaction-based fee structure.

Since Fiscal Year 1997, the Department of Justice, through BJA, has provided over $12 million to AAMVA for NMVTIS implementation. In Fiscal Year 2007, BJA invited states to apply for funding to support initial NMVTIS implementation. This competitive funding solicitation closed on July 19, 2007, with 5 states applying. BJA also invited AAMVA, the system operator, to apply for direct funding from BJA in Fiscal Year 2007, to supplement state participation fees received by AAMVA, as authorized under the Anti-Car Theft Act, and encouraged states to apply through its other funding programs to enhance NMVTIS participation. As a result of these solicitations, funding was awarded to AAMVA to assist with NMVTIS implementation, and funds were awarded to the states of Delaware, New Mexico, South Carolina, Vermont, and Wisconsin to begin initial implementation or to enhance their participation. As noted above, funds awarded to the operator of NMVTIS will reduce the amount of user fees that must be imposed to implement NMVTIS.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Although the reporting requirements imposed by the Anti-Car Theft Act will apply to all small insurance companies and small junk and salvage yard operators that handle junk or salvage automobiles, the Department believes that the incremental cost for these entities to collect VINs and the other required information will be minimal and that the rule will not have a significant economical impact on them. Many insurance companies and junk and salvage yards already capture VINs as a means of positively identifying automobiles and tracking inventory. The additional cost to insurance companies, junk yard operators, and salvage yard operators to report the collected information electronically to NMVTIS is not expected to exceed 1 cent per motor vehicle for most entities after the first year. In the first year only, start up investments increase this per vehicle cost to approximately 4 cents per vehicle. For the estimated small number of non-automated reporting entities, a manual reporting process may be required, in which case the additional cost is estimated at 96 cents per vehicle annually. In the first year only, the cost for these entities is estimated at $1.86 per vehicle due to initial investment or start up needs. Indeed, these costs may be significantly lower or possibly even eliminated altogether if insurance, salvage and junk data is provided through a state or third party that may already have access to the data and may be in a position to establish a data sharing arrangement with NMVTIS in order to reduce the reporting burden on these entities.

Moreover, insurance companies will not be required to provide data on automobiles older than the four previous model years. In addition, junk and salvage yards will not be required to report if they already report the information to the state and the state makes that information available to the operator; or if they are issued a verification under 49 U.S.C. 33110 stating that the automobile or parts from the automobile are not reported as stolen.

The Department has attempted to minimize the impact of the rule on small businesses by allowing them to use third parties to report the statutorily required information to NMVTIS. In addition, the monthly reporting requirements of this rule only apply to automobiles obtained by the business within the prior month.

The Department seeks comments on the assumptions used in this analysis and is interested in any data that commenters can provide on the time and cost to collect the required information and to submit the information to the operator of NMVTIS.

Paperwork Reduction Act

The Department has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the procedures of the Paperwork Reduction Act of 1995, Public Law No. 104–13, 109 Stat. 163. The proposed information collection is published to obtain comments from the public and affected agencies.

Public comments are encouraged and will be accepted until November 21, 2008. We request comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

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

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

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

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

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to: James Landon, 935 Pennsylvania Ave., NW., Washington, DC 20535.

Overview of This Information Collection

(1) *Type of information collection:* New collection.

(2) *Title of the form/collection:* NMVTIS.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No form. FBI, Department of Justice.

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

Primary: Business or other for-profit (states, motor vehicle insurers, junk yards, and salvage yards.

Brief Abstract: The Department of Justice is implementing the NMVTIS, 49 U.S.C. 30501, *et seq.*, by issuing regulations to establish a national system for verifying the titles of motor vehicles marked with a VIN. Under specific conditions detailed in the regulations, the following entities or persons must provide information: a state, insurance carrier, or a person or entity operating a junk yard or salvage yard.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Fifty states and the District of Columbia, 3,000 insurance companies and 10,000 junk and salvage yard operators. The states and insurance companies already are capturing most of the data needed to be reported, and the reporting will be electronic, so the time to respond will be minimal. For junk and salvage yard operators it is estimated that it will take respondents an average of 30 minutes per month to respond.

(6) *An estimate of the annual total public burden (in hours) associated with the collection:* 60,000 total burden hours.

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

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f). Accordingly, this rule has been reviewed by the Office of Management and Budget.

Regulatory Impact Assessment

In 1999, the then General Accounting Office (GAO) conducted a review of NMVTIS. The GAO report found that a life-cycle cost and benefits analysis should be performed to determine if further federal funding of NMVTIS was warranted. Accordingly, at the request of the Department of Justice, the Logistics Management Institute (LMI) conducted such an analysis. The 2001 LMI report found that NMVTIS would achieve significant net benefits if it is fully implemented in all 50 states and the District of Columbia. In addition, the 2006 IJIS Institute report found that: ''* * * the NMVTIS program provides an invaluable benefit to state vehicle administrators and the public community as a whole. Advantages of the program include improving the state titling process, as well as providing key information to consumers and law enforcement agencies.'' Based on these reviews of NMVTIS and the Department's experience with automobile theft and fraud, the Department believes that the full implementation of NMVTIS should reduce the market for stolen motor vehicles, enhance public safety, and reduce fraud. This rule will serve to enhance the efficacy of NMVTIS by implementing the statutory reporting requirements imposed on junk and salvage yards and insurance carriers and clarifying the obligations of the states and the operator of NMVTIS.

The operator of the NMVTIS is entitled to receive revenues from user fees to support the system. Currently, these fees generate approximately $1.5 million annually. AAMVA, however, estimates the annual operating cost of the system to be approximately $3,500,000 to $5,650,000—depending on necessary system upgrades that may be required and user volume. Therefore, the current AMMVA fee structure underfunds NMVTIS by $2,000,000 to $4,150,000 according to their estimates. According to the Department of Transportation's 2005 Highway Statistics, 241,193,974 vehicles were titled in the United States in 2005. Therefore, the total cost to the operator to fund NMVTIS ranges from 1 cent to 2.3 cents per motor vehicle title titled in the U.S.

Consequently, the average fees charged to the states by the operator under this proposed rule should be less than 3 cents per vehicle. In most cases, states that choose to integrate the NMVTIS processes of data provision and inquiry into their titling process generally incur one-time upgrade costs to establish these connections. In nearly every case, once a connection to the system is established, data transmission for uploads and inquiries is automated and occurs without recurring costs. With these one-time costs and state fees considered, the costs to states are estimated at 6 cents per vehicle. This scenario includes making the data available to NMVTIS via real time updates and making inquiries into the system prior to issuing new titles. While the frequency of reporting does not impact costs under this scenario, states can lower their upgrade costs by choosing to integrate the NMVTIS reporting and inquiry requirements into their business rules but not into their electronic titling processes. In these cases, states would see lower costs by establishing a regular reporting/data upload process but not re-engineering their own title information systems for real time updates. Under this scenario, instead of a state's title information system automatically making the NMVTIS inquiry, the title clerk would switch to an internet enabled PC to perform a Web search of NMVTIS via a secure virtual private network (VPN). Because this type of search is internet-based versus state title information system-based, no changes to the state's title information system is required and therefore there is no cost for this aspect of compliance. For the reporting aspect however (*i.e.*, programming an automated batch upload process via file transfer protocol (FTP)), it is anticipated that states would incur reporting costs of less than 1 cent per vehicle.

Assuming the reporting costs for states are 0.005 cents per vehicle and that 241,193,974 vehicles are titled in the United States, the Department estimates that the reporting costs for states is approximately $1,205,970.

The incremental cost to insurance companies and junk and salvage yard operators that handle junk or salvage automobiles also is expected to be low. Many insurance companies and junk and salvage yards already capture VINs as a means of positively identifying automobiles and tracking inventory. Additionally, for both the insurance sector and the junk/salvage industry, many companies are already reporting much of the required data to independent third parties who have indicated a willingness to pass this data on to DOJ for NMVTIS use.

According to the National Insurance Crime Bureau (NICB), it is estimated that there are approximately 321 insurance groups representing approximately 3,000 insurers that report an estimated 2.4 million salvage and total loss records annually (based on the most recent three-year average). Furthermore, based on 2007 insurance data, over 60% of these motor vehicles will originate from the ten largest insurance groups. These 3,000 insurers would then be responsible for reporting this total loss information to NMVTIS if not already reported to a state or to a third party that agrees to provide the data to NMVTIS. In those cases where the data is already reported to a state or to a cooperating third party, there is no additional cost to insurance carriers. In cases where this data is not currently reported to a cooperating third party or state, the carrier would be required to report the data to NMVTIS. With the assumption that the data is already collected and in a format that is exportable, and assuming that NMVTIS would establish a reporting mechanism involving a simple FTP-based solution, the cost to insurance carriers is similar to the state reporting costs of less than 1 cent per vehicle. The FBI previously has estimated that approximately 10.5 million junk and salvage vehicles are handled each year. Assuming that it costs insurance carriers approximately 0.005 cents per vehicle to report and that the insurance carriers are required to report on all 10.5 million junk and salvage vehicles, then the reporting costs to insurance carriers will be approximately $52,500 annually.

Similarly, junk and salvage yard operators that already are reporting to cooperating third parties would not be required to report separately. Thus, NMVTIS would impose no additional burden. For those entities not voluntarily reporting to a cooperating third party, a separate reporting mechanism would be established. Depending on the type of mechanism established (e.g., FTP-based solution, form-fax solution, etc.), the costs will vary. It is assumed that all junk and salvage yard operators already collect much of the information required under the rule and therefore it is only the transmission of this data to NMVTIS that will result in costs. The table below summarizes these cost estimates.

Yard size	Reporting method	Initial investment costs	Annual ongoing labor costs	Annual vehicle volume*	Total annual average labor costs per vehicle	Total first year costs (includes initial investment costs and annual labor costs)
Small (non-automated).	Fax	90	12 hours per year/ $96.00.	1–200	96 cents	$1.86.
Small (automated)	FTP	0	24 minutes per year/ $3.12.	1–200	3 cents	3 cents.
Medium	FTP	0	24 minutes per year/ $3.12.	201–500	<1 cent	<1 cent.
Large	FTP	250	24 minutes per year/ $3.12.	501–7,800	<1 cent	6 cents.

(* Note: Per vehicle costs based on an average annual vehicle volumes.)

While it is difficult to estimate how many junk/salvage yards are not automated, the National Salvage Vehicle Reporting Program (NSVRP) and other industry representatives estimate that nearly all have some form of data collection even if they do not have automation in place. The NSVRP has discussed with many of the inventory management vendors the assistance that can be made available to establish reliable reporting protocols through its voluntary and independent efforts within the industry. If such assistance is available from these vendors, nearly all junk/salvage yards will have some form of automation and be capable of exporting and sending monthly reports electronically.

In cases in which small junk and salvage yards have no form of automation or computerized files, the Departments assumed that a fax process would be needed. This paper-based process would likely incur additional labor costs that would bring the estimated per vehicle costs for this small number of businesses to approximately 0.96 cents per vehicle (annual labor costs). However, according to industry representatives, the number of junk/salvage yards of this size are relatively few (estimated at 20 percent of licensed junk and salvage yards) and the number of these few businesses without any automation is even lower (expected to be less than 1,700 licensed businesses in the U.S.). These businesses would not incur these costs if already reporting this data to a state or another cooperating third party.

Assuming that small junk and salvage yards handle approximately 170,000 vehicles annually (at $0.96 per vehicle annual labor costs) and that the remaining junk and salvage yards handle 10,330,000 vehicles annually (at an average labor cost of 1 cent per vehicle), then the Department estimates that their annual reporting costs will be approximately $266,500.

The Department anticipates that the cost for Web-based prospective purchaser inquiries will be nominal. Similarly, the cost to law enforcement to access NMVTIS also is expected to be minimal assuming law enforcement is not charged any direct transaction costs. Law enforcement will access NMVTIS through their existing infrastructure. The only cost will be to the operator of the system based on the number of inquiries received from law enforcement. The expected cost to the operator is less than 12 cents per inquiry.

The Department of Justice also considered possible alternatives to those proposed in the rule. Indeed, pursuant to 49 U.S.C. 30504(c), the Attorney General was required to establish ‘‘procedures and practices to facilitate reporting in the least burdensome and costly fashion’’ on insurance carriers and junk and salvage yards. Because of the statutory requirements imposed by the Anti-Car Theft Act, however, the Department of Justice did not have many options regarding the information that must be provided and the scope of the entities that must report the required information. In particular, the information required to be reported by the proposed rule is mandated by the Anti-Car Theft Act. The Department also considered various alternatives for funding NMVTIS, such as a tiered-based fee structure and a transaction-based fee structure. The Department believes that the proposed non-tiered fee structure based on the total number of motor vehicles titled in a state is preferable to these alternatives because it complies with the Anti-Car Theft Act and minimizes any burden imposed on reporting entities.

With regard to all sector reporting requirements, in most cases reducing the reporting timelines from monthly to semi-annually or less will not significantly reduce costs due to the benefits of automated processes. Additionally, the costs that this reduced reporting would incur by enabling theft and fraud to continue far outweighs the benefits. Consumers, states, law enforcement, and others need to know as soon as possible when a vehicle is reported as totaled or salvage to prevent the vehicle from being turned over to another state or consumer with a clean title. Moreover, a monthly reporting cycle is expressly required by statute.

The Department welcomes input from the public regarding the costs and benefits of the proposed provisions in this rule.

Executive Order 13132

In accordance with section 6 of Executive Order 13132, the Department of Justice has determined that this rule does not have sufficient federalism implications to warrant a federalism summary impact statement. The rule does not impose substantial direct compliance costs on State and local governments and does not preempt State law. In formulating this rule, the Department has worked closely with AAMVA regarding the implementation of NMVTIS.

Executive Order 12988

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

List of Subjects in 28 CFR Part 25

Crime, Law enforcement, Motor vehicles safety, Motor vehicles, Reporting and recordkeeping requirements, Transportation.

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509 and 510 and, for the reasons set forth in the preamble, part 25 of chapter I of Title 28 of the Code of Regulations is proposed to be amended as follows:

PART 25—DEPARTMENT OF JUSTICE INFORMATION SYSTEMS

1. The Authority citation for part 25 is revised to read as follows:

Authority: Pub. L. 103–159, 107 Stat. 1536, 49 U.S.C. 30501–30505; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

2. Part 25 is amended by adding subpart B to read as follows:

Subpart B—National Motor Vehicle Title Information System (NMVTIS)

Subpart B—National Motor Vehicle Title Information System (NMVTIS)

§ 25.51 Purpose and authority.

The purpose of this subpart is to establish policies and procedures implementing the National Motor Vehicle Title Information System (NMVTIS) in accordance with Title 49 U.S.C. 30502.

§ 25.52 Definitions.

For purposes of this subpart B:

Automobile has the same meaning given that term in 49 U.S.C. 32901(a).

Certificate of title means a document issued by a state showing ownership of an automobile.

Insurance carrier means an individual or entity engaged in the business of underwriting automobile insurance.

Junk automobile means an automobile that—

(1) Is incapable of operating on public streets, roads, and highways; and

(2) Has no value except as a source of parts or scrap.

Junk yard means an individual or entity engaged in the business of acquiring or owning junk automobiles for—

(1) Resale in their entirety or as spare parts; or

(2) Rebuilding, restoration, or crushing.

Motor Vehicle has the same meaning given that term in 49 U.S.C. 3102(6).

NMVTIS means the National Motor Vehicle Title Information System.

Operator means the individual or entity authorized or designated as the operator of NMVTIS under 49 U.S.C. 30502(b), or the office designated by the Attorney General, if there is no authorized or designated individual or entity.

Purchaser means the individual or entity buying an automobile or financing the purchase of an automobile. For purposes of this subpart, purchasers include auction companies or entities engaged in the business of purchasing used automobiles, lenders financing the purchase of new or used automobiles, and automobile dealers.

Salvage automobile means an automobile that is damaged by collision, fire, flood, accident, trespass, or other event, to the extent that its fair salvage value plus the cost of repairing the automobile for legal operation on public streets, roads, and highways would be more than the fair market value of the automobile immediately before the event that caused the damage. Salvage automobiles include automobiles determined to be a total loss under the law of the applicable jurisdiction or designated as a total loss by an insurer under the terms of its policies.

Salvage yard means an individual or entity engaged in the business of acquiring or owning salvage automobiles for—

(1) Resale in their entirety or as spare parts; or

(2) Rebuilding, restoration, or crushing.

State means a state of the United States or the District of Columbia.

Total loss means that the cost of repair plus projected supplements plus projected diminished resale value plus rental reimbursement expense exceeds the cost of buying the damaged automobile at its pre-accident value, minus the proceeds of selling the damaged automobile for salvage.

VIN means the vehicle identification number;

§ 25.53 Responsibilities of the Operator of NMVTIS.

(a) The operator shall make available:

(1) To a participating state on request of that state, information in NMVTIS about any automobile;

(2) To a Government, state, or local law enforcement official on request of that official, information in NMVTIS about a particular automobile, junk yard, or salvage yard;

(3) To a prospective purchaser of an automobile on request of that purchaser,

information in NMVTIS about that automobile; and

(4) To a prospective or current insurer of an automobile on request of that insurer, information in NMVTIS about the automobile.

(b) NMVTIS shall permit a user of the system to establish instantly and reliably:

(1) The validity and status of a document purporting to be a certificate of title;

(2) Whether an automobile bearing a known VIN is titled in a particular state;

(3) Whether an automobile known to be titled in a particular state is or has been a junk automobile or a salvage automobile;

(4) For an automobile known to be titled in a particular state, the odometer mileage disclosure required under 49 U.S.C. 32705 for that automobile on the date the certificate of title for that automobile was issued and any later mileage information, if noted by the state; and

(5) Whether an automobile bearing a known VIN has been reported as a junk automobile or a salvage automobile under 49 U.S.C. 30504.

(c) The operator is authorized to seek and accept additional information from state and public and private entities which is relevant to the titling of automobiles and to assist in efforts to prevent the introduction or reintroduction of stolen motor vehicles and parts into interstate commerce. The operator, however, may not collect any social security account numbers as part of any of the information provided by any state or public or private entity. The operator also may allow public and private entities that provide information to NMVTIS to query the system if such access will assist in efforts to prevent the introduction or reintroduction of stolen motor vehicles and parts into interstate commerce.

(d) The means by which access is provided by the operator to users of NMVTIS must be approved by the Department of Justice.

(e) The operator may establish and collect user fees from the states and users of NMVTIS to pay for its operation, but the operator may not collect fees in excess of the costs of the operating the system. The expenses to be recouped by the operator of NMVTIS will consist of labor costs, data center operations costs, the cost of providing access to authorized users, annual functional enhancement costs (including labor and hardware), and the cost of technical upgrades. User fees collected from states should be based on the states' pro rata share of the total number of titled motor vehicles. All states, regardless of their level of participation, may be charged this user fee. Transaction fees, other than fees based on the number of motor vehicles titled by a state, may not be collected from a fully participating state, but transaction fees may be collected from other users of NMVTIS. No fees should be charged for inquiries from law enforcement agencies. The operator will be required to recalculate the user fees on at least an annual basis. Any user fee structure established by the operator must be established with the approval of the Department of Justice. The operator of NMVTIS will inform the states of the applicable user fees either through publication in the **Federal Register** or by direct notice to the states.

(f) The operator will establish procedures and practices to facilitate reporting to NMVTIS in the least burdensome and costly fashion. If the operator is not the Department of Justice, the operator must provide an annual report to the Department of Justice detailing the fees it collected and how it expended such fees and other funds appropriated to operate NMVTIS.

§ 25.54 Responsibilities of the States.

(a) By no later than June 1, 2009, each state shall provide, or cause to be provided by an agent or third party, to the designated operator and in a format acceptable to the operator, titling information for all automobiles maintained by the state. The titling information provided to NMVTIS must include the following:

(1) VIN;

(2) Any description of the automobile included on the certificate of title;

(3) The name of the individual or entity to whom the certificate was issued; and

(4) Information from junk or salvage yard operators or insurance carriers regarding the acquisition of junk automobiles or salvage automobiles, if this information is being collected by the state.

(5) For an automobile known to be titled in a particular state, the odometer mileage disclosure required under 49 U.S.C. 32705 for that automobile on the date the certificate of title for that automobile was issued and any later mileage information, if noted by the state.

(b) With the approval of the operator and the state, the titling information provided to NMVTIS may include any other information included on the certificates of title and any other information the state maintains in relation to these titles.

(c) Each state shall perform an instant title verification check through NMVTIS before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another state. The check will consist of—

(1) Communicating to the operator—

(i) The VIN of the automobile for which the certificate of title is sought;

(ii) The name of the state that issued the most recent certificate of title for the automobile; and

(iii) The name of the individual or entity to whom the certificate of title was issued; and

(2) Giving the operator an opportunity to communicate to the participating state the results of a search of the information.

§ 25.55 Responsibilities of Insurance Carriers.

(a) By no later than June 1, 2009, and on a monthly basis as designated by the operator, any individual or entity acting as an insurance carrier conducting business within the United States shall provide, or cause to be provided on its behalf, to the operator and in a format acceptable to the operator, a report that contains an inventory of all automobiles of the current model year or any of the four prior model years that the carrier, during the past month, has obtained possession of and has decided are junk automobiles or salvage automobiles. An insurance carrier shall report on any automobiles that it has determined to be a total loss under the law of the applicable jurisdiction or designated as a total loss by the insurance company under the terms of its policies.

(b) The inventory must contain the following information:

(1) VIN;

(2) The date on which the automobile was obtained or designated as a junk or salvage automobile;

(3) The name of the individual or entity from whom the automobile was obtained or who possessed it when the automobile was designated as a junk or salvage automobile; and

(4) The name of the owner of the automobile at the time of the filing of the report.

(c) Insurance carriers are strongly encouraged to provide the operator with information on other motor vehicles or other information relevant to a motor vehicle's title, including the reason why the insurance carrier obtained possession of the motor vehicle. For example, the insurance carrier may have obtained possession of a motor vehicle because it had been subject to flood, water, collision, or fire damage, or as a result of theft and recovery. The provision of information provided by an insurance carrier under this paragraph must be pursuant to a means approved by the operator.

§ 25.56 Responsibilities of Junk yards and Salvage yards.

(a) By no later than June 1, 2009, and continuing on a monthly basis as designated by the operator, any individual or entity engaged in the business of operating a junk yard or salvage yard within the United States shall provide, or cause to be provided on its behalf, to the operator and in a format acceptable to the operator, an inventory of all junk automobiles or salvage automobiles obtained by that entity in the prior month.

(b) The inventory shall include the following information:

(1) VIN;

(2) The date the automobile was obtained;

(3) The name of the individual or entity from whom the automobile was obtained;

(4) A statement of whether the automobile was crushed or disposed of, for sale or other purposes.

(c) Junk and Salvage yards, however, are not required to report this information if they already report the information to the state and the state makes that information available to the operator; if they are issued a verification under 49 U.S.C. 33110 stating that the automobile or parts from the automobile are not reported as stolen.

(d) Junk and Salvage yards are encouraged to provide the operator with similar information on motor vehicles other than automobiles that they obtain that possess VINs.

Dated: September 16, 2008.

Michael B. Mukasey,

Attorney General.

[FR Doc. E8–22070 Filed 9–19–08; 8:45 am]

BILLING CODE 4410–02–P

Notices

Federal Register

Vol. 73, No. 184

Monday, September 22, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request; Correction

September 16, 2008.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Federal and Non-Federal Financial Assistance Instruments.

OMB Control Number: 0596–New.

In the Summary of the **Federal Register** notice published on September 9, 2008 (Volume 73, Number) page 52261 contained an error in the total burden hours. The total burden hours should be 37,577, not 23,445 as published.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E8–22017 Filed 9–19–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 16, 2008.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Utilities Service

Title: 7 CFR Part 1724 and Part 1738 Electric Engineering, Architectural Services and Design Policies and Procedures; and Rural Broadband Access Loans and Loan Guarantees.

OMB Control Number: 0572–0118.

Summary of Collection: The Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.*, as amended authorizes Rural Utilities Service (RUS) to make loans in several States and Territories of the United States for broadband access and rural electrification and the furnishing and improving of electric energy to persons in rural areas. Title 7 CFR 1724 requires each borrower to select a qualified architect to perform certain architectural services and to use the designated form that provides for these services. The agency has developed standardized contractual forms used by borrowers to contract for services.

Need and Use of the Information: The information collected stipulates the parties to the agreement, contains certain information relating to the approved loan or loan guarantee, and provides detailed contractual obligations and services to be provided and performed relating to construction, project design, construction management, compensation, and related information. The contractual forms provide standardized contract agreements between the electric or broadband borrower and the engineering or architectural firm providing services to the borrower. This has resulted in substantial savings to borrowers by reducing preparation of the documentation and the costly review by the government.

Description of Respondents: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 99.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 104.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E8–22018 Filed 9–19–08; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

[AMS–TM–08–0086; TM–08–10]

Notice of 2008 National Organic Certification Cost-Share Program

AGENCY: Agricultural Marketing Services, USDA.

ACTION: Notice of funds availability.

SUMMARY: This Notice invites all States of the United States of America, its territories, the District of Columbia, and the Commonwealth of Puerto Rico, (collectively hereinafter called States) to submit an Application for Federal Assistance (Standard Form 424), and to enter into a cooperative agreement with the Agricultural Marketing Service (AMS) for the allocation of National Organic Certification Cost-Share Funds. The AMS has allocated $22.0 million for this organic certification cost-share program commencing in Fiscal Year 2008. Funds are available under this program to interested States to assist organic producers and handlers certified under the National Organic Program (NOP), as appropriate. States interested in obtaining cost-share funds must submit an Application for Federal Assistance and enter into a cooperative agreement with AMS for allocation of funds.

DATES: Completed applications for federal assistance along with signed cooperative agreements must be received by September 29, 2008, in order to participate in the program.

ADDRESSES: Applications for federal assistance and cooperative agreements shall be requested from and submitted to: Robert Pooler, Agricultural Marketing Specialist, National Organic Program, USDA/AMS/TMP/NOP, Room 4008-South, Ag Stop 0268, 1400 Independence Avenue, SW., Washington, DC 20250–0268; Telephone: (202) 720–3252; Fax: (202) 205–7808. Additional information may be found through the National Organic Program's homepage at *http://www.ams.usda.gov/nop*.

FOR FURTHER INFORMATION CONTACT: Robert Pooler, Agricultural Marketing Specialist, National Organic Program, USDA/AMS/TM/NOP, Room 4008-South, Ag Stop 0268, 1400 Independence Avenue, SW., Washington, DC 20250–0268; Telephone: (202) 720–3252; Fax: (202) 205–7808.

SUPPLEMENTARY INFORMATION: This National Organic Certification Cost-Share Program is authorized under 7 U.S.C. 6523, as amended by section 10301 of the Food, Conservation and Energy Act of 2008 (Act). The Act authorizes the Department to provide certification cost share assistance to producers and handlers of organic agricultural products in all States. The AMS has allocated $22 million for this program. The Program provides financial assistance to organic producers and handlers certified to the NOP. The NOP is authorized under the Organic Foods Production Act of 1990, as amended (7 U.S.C. 6501 *et seq.*).

To participate in the program, interested States must complete an Application for Federal Assistance (Standard Form 424) and enter into a written cooperative agreement with AMS. The program will provide cost-share assistance, through participating States, to organic producers and handlers receiving certification or continuation of certification by a USDA-accredited certifying agent commencing October 1, 2008. Under the Act payments are limited to 75 percent of an individual producer's or handler's certification costs up to a maximum of $750.00 per year.

However, for producers in the states of Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming cost share funding is available to these states under the Agricultural Management Assistance Organic Certification Cost-Share Program authorized under Section 1524 of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501–1524). As provided in a notice of Funds Availability published in the **Federal Register** on August 28, 2008, at 73 FR 50756, completed applications for this federal assistance program, along with signed cooperative agreements must be received by close of business, September 15, 2008. Information on this program can be found on the NOP's homepage at *http://www.ams.usda.gov/nop*.

Authority: 7 U.S.C. 6523.

Dated: September 16, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–22047 Filed 9–19–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Midcontinent Express Pipeline LLC (Midcontinent); Federal Energy Regulatory Commission (FERC), Docket Nos. CP08–6–000, PF07–4–000 FERC EIS 0220F; May 2008

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of Availability of the Record of Decision.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR Part 650), the Natural Resources Conservation Service, U.S. Department of Agriculture has decided to subordinate its rights, acquired under the Wetland Reserve Program (WRP), to allow the Midcontinent Express Pipeline LLC (Midcontinent), to cross NRCS held conservations easements associated with the Midcontinent Project in Madison Parish, LA and Fannin County, Texas.

On October 9, 2007, Midcontinent Express Pipeline LLC (Midcontinent) filed an application under section 7(c) of the Natural Gas Act (NGA) for authorization to construct and operate a pipeline and facilities to be known as the Midcontinent Express Pipeline.

The Federal Energy Regulatory Commission (FERC) has prepared a final environmental impact statement (EIS) to fulfill requirements of the National Environmental Policy Act (NEPA). The purpose of this document was to make public the analysis of the environmental impacts that would likely result from the construction and operation of the proposed Project. The NRCS participated as a cooperating agency in the preparation of the EIS.

The project will affect approximately 5 NRCS held Wetlands Reserve Program (WRP) easements by creating a 50 ft. permanent right of way (within a 100 ft. construction right of way) that extends for approximately 506 miles of which 1.41 miles is over lands encumbered under WRP easements located in Madison Parish, Louisiana and Fannin, Texas.

FOR FURTHER INFORMATION CONTACT: Kevin D. Norton, State Conservationist, Natural Resources Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302; telephone (318) 473–7751.

A limited number of copies of the Record of Decisions (ROD) are available to fill single copy requests at the above address. Basic data evaluated for the ROD are on file and may be reviewed by contacting Kevin D. Norton.

Dated: September 8, 2008.

Kevin D. Norton,

State Conservationist.

[FR Doc. E8–22093 Filed 9–19–08; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of meeting.

DATE AND TIME: Tuesday, September 30, 2008; 11 a.m. EDT.

PLACE: Via Teleconference: Public Dial In–1–800–597–7623, Conference ID# 65389894.

Meeting Agenda

I. Approval of Agenda
II. Program Planning

- FY 2008 Statutory Report: Enforcing Religious Freedom in Prison
- FY 2009 Briefing Topic: Employers' Rights to Specify English as the Language of the Workplace

III. Future Agenda Items
IV. Adjourn

CONTACT PERSON FOR FURTHER INFORMATION: Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376–8582.

Dated: September 18, 2008.

David Blackwood,

General Counsel.

[FR Doc. E8–22236 Filed 9–18–08; 4:15 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 49–2008]

Foreign–Trade Zone 84 Houston, Texas, Application for Expansion

An application has been submitted to the Foreign–Trade Zones (FTZ) Board (the Board) by the Port of Houston Authority, grantee of FTZ 84, requesting authority to expand its zone in the Houston, Texas, area, adjacent to the Houston CBP port of entry. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on September 10, 2008.

FTZ 84 was approved on July 15, 1983 (Board Order 214, 48 FR 34792, 8/1/83). The zone was expanded on December 24, 1991 (Board Order 551, 57 FR 42, 1/2/92), on December 23, 1993 (Board Order 670, 59 FR 61, 1/3/94), on August 24, 2000 (Board Order 1115, 65 FR 54197, 9/7/00), on March 21, 2003 (Board Order 1271, 68 FR 15431, 3/31/03), and on May 14, 2003 (Board Order 1277, 68 FR 27987, 5/22/03).

The general–purpose zone currently consists of 16 sites (1,799 acres) at port facilities, industrial parks and warehouse facilities in Houston and the Harris County area. The sites -- which are in Houston unless otherwise stated -- are as follows: *Site 1* (421 acres)--Houston Ship Channel Turning Basin, Clinton Drive at Highway 610 East Loop; *Site 2* (97 acres)--Houston Ship Channel (Bulk Materials Handling Plant), north bank between Greens Bayou and Penn City Road; *Site 3* (99 acres)--Barbours Cut Turning Basin, Highway 146 at Highway 225; *Site 4* (4 acres)--Cargoways Logistics (formerly Dynamic Warehousing and Trucking), 1201 Hahlo Street; *Site 5* (8 acres)--Timco Scrap Processing (formerly Port Houston Storage Depot), 6747 Avenue W; *Site 6* (73 acres)--Odfjell Terminals (formerly Baytank (Houston), Inc.), 12211 Port Road; *Site 7* (126 acres)--Jacintoport Terminal, Houston Ship Channel,16398 Jacintoport Blvd.; *Site 8* (162 acres)--Central Green Business Park,16638 Air Center Blvd.; *Site 9* (72 acres)--Manchester Terminal Corporation, 10000 Manchester; *Site 10* (14 acres)--13609 Industrial Road, within the Greens Port Industrial Park along the Houston Ship Channel; *Site 11* (269 acres)--Oiltanking, Inc.,15602 Jacintoport Boulevard; *Site 12* (146 acres)--Kinder Morgan Liquids Terminal LLC, Clinton Drive at Panther Creek and North Witter Street at Bayou Street; *Site 13* (18 acres)--Exel Logistics, Inc., 8833 City Park Loop Street; *Site 14* (22 acres)--George Bush Intercontinental Airport, Fuel Storage Road, Houston jet fuel storage and distribution system; *Site 15* (196 acres)--Magellan Midstream Partners, liquid bulk facility, 12901 American Petroleum Road, Galena Park, Harris County; and, *Site 16* (72 acres)--Katoen Natie Gulf Coast Warehousing Complex, Miller Road Cutoff and U.S. Highway 225, Harris County.

The applicant is now requesting authority to expand the general–purpose zone to include six additional sites (980 acres) in the Houston and Harris County area: *Proposed Site 17* (172 acres total, 2 parcels)--within the Highway 225 Industrial Development: Underwood Industrial Park (162 acres), located at 2820 East 13th Street, Deer Park, and Battleground Business Park (10 acres), located at the corner of Porter Road and Old Underwood Road, La Porte; *Proposed Site 18* (106 acres)--Bay Area Business Park, located at Red Bluff Road and Bay Area Boulevard, Pasadena; *Proposed Site 19* (190 acres)--Republic Distribution Center, located on the corner of Red Bluff Road and Choate Road, Pasadena; *Proposed Site 20* (299 acres)--Port Crossing Industrial Park, located along McCabe Road and State Highway 146, La Porte; *Proposed Site 21* (67 acres)--Port of Houston Authority's Care Terminal, located at 16800 Peninsula Boulevard, Houston; and, *Proposed Site 22* (146 acres)--Port of Houston Authority's Beltway 8 Tract, located at the corner of East Belt Drive and Jacintoport Boulevard, Houston. The sites will provide public warehousing and distribution services to area businesses. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case–by-case basis.

In accordance with the Board's regulations, Kathleen Boyce 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 address below. The closing period for their receipt is November 21, 2008. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to December 8, 2008.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations: U.S. Department of Commerce Export Assistance Center, 1919 Smith Street, Suite 1026, Houston, Texas 77002; and, the Office of the Executive Secretary, Foreign–Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

For further information, contact Kathleen Boyce at 202–482–1346 or Kathleen__Boyce@ita.doc.gov.

Dated: September 10, 2008.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E8–22105 Filed 9–19–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–703]

Amended Notice of Preliminary Results of Antidumping Duty Administrative Review: Granular Polytetrafluoroethylene Resin From Italy

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

EFFECTIVE DATE: September 22, 2008.

FOR FURTHER INFORMATION CONTACT: Yasmin Nair or Alicia Winston, at (202) 482–3813 or (202) 482–1785, respectively; AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on granular polytetrafluoroethylene resin from Italy, covering the period August 1, 2006, through July 31, 2007. We preliminarily determine that sales of subject merchandise by Solvay Solexis, Inc. and Solvay Solexis S.p.A. have been made below normal value. If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection to assess antidumping duties on appropriate entries. Interested parties are invited to comment on these preliminary results. We released the preliminary results to the parties on Wednesday, September 3, 2008. However, that version inadvertently included business proprietary information, so this amended preliminary determination corrects that error. The error was discovered prior to publication in the **Federal Register**, consequently this amended notice is being published in its place.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1988, The Department of Commerce (the Department) published in the **Federal Register** the antidumping duty order on granular polytetrafluoroethylene resin (PTFE) from Italy. *See Antidumping Duty Order; Granular Polytetrafluoroethylene Resin from Italy*, 53 FR 33163 (August 30, 1988). On August 2, 2007, the Department issued a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 42383 (August 2, 2007). In accordance with 19 CFR 351.213(b), Solvay requested an administrative review. On September 25, 2007, the Department published the notice of initiation of this antidumping duty administrative review, covering the period August 1, 2006, through July 31, 2007 (the period of review, or POR). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 72 FR 54428 (September 25, 2007).

On October 12, 2007, the Department issued its antidumping questionnaire to Solvay Solexis, Inc. and Solvay Solexis S.p.A (collectively, Solvay). The Department received timely responses to Sections A–E of the initial antidumping questionnaire and associated supplemental questionnaires.

On April 9, 2008, the Department published a notice of a 120-day extension of the preliminary results of this administrative review. *See Granular Polytetrafluoroethylene Resin from Italy: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 19193. This notice extended the deadline for the preliminary results to September 2, 2008.

Scope of the Order

The product covered by this order is granular PTFE resin, filled or unfilled. This order also covers PTFE wet raw polymer exported from Italy to the United States. *See Granular Polytetrafluoroethylene Resin from Italy; Final Affirmative Determination of Circumvention of Antidumping Duty Order*, 58 FR 26100 (April 30, 1993). This order excludes PTFE dispersions in water and fine powders. During the period covered by this review, such merchandise was classified under item number 3904.61.00 of the Harmonized Tariff Schedule of the United States (HTSUS). We are providing this HTSUS number for convenience and U.S. Customs and Border Protection (CBP) purposes only. The written description of the scope remains dispositive.

Fair Value Comparisons

We compared the constructed export price (CEP) to the normal value (NV), as described in the *Constructed Export Price* and *Normal Value* sections of this notice. Pursuant to section 777A(d)(2) of the Tariff Act of 1930, as amended (the Act), we compared the CEPs of individual transactions to contemporaneous monthly weighted–average prices of sales of the foreign like product.

Pursuant to section 771(16) of the Act, we first attempted to compare contemporaneous sales of products sold in the United States and the comparison market that were identical with respect to the following characteristics: type, filler, percentage of filler, and grade. Where we were unable to compare sales of identical merchandise, we compared U.S. sales with comparison market sales of the most similar merchandise. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the comparison market, we compared U.S. sales to constructed value (CV).

Date of Sale

Normally, the Department employs invoice date as the date of sale. However, if the Department determines that another date reflects the date on which the exporter or producer establishes the material terms of sale, the Department may use this date. *See* 19 CFR 351.401(i). Solvay reported that its terms of sale in the home market are subject to change until shipment. For virtually all of its home market sales, shipment date precedes the invoice date. When shipment date precedes invoice date, it is the Department's practice to use shipment date as the date of sale. *See Certain Cold Rolled and Corrosion Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Reviews*, 63 FR 13170, 13172 73 (Mar.18, 1998). Therefore, we have relied upon Solvay's reported date of sale for home market transactions. For U.S. market sales, Solvay reported that the invoice date is the date on which the material terms of sale were established. Therefore, we are preliminarily using the date of invoice as the date of sale for Solvay's U.S. market sales.

Constructed Export Price

For all sales to the United States, we calculated CEP, as defined in section 772(b) of the Act, because all sales to unaffiliated parties were made after importation of the subject merchandise into the United States through the respondent's affiliate, Solvay Solexis, Inc. We based CEP on the packed, delivered prices to unaffiliated purchasers in the United States, net of billing adjustments. We adjusted these prices for movement expenses, including international freight, marine insurance, brokerage and handling in the United States, U.S. other transport expense, U.S. inland freight, U.S. warehousing, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we deducted selling expenses incurred by the affiliated reseller. These expenses include credit, inventory carrying costs, and indirect selling expenses incurred by Solvay Solexis, Inc. See Memorandum from Alicia Winston, International Trade Compliance Analyst, to The File, Re: Preliminary Results Calculation Memorandum, dated September 2, 2008 (Analysis Memo).

Normal Value

A. Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales of granular PTFE resin in the home market to serve as a viable basis for calculating NV, we compared Solvay's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because the aggregate volume of home market sales of the foreign like product was greater than five percent of the respective aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provided a viable basis for calculating NV. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like product was first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade.

B. Cost of Production Analysis

Because we disregarded below–cost sales in the calculation of the final results of the 2004–2005 administrative review, the most recently completed review of PTFE at the time of initiation of this review, with respect to Solvay, we had reasonable grounds to believe or suspect that home market sales of the foreign like product by Solvay had been made at prices below the cost of production (COP) during the period of this review. See section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation regarding home market sales. Solvay calculated its model–specific costs of production on a POR basis.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Solvay's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A), and interest expenses.

2. Test of Home Market Sales Prices

We compared the weighted–average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model–specific basis, we compared the COP to home market prices, less any rebates, discounts, applicable movement charges, and direct and indirect selling expenses.

3. Adjustments to Respondent's Data

We relied on the COP information provided by Solvay except in the following instances. We adjusted the transfer prices for certain inputs purchased by Solvay from affiliated suppliers in accordance with the major input rule of section 773(f)(3) of the Act. Specifically, we increased the reported cost of manufacturing where we found that the transfer price for the inputs was below the reported costs of the affiliated suppliers of that input. Also, Solvay excluded certain expenses from the G&A expenses. Therefore, we adjusted the respondent's G&A expense ratio to include expenses that appear to relate to the general operations of the company and for which Solvay failed to provide an explanation for excluding these items. Finally, Solvay did not exclude packing costs from the cost of goods sold denominators used to calculate the G&A and financial expense ratios. Therefore, for the ratios to be applied on the same basis as they were calculated, we applied the G&A and financial expense ratios to the total cost of manufacturing including the packing costs. See Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results Solvay Solexis S.p.A. (Cost Calc Memo).

4. Results of the COP Test

We disregarded below–cost sales where: (1) 20 percent or more of Solvay's sales of a given product during the POR were made at prices below the COP, because such sales were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on comparisons of price to weighted–average COPs for the POR, we determined that the below–cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act. We found that Solvay made sales below cost, and we disregarded such sales where appropriate pursuant to section 773(b) of the Act.

C. Calculation of Normal Value Based on Comparison–Market Prices

We determined home market prices net of price adjustments (*e.g.*, other discounts and rebates). Where applicable, we made adjustments for packing and movement expenses, in accordance with sections 773(a)(6)(A) and (B) of the Act. In order to adjust for differences in packing between the two markets, we deducted home market packing costs from NV and added U.S. packing costs. We also made adjustments for differences in costs attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act, and for other differences in the circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act (*i.e.*, differences in credit expenses). Finally, we made a CEP–offset adjustment to the NV for indirect selling expenses pursuant to section 773(a)(7)(B) of the Act, as discussed in the Level of Trade/CEP Offset section below.

D. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison–market sales, NV may be based on CV. Accordingly, for PTFE for which we could not determine the NV based on comparison market sales, either because there were no useable sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on the CV.

Section 773(e) of the Act provides that the CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general and administrative (SG&A) expenses, profit, and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the *Cost of Production Analysis* section, above. We based SG&A and profit on the actual amounts incurred and realized by Solvay in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act. We used U.S. packing costs as described in the *Constructed Export Price* section, above.

We made adjustments to CV for differences in COS in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to CEP, we made COS adjustments by deducting from CV direct selling expenses incurred on home–market sales (*i.e.*, credit expense and warranty expense).

E. Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales at the same level of trade in the comparison market as the level of trade of the U.S. sales. The comparison market level of trade is that of the starting–price sales in the comparison market. For CEP sales, such as those made by Solvay in this review, the U.S. level of trade is the level of the constructed sale from the exporter to the importer.

To determine whether comparison market sales are at a different level of trade than that of the U.S. sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison–market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison–market sales at the level of trade of the export transaction, we make a level–of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP–offset provision). *See, e.g., Industrial Nitrocellulose from the United Kingdom; Notice of Final Results of Antidumping Duty Administrative Review*, 65 FR 6148, 6151 (February 8, 2000) (*Industrial Nitrocellulose*).

For this review, we obtained information from Solvay about the marketing involved in the reported U.S. sales and in the home market sales, including a description of the selling activities performed by Solvay for each channel of distribution. In identifying levels of trade for CEP and for home market sales, we considered the selling functions reflected in the CEP, after the deduction of expenses and profit under section 772(d) of the Act, and those reflected in the home market starting price before making any adjustments. We expect that, if claimed levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that levels of trade are different for different groups of sales, the functions and activities of the seller should be dissimilar.

The record evidence in this review indicates that the home market and the CEP levels of trade for Solvay have not changed from the 2005–2006 review,[1] the most recently completed review in this case. As explained below, we preliminarily determine in this review, as in the 2005–2006 administrative review, that there was one home market level of trade and one U.S. level of trade (*i.e.*, the CEP level of trade).

In the home market, Solvay sold directly to fabricators. These sales primarily entailed selling activities such as technical assistance, engineering services, research and development, technical programs, and delivery services. Given this fact pattern, we found that all home market sales were made at a single level of trade. In determining the level of trade for the U.S. sales, we considered only the selling activities reflected in the price after making the appropriate adjustments under section 772(d) of the Act. *See, e.g., Industrial Nitrocellulose*, 65 FR at 6150. The CEP level of trade involves minimal selling functions such as invoicing and the occasional exchange of personnel between Solvay and its U.S. affiliate. Given this fact pattern, we found that all U.S. sales were made at a single level of trade.

Based on a comparison of the home market level of trade and this CEP level of trade, we find the home market sales to be at a different level of trade from, and more remote from the factory than, the CEP sales. Section 773(a)(7)(A) of the Act directs us to make an adjustment for difference in levels of trade where such differences affect price comparability. However, we were unable to quantify such price differences from information on the record. Because we have determined that the home–market level of trade is more remote from the factory than the CEP level of trade, and because the data necessary to calculate a level–of-trade adjustment are unavailable, we made a CEP–offset adjustment to NV pursuant to section 773(a)(7)(B) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act, based on exchange rates in effect on the date of the U.S. sale, as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted–average margin exists for the period August 1, 2006, through July 31, 2007:

Producer	Weighted–Average Margin (Percentage)
Solvay Solexis, Inc. and Solvay Solexis S.p.A (collectively, Solvay)	95.24

In accordance with 19 CFR 351.224(b), the Department will disclose its weighted average antidumping margin calculations within 5 days of the date of publication of these preliminary results. An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results. *See* 19 CFR 351.309(c). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. *See* 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette.

The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

Assessment

Upon completion of this administrative review, pursuant to 19 CFR 351.212(b), the Department will calculate an assessment rate on all appropriate entries. We will calculate importer–specific duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of the sales for that importer. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This

[1] *See Notice of Final Results of Antidumping Duty Administrative Review: Granular Polytetrafluoroethylene Resin from Italy*, 72 FR 65939 (November 26, 2007).

clarification will apply to entries of subject merchandise during the

POR produced by the company included in these preliminary results for which the reviewed company 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 or companies involved in the transaction.

Cash Deposit Requirements

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of PTFE from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate listed above for Solvay will be the rate established in the final results of this review, except if a rate is less than 0.5 percent, and therefore de minimis, the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, 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 less–than-fair–value (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 be 46.46 percent, the ''all others'' rate established in the LTFV investigation. *See Final Determination of Sales at Less Than Fair Value: Granular Polytetrafluoroethylene Resin from Italy*, 53 FR 26096 (July 11, 1988). These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entities 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 double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 16, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8–22108 Filed 9–19–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty–Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before October 14, 2008. Address written comments to Statutory Import Programs Staff, Room 2104, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. at the U.S. Department of Commerce in Room 2104.

Docket Number: 08–047. Applicant: Stanford University, Department of Structural Biology, D100 Fairchild Building, 299 Campus Drive West, Stanford, CA 94305–5126. Instrument: Electron Microscope, Model Tecnai G2 F20 TWIN. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument is intended to be used to study purified proteins from yeast Saccharomyces cerevisiae, also known as baker's yeast, which are involved in transcription. Researchers plan to employ single particle analysis to study the protein complexes involved in transcription, the synthesis on RNA from a DNA template. Application accepted by Commissioner of Customs and Border Protection: August 25, 2008.

Dated: September 16, 2008.

Faye Robinson,

Director, Statutory Import Programs Staff.

[FR Doc. E8–22107 Filed 9–19–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Exemption of Foreign Air Carriers From Excise Taxes; Review of Finding of Reciprocity (Dominican Republic), 26 U.S.C. 4221

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Solicitation of public comments concerning a review of the existing exemption for aircraft registered in the Dominican Republic from certain internal revenue taxes on the purchase of supplies in the United States for such aircraft in connection with their international commercial operations.

SUMMARY: Notice is hereby given that the Department of Commerce is conducting a review to determine, pursuant to Section 4221 of the Internal Revenue Code, as amended (26 U.S.C. 4221), whether the Government of the Dominican Republic has discontinued allowing substantially reciprocal tax exemptions to aircraft of U.S. registry in connection with international commercial operations similar to those exemptions currently granted to aircraft of Dominican Republic registry by the United States under the aforementioned statute.

The above-cited statute provides exemptions for aircraft of foreign registry from payment of certain internal revenue taxes on the purchase of supplies in the United States for such aircraft in connection with their international commercial operations. These exemptions apply upon a finding by the Secretary of Commerce, or his designee, and communicated to the Department of the Treasury, that such country allows, or will allow, ''substantially reciprocal privileges'' to aircraft of U.S. registry with respect to purchases of such supplies in that country. If a foreign country discontinues the allowance of such substantially reciprocal exemption, the exemption allowed by the United States will not apply after the Secretary of the Treasury is notified by the Secretary of Commerce, or his designee, of the discontinuance.

Interested parties are invited to submit their views, comments and supporting documentation in writing concerning this matter to Mr. Mark Brady, Deputy Assistant Secretary for Services, Room 1128, U.S. Department of Commerce, Washington, DC 20230. Submissions should be sent electronically to *Airservices@ita.doc.gov*. All

submissions should be received no later than thirty days from the date of this notice.

Comments received, with the exception of information marked ''business confidential,'' will be available for public inspection upon request. Information marked ''business confidential'' shall be protected from disclosure to the full extent permitted by law.

It is suggested that those desiring additional information contact Mr. Eugene Alford, Office of Service Industries, Room 1124, U.S. Department of Commerce, Washington, DC 20230, or telephone 202–482–5071.

Dated: September 12, 2008.

Mark Brady,

Deputy Assistant Secretary for Services.

[FR Doc. E8–22032 Filed 9–19–08; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review, Application No. 84–19A12.

SUMMARY: On September 17, 2008, the U.S. Department of Commerce issued an amended Export Trade Certificate of Review to Northwest Fruit Exporters (''NFE'').

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or e-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2008).

Export Trading Company Affairs (''ETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the U.S. Department of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate:

The original NFE Certificate (No. 84–00012) was issued on June 11, 1984 (49 FR 24581, June 14, 1984), and last amended on September 17, 2007 (72 FR 54000, September 21, 2007).

NFE's Export Trade Certificate of Review has been amended to:

1. Add each of the following companies as a new ''Member'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Lotus Fruit Packing, Inc., Brewster, Washington; Obert Cold Storage, Zillah, Washington; and Tree To You, LLC, Chelan, Washington; and

2. Delete the following companies as ''Members'' of the Certificate: Fox Orchards, Mattawa, Washington; Inland—Joseph Fruit Company, Wapato, Washington; K–K Packing & Storage, L.L.C., Zillah, Washington; Manzaneros Mexicanos de Washington, Yakima, Washington; Orchard View Farms, The Dalles, Oregon; and Peshastin Hi-Up Growers, Peshastin, Washington.

The effective date of the amended certificate is June 19, 2008. A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: September 17, 2008.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E8–22099 Filed 9–19–08; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–929]

Small Diameter Graphite Electrodes from the People's Republic of China: Amended Preliminary Determination of Sales at Less Than Fair Value

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

EFFECTIVE DATE: September 22, 2008.

SUMMARY: On August 21, 2008, the Department of Commerce (the Department) published the preliminary determination of sales at less than fair value (LTFV) in the antidumping investigation of small diameter graphite electrodes (graphite electrodes) from the People's Republic of China (PRC). *See Small Diameter Graphite Electrodes From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part*, 73 FR 49408 (August 21, 2008) (*Preliminary Determination*). We are amending our *Preliminary Determination* to correct certain ministerial errors with respect to the antidumping duty margin calculation for the Fangda Group.[1] The corrections to the Fangda Group's margin also affect the margin applied to companies receiving a separate rate.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482–4162 or (202) 482–4406, respectively.

SUPPLEMENTARY INFORMATION: On August 21, 2008, the Department published in the **Federal Register** the preliminary determination that graphite electrodes from the PRC are being, or are likely to be, sold in the United States at LTFV, as provided in section 733 of the Tariff Act of 1930, as amended (the ''Act''). *See Preliminary Determination*.

On August 25, 2008, the Fangda Group, as well as SGL Carbon LLC and Superior Graphite Co. (collectively ''petitioners'') filed timely allegations of ministerial errors in the Department's preliminary calculation of the Fangda Group's dumping margin. On August 26, 2008, petitioners submitted a ministerial error allegation with respect to Fushun Jinly Petrochemical Carbon Co., Ltd. (Fushun Jinly). On August 28, 2008, per the Department's request, petitioners submitted information regarding the affect the alleged errors have on the dumping margin calculated for the Fangda Group.

After reviewing the allegations, we have determined that the *Preliminary Determination* included significant ministerial errors. Therefore, in accordance with section 351.224(e) of the Department's regulations, we have made changes, as described below, to the *Preliminary Determination*.

Period of Investigation

The period of investigation (POI) is July 1, 2007, through December 31, 2007. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, January 2008. *See* section 351.204(b)(1) of the Department's regulations.

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[1] The Fangda Group consists of Fangda Carbon New Material Co., Ltd., Beijing Fangda Carbon Tech Co., Ltd., Fushun Carbon Co., Ltd., and Chengdu Rongguang Carbon Co., Ltd.

Scope of Investigation

The merchandise covered by this investigation includes all small diameter graphite electrodes of any length, whether or not finished, of a kind used in furnaces, with a nominal or actual diameter of 400 millimeters (16 inches) or less, and whether or not attached to a graphite pin joining system or any other type of joining system or hardware. Small diameter graphite electrodes are most commonly used in primary melting, ladle metallurgy, and specialty furnace applications in industries including foundries, smelters, and steel refining operations. Small diameter graphite electrodes subject to this investigation are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 8545.11.0000. The HTSUS number is provided for convenience and customs purposes, but the written description of the scope is dispositive.

Significant Ministerial Error

Ministerial errors are defined in section 735(e) of the Act as ''errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.'' Section 351.224(e) of the Department's regulations provides that the Department ''will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination . . . .'' A significant ministerial error is defined as a ministerial error, the correction of which, singly or in combination with other errors, would result in (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted–average dumping margin calculated in the original (erroneous) preliminary determination, or (2) a difference between a weighted–average dumping margin of zero or *de minimis* and a weighted–average dumping margin of greater than *de minimis* or vice versa. *See* section 351.224(g) of the Department's regulations.

Ministerial Error Allegations

The petitioners allege that, with respect to the Fangda Group, the Department: (1) did not deduct marine insurance from U.S. prices and used the wrong surrogate value for marine insurance; (2) incorrectly excluded packing costs from normal value and used the wrong surrogate value for wooden boards (a packing material); (3) deducted from U.S. prices only a truncated value, not the complete value, of foreign brokerage and handling expenses; (4) incorrectly relied on Indian import data for the period July 1, 2007 through December 1, 2007, instead of July 1, 2007 through December 31, 2007; (5) did not include the cost of self–produced calcined petroleum coke in direct material costs, and (6) incorrectly classified the baking scrap and graphite scrap that were reused in the production process as by–product offsets, rather than direct materials. With respect to Fushun Jinly, petitioners reiterated their allegation that the Department incorrectly relied on Indian import data for the period July 1, 2007 through December 1, 2007, instead of July 1, 2007 through December 31, 2007. The Fangda Group alleges that the Department inadvertently assigned raw petroleum coke the surrogate value for calcined petroleum coke and failed to convert this surrogate value from rupees to U.S. dollars.

Amended Preliminary Determination

We have determined that the Department made certain ministerial errors in calculating the preliminary dumping margin for the Fangda Group by failing to: (1) properly deduct marine insurance and brokerage and handling expenses from U.S. prices, (2) properly include the cost of packing and raw petroleum coke in normal value, and (3) properly treat the cost of baking and graphite scrap. These ministerial errors, in combination, qualify as significant ministerial errors pursuant to section 351.224(g) of the Department's regulations because they result in a change of more than five absolute percentage points to the Fangda Group's dumping margin. Accordingly, we have corrected errors alleged by petitioners and the Fangda Group. We found no ministerial errors with respect to Fushun Jinly. *See* Memorandum to Abdelali Elouaradia from Magd Zalok and Drew Jackson, Analysts, Allegation of Ministerial Errors, dated concurrently with this **Federal Register** notice.

As a result of correcting the above errors in the Fangda Group's dumping margin calculation, the dumping margin for the companies granted separate–rate status must also be revised because the dumping margin for those companies was partially derived from the Fangda Group's dumping margin.

As a result of corrections of ministerial errors, the revised weight–average dumping margins are as follows:

Exporter & Producer	Weighted–Average Margin
Fushun Carbon Co., Ltd. Produced by: Fushun Carbon Co., Ltd..	48.20%
Fangda Carbon New Material Co., Ltd. Produced by: Fangda Carbon New Material Co., Ltd..	48.20%
Beijing Fangda Carbon Tech Co., Ltd. Produced by: Chengdu Rongguang Carbon Co., Ltd.; Fangda Carbon. New Material Co., Ltd.; or Fushun Carbon Co., Ltd..	48.20%
Chengdu Rongguang Carbon Co., Ltd. Produced by: Chengdu Rongguang Carbon Co., Ltd..	48.20%
Jilin Carbon Import and Export Company Produced by: Sinosteel Jilin Carbon Co., Ltd..	90.50%
Guanghan Shida Carbon Co., Ltd. Produced by: Guanghan Shida Carbon Co., Ltd..	90.50%
Nantong River–East Carbon Joint Stock Co., Ltd. Produced by: Nantong River–East Carbon Co., Ltd.; or Nantong. Yangzi Carbon Co., Ltd..	90.50%
Xinghe County Muzi Carbon Co. Ltd. Produced by: Xinghe County Muzi Carbon Co., Ltd..	90.50%
Brilliant Charter Limited Produced by: Nantong Falter New Energy Co., Ltd.; or Shanxi. Jinneng Group Co., Ltd..	90.50%
Shijiazhuang Huanan Carbon Factory Produced by: Shijiazhuang Huanan Carbon Factory.	90.50%

Exporter & Producer	Weighted–Average Margin
Shenyang Jinli Metals & Minerals Imp & Exp Co., Ltd. Produced by: Shenyang Jinli Metals & Minerals Imp. & Exp. Co., Ltd..	90.50%
Shanghai Jinneng International Trade Co., Ltd. Produced by: Shanxi Jinneng Group Datong Energy Development Co., Ltd..	90.50%
Dalian Thrive Metallurgy Import and Export Co., Ltd. Produced by: Linghai Hongfeng Carbon Products Co., Ltd.; Tianzhen. Jintian Graphite Electrodes Co., Ltd.; Jiaozuo Zhongzhou Carbon Products Co., Ltd.; Heilongjiang Xinyuan Carbon Products Co., Ltd.;. Xuzhou Jianglong Carbon Manufacture Co., Ltd.; or Xinghe Xinyuan Carbon Products Co., Ltd..	90.50%
GES (China) Co., Ltd. Produced by: Shanghai GC Co., Ltd.; Fushun Jinli Petrochemical Carbon Co., Ltd.; Xinghe County Muzi Carbon Plant and Linyi County Lubei Carbon Co., Ltd. Shandong Province.	90.50%
Qingdao Haosheng Metals & Minerals Imp & Exp Co., Ltd. Produced by: Sinosteel Jilin Carbon Co., Ltd..	90.50%

The weight–average dumping margins for Fushun Jinly and the PRC–wide entity have not changed from the margins determined in the original preliminary determination. Those margins are as follows:

Exporter & Producer	Weighted–Average Margin
Fushun Jinly Petrochemical Carbon Co., Ltd. Produced by: Fushun Jinly Petrochemical Carbon Co., Ltd..	132.80%
PRC–Wide Rate	159.34%

Retroactive Application of Amended Preliminary Determination Margins

For the Fangda Group and the separate rate applicants, we will instruct U.S. Customs and Border Protection (CBP) to require a cash deposit or the posting of a bond equal to the applicable weighted–average margins indicated above, for all entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the publication date of the *Preliminary Determination*, August 21, 2008. For Fushun Jinly and the PRC–wide entity, we will instruct CBP to require a cash deposit or the posting of a bond equal to the applicable weighted–average margins indicated above, for all entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the *Preliminary Determination*.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the International Trade Commission (''ITC'') of our amended preliminary determination. If our final determination is affirmative, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of graphite electrodes, or sales (or the likelihood of sales) for importation, of the merchandise under investigation, within 45 days of our final determination.

This determination is issued and published in accordance with sections 733(f), 735(a)(2), and 777(i) of the Act and sections 351.210(g) and 351.224(e) of the Department's regulations.

Dated: September 15, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8–22109 Filed 9–19–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XK63

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 Scientific and Statistical Committee (SSC) on October 6–7, 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, October 6, 2008, at 10 a.m. and Tuesday, October 7, 2008, at 8 a.m.

ADDRESSES: The meeting will be held at the Hilton Hotel, 20 Coogan Boulevard, Mystic, CT 06355; telephone: (860) 572–0731; fax: (860) 572–0328.

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 SSC will: (1) elect new committee officers; (2) address committee priorities and workload issues and (3) review the scientific basis for Amendment 3 to the Skate Fishery Management Plan. The committee also will review the new overfishing definition under consideration in Framework Adjustment 15 to the Scallop Fishery Management Plan and the Ocean Associates Inc. report entitled Mobile Fishing Gear Effects and Citation Validity in NEFMC Documents Affecting the Atlantic Sea Scallop Fishery.

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: September 17, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–22102 Filed 9–19–08; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Third Party Testing for Certain Children's Products; Notice of Requirements for Accreditation of Third Party Conformity Assessment Bodies To Assess Conformity With Part 1303 of Title 16, Code of Federal Regulations

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Requirements for Accreditation of Third Party Conformity Assessment Bodies to Assess Conformity with part 1303 of Title 16, Code of Federal Regulations.

Introduction: The Consumer Product Safety Act (''CPSA''), at § 14(a)(3)(B)(i) as added by § 102(a)(2) of the Consumer Product Safety Improvement Act of 2008 (''CPSIA''), Public Law 110–314, directs the U.S. Consumer Product Safety Commission (''CPSC'' or ''Commission'') to publish this notice of requirements for accreditation of third party conformity assessment bodies (''third party laboratories'') to test children's products for conformity with the lead paint ban in the Commission's regulations at 16 CFR part 1303 (the ''lead paint ban''). Children's products are those designed or intended for use primarily by children 12 years old and younger. Part 1303 bans paint and other surface coatings that contain more than 0.06 percent lead as well as toys, other consumer products intended for use by children, and furniture bearing lead-containing paint.[1] Each manufacturer (including the importer) or private labeler of children's products subject to the lead paint ban must have products manufactured more than 90 days after this notice tested by a laboratory accredited to do so and must issue a certificate of compliance with the lead paint ban based on that testing.[2] [3]

The Commission is also recognizing limited circumstances in which testing performed by a laboratory on or after May 16, 2008, 90 days prior to the date of enactment of CPSIA (August 14, 2008), but prior to Commission acceptance of the laboratory's preexisting accreditation, provided that accreditation is accepted not later than November 26, 2008, may form the basis for the certificate of compliance with the lead paint ban required of the manufacturer or private labeler.

This notice provides the criteria and process for Commission acceptance of accreditation of ''third party'' laboratories for testing to the lead paint ban (laboratories that are not owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the laboratory for certification purposes), ''firewalled'' laboratories (those that are owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the laboratory for certification purposes and that seek accreditation under the additional statutory criteria for ''firewalled'' laboratories), and laboratories owned or controlled in whole or in part by a government.

The requirements of this notice are effective upon its publication in the **Federal Register** and are exempted by CPSIA from the notice and comment rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553.[4]

Baseline accreditation of each category of laboratory to the International Organization for Standardization (''ISO'') Standard ISO/IEC 17025:2005—General Requirements for the Competence of Testing and Calibration Laboratories—is required. The accreditation must be by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation—Mutual Recognition Arrangement (''ILAC–MRA'') and the scope of the accreditation must include testing for compliance with the lead paint ban.[5] A laboratory owned or controlled by a manufacturer or private labeler of products to be tested by the laboratory is subject to additional requirements intended to assure that the Commission is immediately and confidentially notified of any attempt by the manufacturer, private labeler or other interested party to hide or exert undue influence over the laboratory's test results. A governmental laboratory may be accredited subject to additional requirements concerning independence of its relationship with the host government and freedom of manufacturers in the host country to elect to use accredited non-government laboratories for certification testing without suffering disadvantage.

The Commission has established an electronic accreditation registration and listing system that can be accessed via its Web site.

Although the accreditation requirements for testing to the lead paint ban in this notice are effective upon their publication in the **Federal Register**, the Commission solicits comments on the accreditation procedures as they apply to that testing and on the accreditation approach in general, since the Commission must publish additional testing accreditation procedures over the coming months.

DATES: *Effective Date:* The requirements for accreditation of laboratories for testing to the lead paint ban are effective upon publication of this notice in the **Federal Register**, that is September 22, 2008.

Request For Comments: Please provide comments in response to this notice by October 22, 2008. Comments on this notice should be captioned ''Laboratory Accreditation Process for Lead Paint Ban Testing.'' Comments should be submitted to the Office of the Secretary by e-mail at *cpsc-os@cpsc.gov,* or mailed or delivered, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814. Comments may also be filed by facsimile to (301) 504–0127.

FOR FURTHER INFORMATION CONTACT: Robert ''Jay'' Howell, Acting Assistant Executive Director for Hazard Identification and Reduction, U.S. Consumer Product Safety Commission,

[1] On August 14, 2009, the 0.06 percent (600 ppm) lead limit is reduced to 0.009 percent (90 ppm). CPSIA § 101(a)(2)(B).

[2] Section 14(a)(2) of the CPSA as added by § 102(a)(2) of CPSIA requires that certification be based on testing of sufficient samples of the product, or samples that are identical in all material respects to the product.

[3] Of course, irrespective of certification, the children's product in question must comply with applicable CPSC requirements. See, e.g., CPSA § 14(h) as added by CPSIA § 102(b).

[4] CPSA § 14(a)(3)(G) as added by § 102(a)(2) of CPSIA exempts publication of this notice from the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553, and from the Regulatory Flexibility Act, 5 U.S.C. 601–612.

[5] A description of the history and content of the ILAC–MRA approach and of the requirements of the ISO 17025:2005 laboratory accreditation standard is provided in the CPSC staff briefing memorandum Accreditation Requirements for Third Party Conformity Assessment Bodies to Test to the Lead Paint Requirements of 16 CFR Part 1303, September 2, 2008 available on the CPSC Web site at *http://cpsc.gov/library/foia/foia08/brief/thirdp.pdf.*

4330 East West Highway, Bethesda, Maryland 20814; e-mail *rhowell@cpsc.gov.*

I. Accreditation Requirements

A. Baseline Third Party Laboratory Accreditation Requirements

For a third party laboratory to be accredited to test children's products for conformity with the lead paint ban, it must be accredited by an ILAC–MRA signatory accrediting body and the accreditation must be registered with, and accepted by, the Commission. A listing of ILAC–MRA signatory accrediting bodies is available on the Internet at *http://ilac.org/membersbycategory.html.* The accreditation must be to ISO Standard ISO/IEC 17025:2005—General Requirements for the Competence of Testing and Calibration Laboratories and the scope of the accreditation must expressly include testing to the requirements of 16 CFR part 1303. A true copy of the accreditation and scope documents demonstrating compliance with these requirements must be registered with the Commission electronically. The additional requirements for accreditation of firewalled and governmental laboratories are described below in sections I.B and I.C.

The Commission will maintain on its Web site an up-to-date listing of laboratories whose accreditations it has accepted and the scope of each accreditation. Subject to the limited provisions for acceptance of ''retrospective'' testing performed by other than firewalled laboratories noted in Section III below, once the Commission adds a laboratory to that list, the laboratory may commence testing of children's products to support certification by the manufacturer or private labeler of compliance with the lead paint ban.

B. Additional Accreditation Requirements for Firewalled Laboratories

In addition to the baseline accreditation requirements in section I.A, firewalled laboratories seeking accredited status must submit to the Commission copies of their training documents showing how employees are trained to notify the Commission immediately and confidentially of any attempt by the manufacturer, private labeler or other interested party to hide or exert undue influence over the laboratory's test results. This additional requirement applies to any laboratory in which a manufacturer or private labeler of a children's product to be tested by the laboratory owns a ten percent or more interest. While the Commission is not addressing common parentage of a lab and a children's product manufacturer at this time, it will be vigilant to see if this issue needs to be dealt with in the future.

The Commission must formally accept, by order, the accreditation application of a laboratory before the laboratory can become an accredited firewalled laboratory.

C. Additional Accreditation Requirements for Governmental Laboratories

In addition to the baseline accreditation requirements of section I.A, CPSIA permits accreditation of a laboratory owned or controlled in whole or in part by a government if:

• To the extent practicable, manufacturers or private labelers located in any nation are permitted to choose laboratories that are not owned or controlled by the government of that nation;

• The laboratory's testing results are not subject to undue influence by any other person, including another governmental entity;

• The laboratory is not accorded more favorable treatment than other laboratories in the same nation who have been accredited;

• The laboratory's testing results are accorded no greater weight by other governmental authorities than those of other accredited laboratories; and

• The laboratory does not exercise undue influence over other governmental authorities on matters affecting its operations or on decisions by other governmental authorities controlling distribution of products based on outcomes of the laboratory's conformity assessments.

The Commission will accept the accreditation of a governmental laboratory if it meets the baseline accreditation requirements of section I.A and meets the conditions stated here. To obtain this assurance, CPSC staff will engage the governmental entities relevant to the accreditation request.

II. How Does a Laboratory Apply for Acceptance of Its Accreditation?

The Commission has established an electronic accreditation acceptance and registration system accessed via the Commission's Internet site at *http://www.cpsc.gov/businfo/labaccred.html.* The applicant provides basic identifying information concerning its location, the type of accreditation it is seeking, and electronic copies of its ILAC-MRA accreditation certificate and scope statement and firewalled laboratory training document, if relevant. Commission staff reviews that information for accuracy and completeness. In the case of baseline third party laboratory accreditation and accreditation of governmental laboratories, when that review and any necessary discussions with the applicant are satisfactorily completed, the laboratory in question is added to the CPSC listing of accredited laboratories at *http://www.cpsc.gov/businfo/labaccred.html.* In the case of a firewalled laboratory seeking accredited status, when the review is complete, the staff transmits its recommendation on accreditation to the Commission for consideration.[6] If the Commission accepts a staff recommendation to accredit a firewalled laboratory, that laboratory will then be added to the CPSC list of accredited laboratories. In each case, the Commission will electronically notify the laboratory of acceptance of its accreditation.

Subject to the limited provisions for acceptance of ''retrospective'' testing performed by other than accredited firewalled laboratories noted in Section III. below, once the Commission adds a laboratory to the list, the laboratory may then commence testing of children's products to support certification of compliance with the lead paint ban by the manufacturer or private labeler.

III. Limited Acceptance of Children's Product Certifications Based on Third Party Laboratory Testing Prior to Commission Acceptance of Accreditation

The Commission will accept a certificate of compliance with the lead paint ban for a children's product based on testing performed by an accredited third party or governmental laboratory on or after May 16, 2008, 90 days prior to August 14, 2008 (the date of enactment of CPSIA) but prior to the Commission's acceptance of the laboratory's accreditation if:

• The laboratory was ISO/IEC 17025 accredited by an ILAC-MRA member at the time of the test;

• The accreditation scope in effect for the laboratory at that time expressly included testing to 16 CFR part 1303;

• The laboratory's accreditation application is accepted by the Commission under the procedures of this notice not later than November 26, 2008; and

[6] A laboratory that may ultimately seek acceptance as a firewalled laboratory could initially request acceptance as a third party laboratory accredited for testing of children's products other than those of its owners.

• The laboratory's accreditation and inclusion of part 1303 in its scope remains in effect through the effective date for mandatory third party certification to the lead paint ban.

Testing performed by a firewalled laboratory prior to Commission acceptance of its accreditation cannot be used as the basis for certification pursuant to CPSA § 14(a)(3)(B)(i) of compliance with the lead paint ban by a manufacturer or private labeler with a 10 percent or greater ownership interest in the laboratory.

Dated: September 16, 2008.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. E8–22167 Filed 9–19–08; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Cancellation of Environmental Impact Statement

AGENCY: Department of Air Force, DoD.

ACTION: Notice of cancellation of Environmental Impact Statement.

SUMMARY: The Department of the Air Force is canceling the preparation of an Environmental Impact Statement (EIS) for the proposed Common Battlefield Airmen Training (CBAT) Program. The Air Force proposed implementing the CBAT Program at one of three Air Force installations: Moody Air Force Base (AFB), near Valdosta, GA; Barksdale AFB in Bossier City, LA; and Arnold AFB near Manchester, TN.

The Air Force published two previous **Federal Register** notices on this proposal:

• Notice of Intent (NOI)—FR November 14, 2006 (Volume 71, Number 219, pg. 66313–66314)

• Notice of Availability (NOA)—FR June 28, 2007 (Vol. 72, No. 110, pg. 31822)—Environmental Protection Agency (EPA) Weekly receipt of Environmental Impact Statements

FOR FURTHER INFORMATION CONTACT: Ms. Debra Harkiewicz, HQ AETC/A7CVI, 266 F Street W., Bldg 901, Randolph, AFB, TX 78150—(210) 652–3959.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E8–22046 Filed 9–19–08; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability (NOA) of the Supplemental Draft Environmental Impact Statement (SDEIS) for Military Training Activities at Makua Military Reservation (MMR), Hawaii

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Army proposes to conduct live-fire military training exercises at MMR, Oahu, Hawaii, for units assigned to the 25th Infantry Division (25th ID) and for other military components. Other military components that have used MMR in the past include the Marine Corps, Army Reserves, and the Hawaii Army National Guard. The training proposed for MMR includes company-level, combined arms live-fire exercises and convoy live-fire training. The SDEIS addresses, among other things, the potential direct, indirect, and cumulative environmental impacts associated with the proposal to conduct military training activities at MMR. The Army has prepared the SDEIS pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality regulations (40 CFR Parts 1500–1 508), Environmental Analysis of Army Actions (32 CFR Part 651).

DATES: The public comment period for the SDEIS will end 45 days after publication of the NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: Please send written comments on the SDEIS to: U.S. Army Garrison, Hawaii. ATTN: Public Affairs Office, 742 Santos Dumont, WAAF, Schofield Barracks, HI 96857. E-mail comments should be sent to: *usaghipaomakuaEIS@hawaii.army.mil.*

FOR FURTHER INFORMATION CONTACT: U.S. Army Garrison, Hawaii, at (808) 656–3152; or by facsimile at (808) 656–3162.

SUPPLEMENTARY INFORMATION: This EIS was originally published as a draft in 2005. The Army made several changes to the EIS in response to public comments including the evaluation of an additional training alternative at the Pohakuloa Training Area (PTA). The Army is republishing the EIS as a supplemental draft to seek public comment.

The SDEIS analyzes four alternatives to accomplish the proposed training in the State of Hawaii: MMR Alternative 1 (Reduced Capacity Use with Some Weapons Restrictions), MMR Alternative 2 (Full Capacity Use with Some Weapons Restrictions), MMR Alternative 3 (Full Capacity Use with Fewer Weapons Restrictions), and PTA Alternative 4 (Full Capacity Use with Fewer Weapons Restrictions). Alternative 3 is the Army's Preferred Alternative. A No Action Alternative, under which no live fire military training would be conducted at MMR, was also evaluated.

For all alternatives (with the exception of No Action), the range would be used for 242 training days per year. MMR Alternative 1 (Reduced Capacity Use) involves conducting up to 28 company-level combined arms live-fire exercises (CALFEXs) per year and 100 convoy live-fire exercises per year. MMR Alternatives 2, 3, and 4 (Full Capacity Use) involve conducting up to 50 company-level CALFEXs per year and 200 convoy live-fire exercises per year. Weapon systems used for all training alternatives would be similar to those used during past training at MMR. MMR Alternative 2 incorporates the use of small arms tracer ammunition. MMR Alternative 3 (Preferred Alternative) adds tracer ammunition; inert, tube-launched, optically tracked, wire-guided (TOW) missiles; 2.75-inch rockets; and illumination munitions. PTA Alternative 4 would encompass training similar to that in Alternative 3.

Some of the major potential impacts discussed in the SDEIS are associated with contamination of soil; surface water and groundwater quality; air quality; cultural sites; natural resources; endangered and threatened species; noise; recreational resources; wildfires; and the safety and transport of munitions through the Waianae community. The Army would phase in certain training activities and ammunition types as steps are taken to conserve endangered species.

Copies of the SDEIS are available at the following libraries on the islands of Oahu and Hawaii: Hawaii State Library, 478 South King Street, Honolulu; Wahiawa Public Library, 820 California Avenue, Wahiawa; Waianae Public Library, 85–625 Farrington Highway, Waianae; and the Pearl City Public Library, 1138 Waimano Home Road, Pearl City; Hilo Public Library, 300 Waianuenue Avenue, Hilo; Kailua-Kona Public Library, 75–138 Hualalai Road, Kailua-Kona; Thelma Parker Memorial Public and School Library, 67–1209 Mamalahoa Hwy. Kamuela.

The Army invites the general public, local governments, other federal agencies, and state agencies to submit wriften comments or suggestions concerning the alternatives and analysis addressed in the SDEIS. An electronic version of the SDEIS is available for download at the following Web site: *http://www.qarrison.hawaii.army.mil/makuaeis.*

Public meetings will be held during the 45-day comment period. The exact locations, times and dates of the public meetings will be announced in advance through notices and media news releases. A Final EIS will be published following the close of the comment period on the SDEIS and incorporation of public comments.

Dated: Septmeber 12, 2008.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health).

[FR Doc. E8–21942 Filed 9–19–08; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy. U.S. Patent Number 5,520,331 entitled ''Liquid atomizing nozzle'', issued on May 28, 1996. U.S. Patent Number 5,721,632 entitled ''Excited state polarization altering optical filter'', issued on February 24, 1998. U.S. Patent Number 5,822,047 entitled ''Modulator LIDAR system'', issued October 13, 1998. U.S. Patent Number 6,125,270 entitled ''Verification system for transmitters and command tone generators'', issued on September 26, 2000. U.S. Patent Number 6,241,164 entitled ''Effervescent liquid fine mist apparatus and method'', issued June 5, 2001. U.S. Patent Number 6,249,241 entitled ''Marine vessel traffic system'', issued on June 19, 2001. U.S. Patent Number 6,411,450 entitled ''Method of assessing the effectiveness of a laser eye protection device'', issued on June 25, 2002. U.S. Patent Number 6,484,072 entitled ''Embedded terrain awareness warning system for aircraft'', issued on November 19, 2002. U.S. Patent Number 6,485,142 entitled ''Artificial human eye and test apparatus'', issued on November 26, 2002. U.S. Patent Number 6,557,570 entitled ''Portable apparatus for cleaning a conduit and method for cleaning a conduit'', issued on May 6, 2003. U.S. Patent Number 6,598,802 entitled ''Effervescent liquid fine mist apparatus and method'', issued on July 29, 2003. U.S. Patent Number 6,659,963 entitled ''Apparatus for obtaining temperature and humidity measurements'', issued on December 9, 2003. U.S. Patent Number 7,010,339 entitled ''Hybrid lidar-radar for medical diagnostics'', issued on March 7, 2006. U.S. Patent Number 7,025,304 entitled ''Helicopter messenger cable illumination'', issued on April 11, 2006. U.S. Patent Number 7,156,161 entitled ''Lightweight thermal heat transfer apparatus'', issued on January 2, 2007. U.S. Patent Number 7,176,812 entitled ''Wireless blade monitoring system and process'', issued on February 13, 2007. U.S. Patent Number 7,180,442 entitled ''Target identification method using cepstral coefficients'', issued on February 20, 2007. U.S. Patent Number 7,225,999 entitled ''Spray array apparatus'', issued on June 5, 2007. U.S. Patent Number 7,239,311 entitled ''Global Visualization Process (GVP) and system for implementing a GVP'', issued on July 3, 2007. U.S. Patent Number 7,284,600 entitled ''Process of making a light weight thermal heat transfer apparatus'', issued on October 23, 2007. U.S. Patent Number 7,331,183 entitled ''Personal portable environmental control system'', issued on February 19, 2008. U.S. Patent Number 7,380,467 entitled ''Bond integrity tool'', issued on June 3, 2008. U.S. Patent Application Number 11/220,189 filed on September 1, 2005, Navy Case Number 76519 entitled ''Method for reducing hazards''. U.S. Patent Application Number 10/956,522 filed on September 23, 2004, Navy Case Number 83683 entitled ''Method for comparing tabular data''. U.S. Patent Application Number 12/136,427 filed on June 10, 2008, Navy Case Number 83687 entitled ''System analysis modeling apparatus and method''. U.S. Patent Application Number 11/845,684 filed on January 26, 2006, Navy Case Number 96334 entitled ''Radically compressive rope assembly''. U.S. Patent Application Number 11/973,986 filed on October 15, 2007, Navy Case Number 97027 entitled ''System for isolating faults between electrical equipment''. U.S. Patent Application Number 11/900,143 filed on September 5, 2007, Navy Case Number 97946 entitled ''Optical bench fiber optic transmitter''. U.S. Patent Application Number 12/056,707 filed on March 28, 2008, Navy Case Number PAX03 entitled ''Parachute Opening Shock Emulator (POSE)''. U.S. Patent Application Number 12/111,434 filed on April 30, 2008, Navy Case Number PAX04 entitled ''Counter measure expendable load simulator''. U.S. Patent Application Number 12/114,063 filed on May 2, 2008, Navy Case Number PAX05 entitled ''Variable intensity LED illumination system''. U.S. Patent Application Number 12/113,387 filed on May 1, 2008, Navy Case Number PAX08 entitled ''Method and system for alerting aircrew to unsafe vibration levels''.

ADDRESSES: Request for data and inventor interviews should be director to Mr. Paul Fritz, Naval Air Warfare Center Aircraft Division, Business Office, Office of Research and Technology Applications, Building 505; Room 116, 22473 Millstone Road, Patuxent River, MD 20670, telephone: 301–342–5586 or e-mail: *Paul.Fritz@navy.mil.*

DATES: Request for data, samples, and inventor interviews should be made prior to November 03, 2008.

FOR FUTHER INFORMATION CONTACT: Mr. Paul Fritz, Office of Research and Technology Applications, Building 505; Room 116, Naval Air Warfare Center Aircraft Division, 22473 Millstone Road, Patuxent River, MD 20670, Telephone: 301–342–5586, *Paul.Fritz@navy.mil.*

SUPPLEMENTARY INFORMATION: The U.S. Navy intends to move expeditiously to license these inventions. All licensing application packages and commercialization plans must be returned to Naval Air Warfare Center Aircraft Division, Business Office, Office of Research and Technology Applications, Building 505; 22473 Millstone Road, Patuxent River, MD 20670.

The Navy, in its decisions concerning the granting of licenses, will give special consideration to existing licensees, small business firms, and consortia involving small business firms. The Navy intends to ensure that its licensed inventions are broadly commercialized throughout the United States.

PCT application may be filed for each of the patents as noted above. The Navy intends that licensees interested in a license in territories outside of the United States will assume foreign prosecution and pay the cost of such prosecution.

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: September 15, 2008.

T.M. Cruz,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–22043 Filed 9–19–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Proposed Conveyance of Excess Land at Naval Air Station, Oceana, VA, in Exchange for a Restrictive Easement Pursuant to 10 U.S.C. 2869

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: This notice provides information on the proposed conveyance of excess land at the Naval Air Station, Oceana, Virginia, in exchange for a restrictive easement to limit encroachment.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Grossman; Naval Facilities Engineering Command; 1322 Patterson Avenue, SE., Suite 1000; Washington Navy Yard, DC 20374–5065; telephone: 202–685–9205. For information concerning real estate, contact Ms. Patty Hankins, Realty Specialist; Naval Facilities Engineering Command, Mid-Atlantic; 9742 Maryland Avenue; Norfolk, Virginia 23511–3095; telephone: 757–445–6921.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of 10 U.S.C. 2684a, the Department of the Navy and the City of Virginia Beach (City), Virginia, entered into a Multi-Year Agreement (MYA) to acquire long-term interests in lands within the vicinity of Naval Air Station, Oceana, Virginia, and Naval Auxiliary Landing Field, Fentress, Chesapeake, Virginia. The goal of the MYA is to acquire real property interests in the vicinity of the Installations for purposes that are consistent with their land and natural resources conservation objectives, preservation goals, and to prevent encroachment and land development that is incompatible with the mission of the Installations.

10 U.S.C. 2869 provides authority for the Navy to convey excess property at an Installation in exchange for property interests to be acquired under the terms of an encroachment protection agreement executed in accordance with 10 U.S.C. 2684a. The Navy proposes to convey approximately 82 acres of excess land, referred to as Marshview, to the City in exchange for a restrictive easement interest over approximately 46.59 acres of City-owned land located within the area of interest identified in the MYA as ideal for encroachment protection. The Marshview property will be conveyed in fee with deed restrictions limiting the property's future use to a public park with passive recreational use only. The restrictive easement to be acquired by the Navy will limit the type and amount of development, as well as the activities that may be conducted on the land.

Dated: September 15, 2008.

T.M. Cruz,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–22038 Filed 9–19–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Proposed Conveyance of Excess Land at Marine Corps Air Station (MCAS) Beaufort, SC, in Exchange for Restrictive Easements Pursuant to 10 U.S.C. 2869

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: This notice provides information on the proposed conveyance of excess land in the Laurel Bay housing area, MCAS Beaufort, SC, in exchange for perpetual restrictive easements to limit encroachment.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Matteo, Naval Facilities Engineering Command, 1322 Patterson Avenue, SE., Suite 1000, Washington Navy Yard, DC 20374–5065, telephone: 202–685–9426. For information concerning real estate, contact Mr. Scott Nobles, Realty Specialist, Naval Facilities Engineering Command, Southeast, North Ajax Street, Building 135, P.O. Box 30, Naval Air Station Jacksonville, Jacksonville, FL 32212–0030, telephone: 904–542–6021.

SUPPLEMENTARY INFORMATION: MCAS Beaufort is a long established Air Station, consisting of some 6,900 acres, 70 miles southwest of Charleston, and four miles from downtown Beaufort, SC, on Highway 21. The Laurel Bay housing area, located four miles from the base proper, is a 1,062-acre tract, of which 691.06 acres are leased to the housing privatization contractor. The majority of the leased tract is improved with residential and related ancillary improvements complete with paved streets and infrastructure typical of a military housing development.

A 45-acre and an 82-acre parcel in the northeast of the housing area are undeveloped, vacant, and excess to Navy and Department of Defense requirements. The Navy proposes to convey the excess land in exchange for perpetual restrictive easements over other lands within MCAS Beaufort's Air Installation Compatible Use Zone to limit encroachment and other constraints on the mission. Title 10, United States Code, Section 2869 authorizes the Navy to convey excess property at an installation in exchange for property interests to be acquired under the terms of an encroachment protection agreement executed in accordance with Title 10, United States Code, Section 2684a.

The Navy executed an encroachment protection agreement with the County of Beaufort on September 28, 2006. In 2008, The Beaufort County Open Land Trust was added to the agreement as a full party to the agreement with the authority to fulfill all or part of the County's obligations. The stated objectives of the agreement are to limit development that is incompatible with the mission of MCAS Beaufort and conservation objectives around the installation, by acquiring interests in certain real property located in the vicinity of MCAS Beaufort.

The Navy proposes to exchange the 127 acres in Laurel Bay for a perpetual restrictive easement interest over approximately 259 acres of land that is part of property known as Clarendon Farms. The 259 acres are located in an area that has been identified for acquisition in the encroachment protection agreement. The restrictive easements to be acquired by the Navy will limit the type and amount of development, as well as incompatible activities that may be conducted on the land.

Dated: September 15, 2008.

T.M. Cruz,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–22039 Filed 9–19–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 22, 2008.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 16, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New Collection.

Title: Individuals with Disabilities Education Act (IDEA) 2004 National Assessment Implementation Study (NAIS).

Frequency: Other: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 541.

Burden Hours: 1,021.

Abstract: The current reauthorization of IDEA (2004) instructs the Department of Education to carry out a National Assessment of the law to measure: (1) Progress in the implementation of IDEA 2004; and (2) the relative effectiveness of the law in achieving its purposes. The IDEA National Assessment Implementation Study (NAIS) will inform the National Assessment by providing a representative, national picture of the implementation of early intervention and special education policies and practices at the state and district levels with a focus on new provisions included in IDEA 2004. Data collection will include three surveys of state administrators: (1) All State Part B administrators responsible for programs providing special education services to school aged children with disabilities (6–21); (2) all State 619 coordinators who oversee preschool programs for children with disabilities ages 3–5, and; (3) all State IDEA Part C coordinators who are responsible for early intervention programs serving infants and toddlers. A fourth survey will collect district level data from a nationally representative sample of local special education administrators about preschool and school-age programs for children with disabilities ages 3–21. The U.S. Department of Education has commissioned Abt Associates to conduct this study.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3753. 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. E8–22041 Filed 9–19–08; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice of public meeting.

DATE AND TIME: Tuesday, October 7, 2008, 10 a.m.–1 p.m.

PLACE: U.S. Election Assistance Commission, 1225 New York Ave., NW., Suite 150, Washington, DC 20005 (Metro Stop: Metro Center).

AGENDA: Commissioners will consider and vote on Draft EAC Guidance to States Regarding Material Changes to State Plans. Commissioners will consider and vote on the accreditation of CIBER, Inc. Commissioners will consider a Draft Working Group Policy [formally known as Draft Policy for Joint Partnership Task Force of EAC and State Election Officials Regarding Spending of HAVA Funds]. Commissioners will discuss revisions to the advisory opinion process. The Commission will consider other administrative matters.

This meeting will be open to the public.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Election Director, U.S. Election Assistance Commission.

[FR Doc. E8–22130 Filed 9–17–08; 4:15 pm]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Notice of Intent to Prepare an Environmental Impact Statement and Notice of Proposed Floodplain and Wetlands Involvement for the Kemper County IGCC Project, Kemper County, MS

AGENCY: Department of Energy.

ACTION: Notice of Intent and Notice of Proposed Floodplain and Wetlands Involvement.

SUMMARY: The U.S. Department of Energy (DOE) announces its intent to prepare an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality NEPA regulations (40 CFR Parts 1500–1508), and the DOE NEPA regulations (10 CFR Part 1021), to assess the potential environmental impacts associated with the construction and operation of a project proposed by Southern Company, through its affiliate Mississippi Power Company (Mississippi Power), which has been selected by DOE for consideration for cost-shared funding under the Clean Coal Power Initiative (CCPI) program. In addition, the U.S. Army Corps of Engineers will be a cooperating agency in the preparation of the EIS, and the

U.S. Environmental Protection Agency Region IV has expressed an interest in also participating in the preparation of the EIS as a cooperating agency. The proposed project would demonstrate Integrated Gasification Combined Cycle (IGCC) technology using lignite coal as a feedstock for a new electrical generating plant at a site in Kemper County, Mississippi. The facilities would convert lignite coal into synthesis gas for generating electricity while minimizing sulfur dioxide, oxides of nitrogen, mercury, and particulate emissions as compared to conventional lignite-fired power plants.

The EIS will help DOE decide whether to provide a total of $294 million in cost-shared funding (15% or less of the total project cost, which is currently projected to be greater than $2 billion) for the proposed project under the CCPI program. In addition, the EIS would help DOE decide, pending receipt of an application from Mississippi Power, whether to provide a loan guarantee pursuant to the Energy Policy Act of 2005. Accordingly, the EIS will evaluate the potential impacts of the proposed project, connected actions, and reasonable alternatives. The purpose of this Notice of Intent is to inform the public about the proposed project; invite public participation in the EIS process; announce the plans for a public scoping meeting; solicit public comments for consideration in establishing the scope and content of the EIS; and provide notice of proposed floodplain and wetlands involvement.

DATES: To ensure that all of the issues related to this proposal are addressed, DOE invites comments on the proposed scope and content of the EIS from all interested parties. Comments must be received by October 23, 2008, to ensure consideration. Late comments will be considered to the extent practicable. In addition to receiving comments in writing and by telephone, DOE will conduct a public scoping meeting in which agencies, organizations, and members of the general public are invited to present oral comments or suggestions with regard to the range of actions, alternatives, and potential impacts to be considered in the EIS. The scoping meeting will be held at Kemper County High School, 429 Philadelphia Road, DeKalb, Mississippi, at 7 p.m. on October 14, 2008. The public is also invited to learn more about the proposed project at an informal session at this location beginning at 5 p.m. Displays and other forms of information about the proposed agency action and the demonstration plant will be available, and DOE personnel will be present at the informal session to discuss the proposed project and the EIS process.

ADDRESSES: Written comments on the proposed EIS scope and requests to participate in the public scoping meeting should be addressed to: Mr. Richard A. Hargis, U.S. Department of Energy, National Energy Technology Laboratory, 626 Cochrans Mill Road, P.O. Box 10940, Pittsburgh, PA 15236–0940. Individuals who would like to orally or electronically provide comments should contact Mr. Hargis directly by telephone: 412–386–6065; toll-free number: 1–888–322–7436; fax: 412–386–4604; or electronic mail: *Richard.Hargis@netl.doe.gov.*

FOR FURTHER INFORMATION CONTACT: For information about this project or to receive a copy of the draft EIS when it is issued, contact Mr. Richard A. Hargis as described above. For general information on the DOE NEPA process, contact Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0103; telephone: 202–586–4600; fax: 202–586–7031; or leave a toll-free message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background and Need for Agency Action: Since the early 1970s, DOE and its predecessor agencies have pursued research and development programs that include long-term, technically complex activities that support the development of innovative concepts for a wide variety of coal technologies through the proof-of-concept stage. However, the availability of a technology at the proof-of-concept stage is not sufficient to ensure its continued development and subsequent commercialization. Before any technology can be considered seriously for commercialization, it must be demonstrated at a sufficient scale to prove its reliability and to show economically competitive performance. The financial risk associated with such large-scale demonstration is, in general, too high for the private sector to assume in the absence of strong incentives.

The CCPI program was established in 2002 as a government/industry partnership to implement the President's National Energy Policy recommendation to increase investment in clean coal technology. The goal of the CCPI program is to accelerate commercial deployment of advanced coal technologies that provide the United States with clean, reliable, and affordable energy. Through cooperative agreements established with industry, the CCPI program plans to advance selected coal technologies to commercialization.

The Energy Policy Act of 2005 established a Federal loan guarantee program for eligible energy projects that employ innovative technologies. Title XVII of the Energy Policy Act of 2005 authorizes the Secretary of Energy to make loan guarantees for a variety of types of projects, including projects that ''avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.'' Section 1703(a)(1), 42 U.S.C. 16513. Mississippi Power has submitted a pre-application to DOE and was invited to submit a formal application for a loan guarantee.

Proposed Action: The proposed action for DOE is to provide a total of $294 million in cost-shared funding under CCPI for the proposed project. DOE has already provided a portion of the total funding ($24.4 million) to Southern Company for cost-sharing for preliminary design and project definition, prior to completion of the NEPA process. In addition, DOE may also provide a loan guarantee pursuant to section 1703 of the Energy Policy Act of 2005.

The proposed IGCC electricity generating facility would be constructed on an undeveloped site of approximately 1,650 acres in Kemper County, Mississippi. The site is located in east-central Mississippi near the town of Liberty, approximately 20 miles north of the city of Meridian and consists principally of uplands and some wetlands. The uplands are mostly of managed pine timberlands, large portions of which have been clear-cut, while the wetlands are mostly mixed hardwood forest. Significant portions of the wetlands have been previously altered by human influences, including clear-cutting and conversion to grazing areas. Siltation from upland silvaculture has also previously impacted some wetlands. The generally undisturbed wetlands on the site have a canopy of red maple, yellow poplar and sweet gum. The site's topography is characterized by undulating sand and clay hills, and elevations vary from 400 feet above sea level along an unnamed tributary to Chickasawhay Creek in the site's southwestern corner to 500 feet above sea level in the site's northeastern corner.

The IGCC facilities would occupy approximately 150 acres (or less than 10 percent) of the site. The rest of the site would remain undeveloped, with the exception of new transmission lines, a natural gas supply pipeline, a carbon dioxide (CO_2) pipeline and site access and fuel handling infrastructure.

The proposed facilities would demonstrate IGCC technology in a new power plant consisting of two lignite coal gasifiers with gas cleanup systems, two gas combustion turbines (CTs), two heat recovery steam generators (HRSG), a single steam turbine, and associated support facilities. Onsite non-potable deep wells would provide approximately 6 million gallons per day of groundwater required for cooling water makeup, steam cycle makeup, and other processes. The IGCC facility would produce synthesis gas from lignite coal and use this gas to drive the two CTs. Hot exhaust gas from the gas turbines would generate steam from water in the HRSGs to drive the steam turbine; all three turbines would generate electricity. The gas turbines would be capable of operating on either natural gas or synthesis gas. At full capacity, the two new lignite coal gasifiers would be expected to use about 12,000 tons of lignite coal per day to produce synthesis gas. Combined, the three turbines would generate approximately 550 MW of electricity. This combined-cycle approach of using gas turbines and a steam turbine in tandem increases the amount of electricity that can be generated from a given amount of lignite coal.

The proposed project would minimize sulfur dioxide, oxides of nitrogen, mercury, and particulate emissions as compared to conventional lignite-fired power plants. The project would be expected to remove in excess of 99% of the sulfur dioxide produced in the IGCC process. The removal of nearly all of the fuel-bound nitrogen from the synthesis gas prior to combustion in the gas turbines would result in oxides of nitrogen emissions of less than 0.07 pounds per million Btu. At least 90% of the mercury in the lignite would be removed. Over 99% of the particulates in the synthesis gas would be removed using high-temperature, high-pressure filtration. In addition, the facility is planned for carbon capture systems sufficient to remove approximately 25% of CO_2. The CO_2 would be piped off-site for geologic sequestration via enhanced oil recovery in Jasper County, approximately 60 miles southwest of the project location. Ash generated by the gasifiers would be stored onsite or made available for appropriate recycling alternatives.

In addition to the gasifiers and turbines, new equipment for the project would include stacks, onsite deep groundwater supply wells, mechanical-draft cooling towers, synthesis gas cleanup facilities, and particulate filtration systems. The height of the proposed main stacks would be approximately 325 feet above ground. The project would also require systems for coal handling and storage, as well as plant roads, administration buildings, water and wastewater treatment systems, and ash handling and management facilities. Connected actions would include a natural gas supply pipeline, planned CO_2 capture systems and CO_2 pipeline, electric transmission facilities, and a surface lignite mine.

The overall objective of the project is to demonstrate the feasibility of this selected IGCC technology at a size that would be attractive to utilities for commercial operation. The lignite coal gasifier is based on a technology that Southern Company, KBR Inc., and DOE have been developing since 1996 at a research facility near Wilsonville, Alabama. The technology is unique among coal gasification technologies in that it is cost-effective when using low-rank coal, including lignite, as well as coals with high moisture or high ash content. These coals comprise about half the proven U.S. and worldwide reserves.

Project activities would include engineering and design, permitting, equipment procurement, construction, startup, operations, and demonstration of the commercial feasibility of the technology. If DOE decides to implement the proposed action upon completing the EIS and issuing a Record of Decision, the approximately 3-year construction period would be expected to commence in 2010, and operation of the plant would be expected to begin in 2013. Following a 4.5-year demonstration period, the facility would continue with commercial operations immediately afterward.

Connected Actions: While the proposed project under the cooperative agreement would consist of the gasifiers, synthesis gas cleanup systems, two CT/HRSGs, a steam turbine, and supporting facilities and infrastructure, the EIS will also address the construction and operation of the neighboring surface lignite coal mine, associated transmission lines (and substations), CO_2 capture systems and CO_2 pipeline, and a natural gas pipeline, as connected actions.

The mine would be operated by North American Coal Corporation and would provide the primary source of fuel for the project; the secondary source of fuel would be natural gas. Mining would result in two types of landscape disturbance during the 40-year life of mine area. Actual mining—the uncovering and removal of lignite—would disturb approximately 275 acres per year for about 40 years, or a total of about 11,000 acres. The mine would use draglines and a truck and shovel operation to remove the overburden, mine the lignite coal, and reclaim the site in accordance with a mine plan approved by the Mississippi Department of Environmental Quality. Actual mining would disturb uplands and wetlands and require stream diversions. The lignite coal would be transported by truck and/or overland conveyor. Following lignite removal, approximately 275 acres per year of mined land would be restored to approximate the pre-mine land contour and re-vegetated to a land use consistent with a mine reclamation plan approved by the Mississippi Department of Environmental Quality.

The second type of landscape disturbance is the associated mining disturbance that would result from the installation of facilities and structures supporting the actual mining operation. Facilities would include an entrance road, office, shop, fuel farm complex, dragline assembly area, employee and equipment parking areas, and electrical substations and transmission lines. Support structures would include temporary reservoirs, ponds, and associated stream diversions to route rainfall and surface water flows (*e.g.* streams, drainages, and tributaries) from undisturbed areas away from or around areas where actual mining disturbance would occur, and storm water sedimentation control ponds to retain and treat surface runoff from areas disturbed by the mining and reclamation operations. As mining advances, those diversions, ponds and roads that would no longer be needed to support mining would either be restored to their approximate pre-mine contour or retained as permanent post-mine structures with appropriate landowner and regulatory agency approval.

The outer boundary of the mining area would encompass approximately 31,000 acres principally in Kemper County and partially in Lauderdale County. Within this area, a total of approximately 15,500 acres would be disturbed and reclaimed over the life of the mine. These 15,500 acres would include approximately 11,000 acres for mining, approximately 4,000 acres for temporary reservoirs, ponds and stream diversions, and approximately 500 acres for mining support facilities. The mine would produce approximately 3.8 million tons of lignite per year to supply the IGCC project. The mine area has similar topographical characteristics as described for the plant site area above.

The proposed plant site is about 20 miles north of the existing Mississippi Power transmission infrastructure in the Meridian, Mississippi, metro area. New transmission facilities, including appropriate lines and substations, would be constructed to interconnect the plant to the existing grid and to provide firm transmission service for the plant's output. The new transmission lines would include construction of approximately 57 miles of 230 kilovolt (kV) transmission and approximately nine miles of 115 kV transmission. Rights-of-way (ROW) up to 125 feet would be required for these new transmission lines. The IGCC plant would also require approximately 27 miles of existing transmission lines to be upgraded. The new and upgraded transmission lines would be in Kemper, Lauderdale and Clarke Counties in Mississippi. An approximately 5-mile natural gas pipeline extending due east from the proposed facilities and an approximately 60-mile CO_2 pipeline would also be built. The CO_2 pipeline would extend from the plant through Lauderdale and Clarke counties and end in Jasper County, connecting to an existing CO_2 pipeline used for enhanced oil recovery. The ROW for these underground facilities would be up to 75 feet wide for the CO_2 pipeline and 50 feet wide for the natural gas pipeline.

Alternatives: NEPA requires that agencies evaluate the reasonable alternatives to the proposed action in an EIS. The range of reasonable alternatives encompasses those alternatives that would satisfy the underlying purpose and need for agency action. The CCPI program was established to help implement the President's National Energy Policy recommendation to increase investment in clean coal technology, thus improving the reliability and affordability of domestic energy supplies while simultaneously protecting the environment. The CCPI program was structured to achieve National Energy Policy goals by promoting private sector initiatives to invest in demonstrations of advanced coal technologies that could be widely deployed commercially. Rather than being responsible for the siting, construction, and operation of the projects, DOE's role is limited to evaluating applications by project sponsors to determine if they meet the CCPI program goals. The same is true of DOE's role with regard to applications under the loan guarantee program.

In determining the range of reasonable alternatives to be considered in the EIS for the proposed Kemper County IGCC Project, DOE identified the reasonable alternatives that would satisfy the underlying purpose and need for agency action. Because of DOE's limited role in deciding whether to provide cost-shared funding, and possibly a loan guarantee for the project, DOE currently plans to analyze in detail the project as proposed by Mississippi Power (proposed action), the proposed action as modified by conditions (*e.g.*, mitigation), and the no action alternative.

In analyzing the proposed action, DOE will analyze implementing options for the location of the plant footprint within the site boundaries, the route of linear facilities (transmission lines and pipelines), options for CO_2 sequestration (*e.g.*, saline aquifers), and other reasonable alternatives that may be suggested during the public scoping period.

Under the no action alternative, DOE would not provide continued funding under the cooperative agreement or provide a loan guarantee for the project. In the absence of DOE funding, Mississippi Power could reasonably pursue two options. These options will be analyzed under the no action alternative. First, the gasifiers, synthesis gas cleanup systems, CT/HRSGs and supporting infrastructure could be built as proposed without DOE funding; therefore, this option is essentially the same as the proposed action. The connected actions would remain unchanged. Second, Mississippi Power could choose not to pursue the IGCC project. None of the connected actions would likely be built. This option would not contribute to the goal of the CCPI program, which is to accelerate commercial deployment of advanced coal technologies that provide the United States with clean, reliable, and affordable energy. Similarly, the no-action alternative would not contribute to the Federal loan guarantee program goals to make loan guarantees for energy projects that ''avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and employ new or significantly improved technologies.''

Alternatives considered by Mississippi Power in developing the proposed project will be presented in the EIS. An analysis of alternative sites has been prepared by Mississippi Power indicating that the only reasonable site alternative is the Kemper County site based on location of accessible lignite reserves near Mississippi Power's service territory, proximity to infrastructure, topography, including the location of floodplains and wetlands, and available open space. DOE will describe and consider Mississippi Power's site selection process in the EIS, however DOE does not plan to analyze in detail the alternatives sites considered by Mississippi Power, because DOE agrees with Mississippi Power's conclusion that the sites are not reasonable alternatives.

Floodplains and Wetlands Involvement: Plans for siting the IGCC facility on the plant site are such that the IGCC footprint would avoid to the extent practicable wetlands and floodplains impacts. Final design for the access roads from the mine to the coal handling facilities and other ancillary plant facilities is not yet complete, but may involve impacts to both wetlands and floodplains. Impacts on wetlands and floodplains would be avoided to the extent practicable and any unavoidable impacts would be minimized and mitigated appropriately.

Linear facilities include new and upgraded transmission lines, CO_2 pipeline, and natural gas pipeline. Wetlands delineation surveys are not yet complete; however, it is expected that some wetland impacts would occur. Construction and operation of the linear facilities are not expected to impact floodplains. Wetland impacts would be avoided to the extent practicable and any direct impacts would be minimized and mitigated appropriately.

As noted above, the lignite mine operations would disturb uplands and wetlands and will require stream diversions. Wetlands delineation surveys are not yet complete; however, wetlands and floodplain impacts are an inevitable part of surface mine operations due to the acreage required for the operation. Minimization and mitigation of these impacts and reclamation of disturbed areas would comply with the Mississippi Department of Environmental Quality approved mine plan.

DOE will prepare a floodplain and wetlands assessment in accordance with its regulations at 10 CFR Part 1022 and include the assessment in the EIS.

Preliminary Identification of Environmental Issues: The following environmental issues have been tentatively identified for analysis in the EIS. This list, which was developed from preliminary internal scoping of the proposed technology, permit applications that have been filed for the proposed project, and information from similar projects, is neither intended to be all-inclusive nor a predetermined set of potential impacts, but is presented to facilitate public comment on the planned scope of the EIS. Additions to or deletions from this list may occur as a result of the public scoping process. The environmental issues include:

(1) Atmospheric Resources: Potential air quality impacts resulting from air emissions during construction and operation of the proposed Kemper County IGCC Project and the connected actions (*e.g.*, effects of ground-level concentrations of criteria pollutants and trace metals including mercury, on surrounding areas, including those of special concern such as Prevention of Significant Deterioration Class I areas). Potential effects of greenhouse gas emissions.

(2) Water Resources: Potential effects of groundwater withdrawals and discharges of effluents to surface waters. Potential water resources impacts resulting from construction and operation of the connected actions.

(3) Infrastructure and Land Use: Potential effects on existing infrastructure and land uses resulting from the construction and operation of the proposed IGCC project and connected action facilities. For example, potential traffic effects resulting from the proposed project and potential land use impacts of committing land to power plant or temporary land use impacts of mining.

(4) Solid Waste: Pollution prevention and waste management issues, including potential solid waste impacts caused by the generation, treatment, transport, storage, and management of ash and solid wastes.

(5) Visual: Potential aesthetic impacts associated with new stacks, mechanical-draft cooling tower, two flare derricks, and other plant structures included in the IGCC plant and from the connected actions.

(6) Floodplain: Potential impacts (*e.g.*, impeding floodwaters, re-directing floodwaters, onsite property damage) of siting structures and infrastructure within a floodplain.

(7) Wetlands: Potential effects to wetlands due to construction and operation of the power plant and the connected action facilities.

(8) Ecological: Potential onsite and offsite impacts to vegetation, terrestrial wildlife, aquatic wildlife, threatened and endangered species (other than broadly distributed and wide ranging species such as the bald eagle and red-cockaded woodpecker, the threatened Price's potato bean is the only Federally protected species known to occur in Kemper County), and ecologically sensitive habitats due to the construction and operation of the power plant and connected actions.

(9) Safety and Health: Construction-related safety, process safety, and management of process chemicals and materials.

(10) Construction: Potential impacts associated with noise, traffic patterns, and construction-related emissions.

(11) Community Impacts: Potential congestion and other impacts to local traffic patterns; socioeconomic impacts on public services and infrastructure (*e.g.*, police protection, schools, and utilities); noise associated with project operation; and environmental justice issues with respect to the surrounding community.

(12) Cultural and Archaeological Resources: Potential impacts to such resources associated with construction of the project and connected actions.

(13) Cumulative Effects: The incremental impacts of the proposed project (*e.g.*, incremental air emissions affecting ambient air quality) when added to other past, present, and reasonably foreseeable future actions, including the connected actions. This analysis will include potential impacts on global climate change.

The level of analysis of issues analyzed in the EIS will be in accordance with their level of importance and as determined by the scoping process. The most detailed analyses are tentatively expected to focus on potential impacts on air resources, cultural and archaeological resources, communities (noise and traffic), water resources, wetlands, and ecological resources.

Public Scoping Process: To ensure that all issues related to this proposal are properly addressed, DOE will conduct an open process to define the scope of the EIS. The public scoping period will end on October 23, 2008. Interested agencies, organizations, and the general public are encouraged to submit comments or suggestions concerning the content of the EIS, issues and impacts to be addressed in the EIS, and alternatives that should be considered. Scoping comments should clearly describe specific issues or topics that the EIS should address in order to assist DOE in identifying significant issues. Written, e-mailed, faxed, or telephoned comments should be communicated by October 23, 2008 (see **ADDRESSES**).

In addition, DOE will conduct a public scoping meeting at the Kemper County High School, 429 Philadelphia Road, DeKalb, Mississippi, at 7 PM on October 14, 2008. The public is also invited to learn more about the proposed project at an informal session at this location beginning at 5 PM. DOE requests that anyone who wishes to speak at this public scoping meeting contact Mr. Richard A. Hargis, either by phone, fax, computer, or in writing (see **ADDRESSES**).

Individuals who do not make advance arrangements to speak may register at the meeting and will be given the opportunity to speak following previously scheduled speakers. Speakers who need more than five minutes should indicate the length of time desired in their request. Depending on the number of speakers, DOE may need to limit speakers to five-minute presentations initially, but will provide additional opportunities as time permits. Speakers can also provide written material to supplement their presentations. Oral and written comments will be given equal weight.

DOE will begin the formal meeting with an overview of the proposed Kemper County IGCC Project. DOE will designate a presiding officer to chair the meeting. The meeting will not be conducted as an evidentiary hearing, and speakers will not be cross-examined. However, speakers may be asked questions to ensure that DOE fully understands their comments or suggestions. The presiding officer will establish the order of speakers and provide any additional procedures necessary to conduct the meeting.

Issued in Washington, DC, this 17th day of September 2008.

James A. Slutz,

Assistant Secretary (Acting), Office of Fossil Energy.

[FR Doc. E8–22100 Filed 9–19–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Interim Approval

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of Interim Approval for Southeastern Power Administration Cumberland System.

SUMMARY: The Deputy Secretary of Energy confirmed and approved, on an interim basis, Rate Schedules CBR–1–G, CSI–1–G, CEK–1–G, CM–1–G, CC–1–H, CK–1–G, CTV–1–G, and Replacement-3. The rates were approved on an interim basis through September 30, 2013. The new rates take effect on October 1, 2008, and are subject to confirmation and approval on a final basis by the Federal Energy Regulatory Commission (''FERC'').

DATES: Approval of the rate schedules on an interim basis is effective October 1, 2008, through September 30, 2013.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Assistant

Administrator, Finance & Marketing, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635–6711, (706) 213–3800.

SUPPLEMENTARY INFORMATION: On August 19, 2008, FERC confirmed and approved Interim Wholesale Power Rate Schedules CBR–1–F, CSI–1–F, CEK–1–F, CM–1–F, CC–1–G, CK–1–F, and CTV–1–F for the period from February 25, 2008 to September 30, 2008.

Dated: September 12, 2008.

Jeffrey F. Kupfer,

Acting Deputy Secretary.

DEPARTMENT OF ENERGY DEPUTY SECRETARY

In the Matter of: Southeastern Power Administration

Cumberland System Rates

[Rate Order No. SEPA–50]

Order Confirming and Approving Power Rates on an Interim Basis

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (''Southeastern'' or ''SEPA'') were transferred to and vested in the Secretary of Energy. By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated to Southeastern's Administrator the authority to develop power and transmission rates, and delegated to the Deputy Secretary of Energy the authority to confirm, approve, and place in effect such rates on an interim basis, and delegated to the Federal Energy Regulatory Commission (''FERC'') the authority to confirm, approve, and place into effect on a final basis or to disapprove rates developed by the Administrator under the delegation. This rate order is issued by the Deputy Secretary pursuant to said notice.

Background

The FERC issued an order approving Rate Schedules CBR–1–F, CSI–1–F, CEK–1–F, CM–1–F, CC–1–G, CK–1–F, and CTV–1–F on a final basis for the sale of power from the Cumberland System August 19, 2008 (124 FERC ¶ 62,139).

The power marketing policy provides peaking capacity, along with 1500 hours of energy with each kilowatt of capacity, to customers outside the Tennessee Valley Authority (''TVA'') transmission system. Due to restrictions on the operations of the Wolf Creek and Center Hill Projects imposed by the U.S. Army Corps of Engineers (''Corps'') as a precaution to prevent failure of the dam, Southeastern has not been able to provide peaking capacity to these customers. An interim operating plan for the Cumberland System provides these customers with energy that does not include capacity.

Public Notice and Comment

Notice of a proposed rate adjustment was published in the **Federal Register** April 11, 2008 (73 FR 19832). The notice advised interested parties of a public information and comment forum to be held in Nashville, Tennessee on May 22, 2008. Written comments were accepted on or before July 10, 2008. Written comments were received from six sources pursuant to this notice.

Comment 1: There is concern * * * whether the amounts included for Corps Operation and Maintenance (''O&M'') expense are appropriate forecasts in light of potential budget cuts in Corps appropriations in Fiscal Year 2009.

The Southeastern Federal Power Customers, Inc. (''SeFPC'' or ''Customers'') has frequently questioned whether the amounts for Corps O&M and at times renewals and replacements, in a proposed rate are appropriate when Congress appears poised to reduce the funding levels for these precise activities. In particular, the Customers have not wanted to pay more in rates than what the Corps will receive from Congress for O&M and renewals and replacement activity. Therefore, the Customers encourage SEPA to examine closely the proposed O&M projections to ensure that they appropriately align with anticipated appropriations.

Response 1: The Corps provides O&M estimates to Southeastern annually. The customers have an opportunity to review the Corps' estimated and actual costs annually through the O&M committee of the SeFPC. Southeastern believes that the estimates are the best available.

Comment 2: * * * the SeFPC suggests that SEPA develop a consultation and related true-up process for implementing a rate in the event that capacity is made available. Under the consultation and true-up process suggested * * * SEPA would consult with preference customers regarding available capacity to market to all existing customers of the Cumberland River Basin projects. The consultation could involve a meeting or conference call or some other communication depending upon the immediacy of the available capacity. During this conference with the customers, SEPA would explain how it intends to market the capacity and how it would recover the necessary revenues. At or around this time, the customers could suggest how the marketing of the capacity could be adjusted, including offering comments as suitable on the appropriate pricing for capacity and energy. SEPA would consider the input from the customers and make modifications as deemed appropriate for the implementation of the interim rate for capacity and energy sales.

To remain true to the proposed rate, the Customers recommend that SEPA evaluate the sales of capacity and energy on an ongoing, yet practical, basis to determine whether the capacity and energy delivered was consistent with the projections used to develop the rates under rate Alternative Two. In the event that there is a significant deviation in the amount of delivered capacity and energy from the projections used to prepare the rate, SEPA would again consult with the customers. As appropriate, SEPA would change the interim rate for the capacity and energy sales to ensure that the delivery of the benefits of the projects remains consistent with the underlying marketing plan for the Cumberland System of Projects.

Response 2: Southeastern will consult with Cumberland System customers on any marketing arrangements and rate design matters involved in the rates under Alternative Two. The consultation could include meetings, conference calls, or some other communications depending on the immediacy of the available capacity. Southeastern will consider the input from the customers and make modifications Southeastern deems appropriate for the implementation of the interim rate for capacity and energy sales.

Southeastern does not believe a true-up mechanism is appropriate or necessary for the rates that may be established under Alternative Two. Southeastern evaluates and monitors all sales of capacity and energy on an ongoing, continuous basis and makes changes when Southeastern determines they are appropriate.

Comment 3: South Mississippi Electric Power Association (''SMEPA'') encourages SEPA to examine closely the proposed rate increase and keep it to the absolute minimum required to satisfy SEPA revenue requirements.

Response 3: Under the Flood Control Act of 1944 (''Act''), Southeastern is required to market power at the lowest possible rates consistent with sound business principles. The Administrator has certified that the proposed rates satisfy this requirement of the Act.

Comment 4: East Kentucky Power Cooperative (''EKPC'') submits that SEPA is not purchasing firm transmission service for the 70 MW at the Laurel Dam facility; therefore, EKPC should not have to pay a firm TVA transmission service charge for that capacity.

Response 4: By contract, under normal operating conditions, EKPC will receive 170 MW from the Cumberland projects. Delivery of EKPC's allocation is not limited to the operations of any Cumberland project. The output of the Laurel Project, which is in EKPC's control area, is supplemented by energy and capacity from the Cumberland Projects in TVA's control area. Southeastern believes it is appropriate to continue to recover the TVA transmission charge from EKPC's full allocation.

Comment 5: It is TVA's understanding that there were certain errors in the financial information set forth in Exhibit 5 of SEPA's rate change support materials. Those errors in turn resulted in errors in the calculation of the published proposed rate changes for TVA and for SEPA's other Cumberland System customers. It is TVA's understanding that SEPA is aware of those errors and intends to correct them.

Accordingly, TVA's forbearance of raising objections to the proposed rate changes is based on TVA's expectation that these corrections will be made such that the new rates to be paid by all SEPA's Cumberland System customers will be increased by approximately the same 4.9 per centum consistent with SEPA's own policies for such rate changes regarding the Cumberland System of Projects.

Response 5: Southeastern has corrected certain errors in the rate design of the proposed rates under Alternative Three. After correcting the errors, the rate adjustment is about five percent (5%) for all Cumberland customers except those in Carolina Power & Light, Western Division (''CP&L''). The CP&L area customers' increase is less because the CP&L transmission rate has not changed.

Comment 6: The purpose for the proposed rate changes cannot be achieved unless the Corps, SEPA, and the Cumberland System customers reach agreement upon and implement Memorandums of Agreement (''MOAs'') sufficient to cover each and all of Fiscal Years 2008 through 2028 and related Sub-agreements. Accordingly, TVA's forbearance of raising objections to the proposed rate changes is based on TVA's expectation that MOAs and related Sub-agreements * * * will be executed and appropriately implemented.

The Tennessee Valley Public Power Association (''TVPPA'') respectfully recommends that unless and until the United States Army Corps of Engineers (''USACE''), the Southeastern Power Administration (''SEPA'') and the Cumberland System Customers of SEPA have reached an agreement with a specific understanding as to amount and duration for rehabilitation and replacement work on the USACE hydroelectric projects on the Cumberland System, that the rate increase should not be implemented.

Response 6: Southeastern is required to include estimates of replacements and additions in the repayment study to support the proposed rate schedules. Southeastern believes the estimates of replacements and additions included in this rate adjustment are the best available. Southeastern believes this rate adjustment would be necessary independent of the implementation of MOAs and related Sub-agreements.

Discussion

System Repayment

An examination of Southeastern's revised system power repayment study, prepared in July 2008, for the Cumberland System, shows that with the proposed rates, all system power costs are paid within the 50-year repayment period required by existing law and DOE Order RA 6120.2. The Administrator of Southeastern has certified that the rates are consistent with applicable law and that they are the lowest possible rates to customers consistent with sound business principles.

Environmental Impact

Southeastern has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded that, because the adjusted rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates, including studies, and other supporting materials, is available for public review in the offices of Southeastern Power Administration, 1166 Athens Tech Road, Elberton, Georgia 30635–6711.

Submission to the Federal Energy Regulatory Commission

The rates hereinafter confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to FERC for confirmation and approval on a final basis, ending no later than September 30, 2013.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 1, 2008, attached Wholesale Power Rate Schedules CBR–1–G, CSI–1–G, CEK–1–G, CM–1–G, CC–1–H, CK–1–G, CTV–1–G, and Replacement–3. The rate schedules shall remain in effect on an interim basis through September 30, 2013, unless such period is extended or until FERC confirms and approves them or substitute rate schedules on a final basis.

Dated: September 12, 2008.

Jeffrey F. Kupfer,

Acting Deputy Secretary.

Wholesale Power Rate Schedule CBR–1–G

Availability

This rate schedule shall be available to Big Rivers Electric Corporation and includes the City of Henderson, Kentucky, (hereinafter called the Customer).

Applicability

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 13,800 volts and 161,000 volts to the transmission system of Big Rivers Electric Corporation.

Points of Delivery

Capacity and energy delivered to the Customer will be delivered at points of interconnection of the Customer at the Barkley Project Switchyard, at a delivery point in the vicinity of the Paradise steam plant and at such other points of delivery as may hereafter be agreed upon by the Government and TVA.

Billing Month

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Conditions of Service

The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of TVA on its side of the delivery point.

Southeastern is including three rate alternatives. All of the rate alternatives have a revenue requirement of $50,400,000.

Rate Alternative 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the Tennessee Valley Authority (TVA) transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U.S. Army Corps of Engineers as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Alternative 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

None.

Energy Charge

12.67 mills per kilowatt-hour.

Transmission

The Customer will pay a ratable percent listed below of the credit the Administrator of Southeastern Power Administration (Administrator) provides to the Tennessee Valley Authority (TVA) as consideration for delivering capacity and energy for the account of the Administrator to points of delivery of Other Customers or interconnection points of delivery with other electric systems for the benefit of Other Customers, as agreed by contract between the Administrator and TVA.

Big Rivers Electric Corporation—32.660%

City of Henderson, Kentucky—2.202%

Energy To Be Furnished by the Government

The Customer will receive a ratable share of the energy made available by the Nashville District of the U.S. Army Corps of Engineers.

Rate Alternative 2—Cost Recovered From Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $50,400,000, the same as the revenue requirement in Alternatives 1 and 3. The rate alternative 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under alternative 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Alternative 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$3.538 per kilowatt/month of total contract demand.

Energy Charge

None.

Energy To Be Furnished by the Government

The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all SEPA customers outside TVA and served by TVA does not exceed 240 hours per kilowatt of the total contract demands of these customers.

Service Interruption

When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\left(\text{Number of kilowatts unavailable for at least 12 hours in any calendar day}\right)\times\left(\frac{\text{Monthly Capacity Charge}}{\text{Number of Days in Billing Month}}\right)$$

Wholesale Power Rate Schedule CSI–1–G

Availability

This rate schedule shall be available to Southern Illinois Power Cooperative (hereinafter the Customer).

Applicability

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 13,800 volts and 161,000 volts to the transmission system of Big Rivers Electric Corporation.

Points of Delivery

Capacity and energy delivered to the Customer will be delivered at points of interconnection of the Customer at the Barkley Project Switchyard, at a delivery point in the vicinity of the Paradise steam plant and at such other points of delivery as may hereafter be agreed upon by the Government and TVA.

Billing Month

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Southeastern is including three rate alternatives. All of the rate alternatives have a revenue requirement of $50,400,000.

Rate Alternative 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the Tennessee Valley Authority (TVA) transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U.S. Army Corps of Engineers as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Alternative 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

None.

Energy Charge

12.67 mills per kilowatt-hour.

Transmission Charge

The Customer will pay 5.138 percent of the credit the Administrator of Southeastern Power Administration (Administrator) provides to the Tennessee Valley Authority (TVA) as consideration for delivering capacity and energy for the account of the Administrator to points of delivery of Other Customers or interconnection points of delivery with other electric systems for the benefit of Other Customers, as agreed by contract between the Administrator and TVA.

Energy To Be Furnished by the Government

The Customer will receive a ratable share of the energy made available by the Nashville District of the U.S. Army Corps of Engineers.

Rate Alternative 2—Cost Recovered From Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $50,400,000, the same as the revenue requirement in Alternatives 1 and 3. The rate alternative 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under alternative 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Alternative 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$3.538 per kilowatt/month of total contract demand.

Energy Charge

None.

Energy To Be Furnished by the Government

The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all SEPA customers outside TVA and served by TVA does not exceed 240 hours per kilowatt of the total contract demands of these customers.

Service Interruption

When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$(\text{Number of kilowatts unavailable for at least 12 hours in any calendar day}) \times \left(\frac{\text{Monthly Capacity Charge}}{\text{Number of Days in Billing Month}} \right)$$

Wholesale Power Rate Schedule CEK–1–G

Availability

This rate schedule shall be available to East Kentucky Power Cooperative (hereinafter called the Customer).

Applicability

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and power available from the Laurel Project and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of the Customer.

Points of Delivery

The points of delivery will be the 161,000 volt bus of the Wolf Creek Power Plant and the 161,000 volt bus of the Laurel Project. Other points of delivery may be as agreed upon.

Billing Month

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Conditions of Service

The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of TVA on its side of the delivery point.

Southeastern is including three rate alternatives. All of the rate alternatives have a revenue requirement of $50,400,000.

Rate Alternative 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the Tennessee Valley Authority (TVA) transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U. S. Army Corps of Engineers as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Alternative 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

None.

Energy Charge

12.67 mills per kilowatt-hour.

Transmission Charge

The Customer will pay 31.192 percent of the credit the Administrator of Southeastern Power Administration (Administrator) provides to the Tennessee Valley Authority (TVA) as consideration for delivering capacity and energy for the account of the Administrator to points of delivery of Other Customers or interconnection points of delivery with other electric systems for the benefit of Other Customers, as agreed by contract between the Administrator and TVA.

Energy To Be Furnished by the Government

The Customer will receive a ratable share of the energy made available by the Nashville District of the U.S. Army Corps of Engineers.

Rate Alternative 2—Cost Recovered from Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $50,400,000, the same as the revenue requirement in Alternatives 1 and 3. The rate alternative 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under alternative 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Alternative 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$2.364 per kilowatt/month of total contract demand.

Energy Charge

9.392 mills per kilowatt-hour.

Energy To Be Furnished by the Government

The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand plus 369 kilowatt-hours of energy delivered for each kilowatt of contract demand to supplement energy available at the Laurel Project. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all SEPA customers outside TVA and served by TVA does not exceed 240 hours per kilowatt of the total contract demands of these customers.

Service Interruption

When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$(\text{Number of kilowatts unavailable for at least 12 hours in any calendar day}) \times \left(\frac{\text{Monthly Capacity Charge}}{\text{Number of Days in Billing Month}}\right)$$

Wholesale Power Rate Schedule CM–1–G

Availability

This rate schedule shall be available to the South Mississippi Electric Power Association, Municipal Energy Agency of Mississippi, and Mississippi Delta Energy Agency (hereinafter called the Customers).

Applicability

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of Mississippi Power and Light.

Points of Delivery

The points of delivery will be at interconnection points of the Tennessee Valley Authority system and the Mississippi Power and Light system. Other points of delivery may be as agreed upon.

Billing Month

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective on the last day of each calendar month.

Southeastern is including three rate alternatives. All of the rate alternatives have a revenue requirement of $50,400,000.

Rate Alternative 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the Tennessee Valley Authority (TVA) transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U.S. Army Corps of Engineers as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Alternative 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

None.

Energy Charge

12.67 mills per kilowatt-hour.

Transmission Charge

The Customer will pay a ratable percent listed below of the credit the Administrator of Southeastern Power Administration (Administrator) provides to the Tennessee Valley Authority (TVA) as consideration for delivering capacity and energy for the account of the Administrator to points of delivery of Other Customers or interconnection points of delivery with other electric systems for the benefit of Other Customers, as agreed by contract between the Administrator and TVA.

Mississippi Delta Energy Agency—2.058%
Municipal Energy Agency of Mississippi—3.447%
South Mississippi EPA—9.358%

Energy To Be Furnished by the Government

The Customer will receive a ratable share of the energy made available by the Nashville District of the U.S. Army Corps of Engineers.

Rate Alternative 2—Cost Recovered From Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $50,400,000, the same as the revenue requirement in Alternatives 1 and 3. The rate alternative 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under alternative 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Alternative 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$3.538 per kilowatt/month of total contract demand.

Energy Charge

None.

Energy To Be Furnished by the Government

The Government shall make available each contract year to the Customer from the Projects through the Customer's interconnections with TVA and the Customer will schedule and accept an allocation of 1500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the Customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the Customer's contract demand. The Customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the Customer's contract demand; provided, that the combined schedule of all SEPA Customers outside TVA and served by TVA does not exceed 240 hours per kilowatt of the total contract demands of these Customers.

In the event that any portion of the capacity allocated to the Customers is not initially delivered to the Customers as of the beginning of a full contract year, the 1500 kilowatt hours shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

Service Interruption

When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\left(\text{Number of kilowatts unavailable for at least 12 hours in any calendar day}\right)\times\left(\frac{\text{Monthly Capacity Charge}}{\text{Number of Days in Billing Month}}\right)$$

Wholesale Power Rate Schedule CC–1–H

Availability

This rate schedule shall be available to public bodies and cooperatives served through the facilities of Carolina Power & Light Company, Western Division (hereinafter called the Customers).

Applicability

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission system of Carolina Power & Light Company, Western Division.

Points of Delivery

The points of delivery will be at interconnecting points of the Tennessee Valley Authority system and the Carolina Power & Light Company, Western Division system. Other points of delivery may be as agreed upon.

Billing Month

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Southeastern is including three rate alternatives. All of the rate alternatives have a revenue requirement of $50,400,000.

Rate Alternative 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the Tennessee Valley Authority (TVA) transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U.S. Army Corps of Engineers as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Alternative 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

None.

Energy Charge

12.67 mills per kilowatt-hour.

TVA Transmission Charge

The Customer will pay a ratable percent listed below of the credit the Administrator of Southeastern Power Administration (Administrator) provides to the Tennessee Valley Authority (TVA) as consideration for delivering capacity and energy for the account of the Administrator to points of delivery of Other Customers or interconnection points of delivery with other electric systems for the benefit of Other Customers, as agreed by contract between the Administrator and TVA.

French Broad EMC—1.713%
Haywood EMC—0.501%
Town of Waynesville—0.355%

CP&L Transmission Charge

The Customer will pay a ratable percent listed below of the charge for transmission service furnished by Carolina Power & Light Company, Western Division.

French Broad EMC—66.667%
Haywood EMC—19.512%
Town of Waynesville—13.821%

Energy To Be Furnished by the Government

The Government will sell to the customer and the customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to Carolina Power & Light Company (less applicable losses). The Customer's contract demand and accompanying energy allocation will be divided pro rata among its individual delivery points served from the Carolina Power & Light Company's Western Division transmission system.

Rate Alternative 2—Cost Recovered From Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $50,400,000, the same as the revenue requirement in Alternatives 1 and 3. The rate alternative 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under alternative 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Alternative 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$4.027 per kilowatt/month of total contract demand.

Energy Charge

None.

CP&L Transmission Charge

$1.1022 per kilowatt/month of total contract demand.

The CP&L transmission rate is subject to annual adjustment on April 1 of each year and will be computed subject to the formula in Appendix A attached to the Government-Carolina Power & Light Company contract.

Energy To Be Furnished by the Government

The Government will sell to the customer and the customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to Carolina Power & Light Company (less six percent (6%) losses). The Customer's contract demand and accompanying energy allocation will be divided pro rata among its individual delivery points served from the Carolina Power & Light Company's Western Division transmission system.

Wholesale Power Rate Schedule CK–1–G

Availability

This rate schedule shall be available to public bodies served through the facilities of Kentucky Utilities Company (hereinafter called the Customers.)

Applicability

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of Kentucky Utilities Company.

Points of Delivery

The points of delivery will be at interconnecting points between the Tennessee Valley Authority system and the Kentucky Utilities Company system. Other points of delivery may be as agreed upon.

Billing Month

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective on the last day of each calendar month.

Southeastern is including three rate alternatives. All of the rate alternatives have a revenue requirement of $50,400,000.

Rate Alternative 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the Tennessee Valley Authority (TVA) transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U.S. Army Corps of Engineers as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Alternative 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

None.

Energy Charge

12.67 mills per kilowatt-hour.

Transmission Charge

The Customer will pay a ratable percent listed below of the credit the Administrator of Southeastern Power Administration (Administrator) provides to the Tennessee Valley Authority (TVA) as consideration for delivering capacity and energy for the account of the Administrator to points of delivery of Other Customers or interconnection points of delivery with other electric systems for the benefit of Other Customers, as agreed by contract between the Administrator and TVA.

City of Barbourville	0.404%
City of Bardstown	0.412%
City of Bardwell	0.099%
City of Benham	0.046%
City of Corbin	0.477%
City of Falmouth	0.108%
City of Frankfort	2.866%
City of Madisonville	1.432%
City of Nicholasville	0.469%
City of Owensboro	4.587%
City of Paris	0.250%
City of Providence	0.226%

Energy To Be Furnished by the Government

The Customer will receive a ratable share of the energy made available by the Nashville District of the U.S. Army Corps of Engineers.

Rate Alternative 2—Cost Recovered From Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $50,400,000, the same as the revenue requirement in Alternatives 1 and 3. The rate alternative 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under alternative 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Alternative 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$3.538 per kilowatt/month of total contract demand

Energy Charge

None.

Additional Energy Charge

9.392 mills per kilowatt-hour.

Energy To Be Furnished by the Government

The Government shall make available each contract year to the Customer from the Projects and the Customer will accept an allocation of 1500 kilowatt-hours of energy for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the Customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the Customer's contract demand. The Customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the Customer's contract demand; provided, that the combined schedule of all SEPA Customers outside TVA and served by TVA does not exceed 240 hours per kilowatt of the total contract demands of these Customers.

In the event that any portion of the capacity allocated to the Customers is not initially delivered to the Customers as of the beginning of a full contract year, the 1500 kilowatt hours shall be reduced 1⁄12 for each month of that year prior to initial delivery of such capacity.

For billing purposes, each kilowatt of capacity will include 1500 kilowatt-hours energy per year. Customers will pay for additional energy at the additional energy rate.

Wholesale Power Rate Schedule CTV–1–G

Availability

This rate schedule shall be available to the Tennessee Valley Authority (hereinafter called TVA).

Applicability

This rate schedule shall be applicable to electric capacity and energy generated at the Dale Hollow, Center Hill, Wolf Creek, Old Hickory, Cheatham, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereafter called collectively the ''Cumberland Projects'') and the Laurel Project sold under agreement between the Department of Energy and TVA.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a frequency of approximately 60 Hertz at the outgoing terminals of the Cumberland Projects' switchyards.

Billing Month

The billing month for capacity and energy sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Contract Year

For purposes of this rate schedule, a contract year shall be as in Section 13.1 of the Southeastern Power Administration—Tennessee Valley Authority Contract.

Power Factor

TVA shall take capacity and energy from the Department of Energy at such power factor as will best serve TVA's system from time to time; provided, that TVA shall not impose a power factor of less than .85 lagging on the Department of Energy's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Southeastern is including three rate alternatives. All of the rate alternatives have a revenue requirement of $50,400,000.

Rate Alternative 1—Interim Operating Plan

The final marketing policy for the Cumberland System was published in the **Federal Register** August 5, 1993 (58 FR 41762). The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the Tennessee Valley Authority (TVA) transmission system. Due to restrictions on the operation of the Wolf Creek Project and the Center Hill Project imposed by the U. S. Army Corps of Engineers as a precaution to prevent failure of the dams, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity. The rates under Alternative 1 will remain in effect for the duration of the Interim Operating Plan.

Monthly Rates

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

None.

Energy Charge

12.67 mills per kilowatt-hour.

Energy To Be Made Available

The Customer will receive a ratable share of the energy made available by the Nashville District of the U.S. Army Corps of Engineers.

Rate Alternative 2—Cost Recovered From Capacity and Energy

This rate alternative will be implemented if a portion of the Cumberland Capacity can be scheduled, though not all the capacity in the published marketing policy can be scheduled. The revenue requirement under this alternative is $50,400,000, the same as the revenue requirement in Alternatives 1 and 3. The rate alternative 2 will receive revenues from capacity that can be scheduled and the remainder from energy, at charges that will be determined at the time. Under alternative 2, the cost of the TVA transmission credit will be passed to customers outside the TVA System. This rate alternative will be in effect when the Corps modifies operation of the Wolf Creek Project and the Center Hill Project to allow some of the capacity scheduled. When the lake level rises and capacity is available, the capacity will be allocated on an interim basis to the customers.

Rate Alternative 3—Original Cumberland Marketing Policy

The third rate alternative will go into effect once the Corps lifts all restrictions on the operation of the Wolf Creek Dam and Center Hill Dam and Southeastern returns to operations that support the published marketing policy.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$2.072 per kilowatt/month of total contract demand.

Energy Charge

None.

Additional Energy Charge

9.392 mills per kilowatt-hour.

Energy To Be Made Available

The Department of Energy shall determine the energy that is available from the projects for declaration in the billing month.

To meet the energy requirements of the Department of Energy's customers outside the TVA area (hereinafter called Other Customers), 768,000 megawatt-hours of net energy shall be available annually (including 36,900 megawatt-hours of annual net energy to supplement energy available at Laurel Project). The energy requirement of the Other Customers shall be available annually, divided monthly such that the maximum available in any month shall not exceed 240 hours per kilowatt of total Other Customers contract demand, and the minimum amount available in any month shall not be less than 60 hours per kilowatt of total Other Customers demand.

In the event that any portion of the capacity allocated to Other Customers is not initially delivered to the Other Customers as of the beginning of a full contract year, (July through June), the 1500 hours, plus any such additional energy required as discussed above, shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

The energy scheduled by TVA for use within the TVA System in any billing month shall be the total energy delivered to TVA less (1) an adjustment for fast or slow meters, if any, (2) an adjustment for Barkley-Kentucky Canal of 15,000 megawatt-hours of energy each month which is delivered to TVA under the agreement from the Cumberland Projects without charge to TVA, (3) the energy scheduled by the Department of Energy in said month for the Other Customers plus losses of two (2) percent, and (4) station service energy furnished by TVA.

Each kilowatt of capacity will include 1500 kilowatt-hours of energy per year, which is defined as base energy. Energy received in excess of 1500 kilowatt-hours per kilowatt will be subject to an additional energy charge identified in the monthly rates section of this rate schedule.

Service Interruption

When delivery of capacity to TVA is interrupted or reduced due to conditions on the Department of Energy's system that are beyond its control, the Department of Energy will continue to make available the portion of its declaration of energy that can be generated with the capacity available.

For such interruption or reduction (exclusive of any restrictions provided in the agreement) due to conditions on the Department of Energy's system which have not been arranged for and agreed to in advance, the demand charge for scheduled capacity made available to TVA will be reduced as to the kilowatts of such scheduled capacity which have been so interrupted or reduced for each day in accordance with the following formula:

$$\left(\begin{array}{l}\text{Number of kilowatts unavailable for}\\ \text{at least 12 hours in any calendar day}\end{array}\right)\times\left(\frac{\text{Monthly Capacity Charge}}{\text{Number of Days in Billing Month}}\right)\times\left(\frac{\text{Contract Demand}}{\text{880,000 Kilowatts}}\right)$$

Wholesale Rate Schedule Replacement—3

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Virginia, North Carolina, Tennessee, Georgia, Alabama, Mississippi, Kentucky and southern Illinois to whom power is provided pursuant to contracts between the Government and the customer from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest, Cordell Hull, and Laurel Projects (all of such projects being hereinafter called collectively the "Cumberland Projects").

Applicability

This rate schedule shall be applicable to the sale of wholesale energy purchased to meet contract minimum energy sold under appropriate contracts between the Government and the Customer.

Character of Service

The energy supplied hereunder will be delivered at the delivery points provided for under appropriate contracts between the Government and the Customer.

Monthly Charge

The rate for replacement energy will be a formulary capacity charge based on the monthly cost to the Government to purchase replacement energy necessary to support capacity in the Cumberland System divided by the capacity available from the Cumberland System, which is 950,000 kilowatts in the published power marketing policy. The capacity rate will be adjusted for any capacity retained by the Customer's transmission facilitator.

Conditions of Service

The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system.

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DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Submission for OMB Review; Comment Request.

SUMMARY: The EIA has submitted the Petroleum Supply Reporting System package to the Office of Management and Budget (OMB) for review and a three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq*).

DATES: Comments must be filed by October 22, 2008. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

ADDRESSES: Send comments to OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure receipt of the comments by the due date, submission by FAX at 202–395–7285 or e-mail to *Nathan_J._Frey@omb.eop.gov* is recommended. The mailing address is 726 Jackson Place, NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–7345. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Grace Sutherland. To ensure receipt of the comments by the due date, submission by FAX (202–586–5271) or e-mail (*grace.sutherland@eia.doe.gov*) is also recommended. The mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Ms. Sutherland may be contacted by telephone at (202) 586–6264.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collection submitted to OMB for review: (1) The collection numbers and title; (2) the sponsor (i.e., the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (i.e., new, revision, extension, or reinstatement); (5) response obligation (i.e., mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (i.e., the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. Forms EIA–800, 801, 802, 803, 804, 805, 810, 811, 812, 813, 814, 815, 816, 817, 819, 820 ''Petroleum Supply Reporting System''.
2. Energy Information Administration.
3. OMB Number 1905–0165.
4. Three-year extension.
5. Mandatory.
6. EIA's Petroleum Supply Reporting System collects information needed for determining the supply and disposition of crude oil, petroleum products, and natural gas liquids. The data are published by EIA and are used by public and private analysts. Respondents are operators of petroleum refineries, blending plants, bulk terminals, crude oil and product pipelines, natural gas plant facilities, tankers, barges, and oil importers.
7. Business or other for-profit.
8. 100,186 hours.

Please refer to the supporting statement as well as the proposed forms and instructions for more information about the purpose, who must report, when to report, where to submit, the elements to be reported, detailed instructions, provisions for confidentiality, and uses (including possible nonstatistical uses) of the information. For instructions on obtaining materials, see the **FOR FURTHER INFORMATION CONTACT** section.

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, September 16, 2008.

Stephanie Brown,

Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. E8–22092 Filed 9–19–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

September 16, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP97–81–051.
Applicants: Kinder Morgan Interstate Gas Transmission LLC.
Description: Kinder Morgan Interstate Gas Transmission LLC submits Sixth Revised Sheet 4G.02 *et al.* to FERC Gas Tariff, Fourth Revised Volume 1–A.
Filed Date: 09/12/2008.
Accession Number: 20080916–0028.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 24, 2008.

Docket Numbers: RP98–18–034.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Iroquois Gas Transmission System, LP submits Original Sheet 6P *et al.* to FERC Gas Tariff, First Revised Volume 1, to be effective 11/1/08.
Filed Date: 08/29/2008.
Accession Number: 20080903–0040.
Comment Date: 5 p.m. Eastern Time on Friday, September 19, 2008.

Docket Numbers: RP99–176–165.
Applicants: Natural Gas Pipeline Company of America.
Description: Natural Gas Pipeline Company of America LLC submits First Revised Sheet 33J.01 *et al.* to FERC Gas Tariff, Seventy Revised Volume 1, to be effective 11/1/08.
Filed Date: 09/12/2008.
Accession Number: 20080916–0026.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 24, 2008.

Docket Numbers: RP99–176–166.
Applicants: Natural Gas Pipeline Company of America.

Description: Natural Gas Pipeline Company of America LLC submits Original Sheet 33O *et al.* to FERC Gas Tariff, Seventh Revised Volume 1, and effective 11/1/08.

Filed Date: 09/12/2008.

Accession Number: 20080916–0027.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 24, 2008.

Docket Numbers: RP08–617–000.

Applicants: Ozark Gas Transmission, L.L.C.

Description: Ozark Gas Transmission, LLC submits Original Sheets 0–237 to its FERC Gas Tariff, First Revised Volume 1.

Filed Date: 09/11/2008.

Accession Number: 20080912–0082.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 23, 2008.

Docket Numbers: RP08–618–000.

Applicants: Transcontinental Gas Pipeline Corporation.

Description: Transcontinental Gas Pipeline Corporation submits Fifty-Fourth Revised Sheet 27 *et al.* to its FERC Gas Tariff, Third Revised Volume 1.

Filed Date: 09/10/2008.

Accession Number: 20080912–0079.

Comment Date: 5 p.m. Eastern Time on Monday, September 22, 2008.

Docket Numbers: RP08–619–000.

Applicants: Mojave Pipeline Company.

Description: Mojave Pipeline Co, LLC submits First Revised Sheet 230B *et al.* to FERC Gas Tariff, Second Revised Volume 1.

Filed Date: 09/10/2008.

Accession Number: 20080912–0080.

Comment Date: 5 p.m. Eastern Time on Monday, September 22, 2008.

Docket Numbers: RP08–620–000.

Applicants: Tres Palacios Gas Storage LLC.

Description: Tres Palacios Gas Storage LLC submits its Request for Extension of Time to Comply with Certain Internet Posting Requirements Relating to Pricing of Storage Services; Request for Expedited Action.

Filed Date: 09/11/2008.

Accession Number: 20080911–5116.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 23, 2008.

Docket Numbers: CP03–342–006.

Applicants: Discovery Gas Transmission LLC.

Description: Discovery Gas Transmission LLC filed an amendment to their abbreviated application for a certificate of public convenience and necessity.

Filed Date: 09/12/2008.

Accession Number: 20080912–4006.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 23, 2008.

Docket Numbers: CP06–76–002.

Applicants: Algonquin Gas Transmission, LLC.

Description: Algonquin Gas Transmission, LLC filed an application for amendment to certificate of public convenience and necessity and request for expedited treatment.

Filed Date: 09/10/2008.

Accession Number: 20080915–0130.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 23, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.

Deputy Secretary.

[FR Doc. E8–22009 Filed 9–19–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL03–77–008; Docket No. RP03–311–006]

Enron Power Marketing, Inc., and Enron Energy Services, Inc., Bridgeline Gas Marketing L.L.C., Citrus Trading Corporation, ENA Upstream Company, LLC, Enron Canada Corp., Enron Compression Services Company, Enron Energy Services, Inc., Enron MW, L.L.C., and Enron North America Corp.; Notice of Filing

September 15, 2008.

Take notice that on September 8, 2008, The Enron Parties and the City of Seattle filed a revised stipulation and agreement, pursuant to paragraph 4 of the Commission's August 29, 2008 Order, *Enron Power Marketing, Inc.,* 124 FERC ¶ 61,206 and Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC.

There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m Eastern Time on September 29, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–22006 Filed 9–19–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF08–5171–000]

Western Area Power Administration; Notice of Filing

September 15, 2008.

Take notice that on September 8, 2008, the Deputy Secretary of the Department of Energy submitted Rate Order No. WAPA–137, confirmed and approved on an interim basis, effective October, 2008, Rate Schedule SLIP–F9 for firm power from Salt Lake City Area Integrated Projects, SP–PTP7 for firm point-to-point transmission, SP-NW3 for network integration transmission service, SP–NFT6 for non-firm transmission on the Colorado River Storage Project and SP–SD3, SP–RS3, SP–EI3, SP–FR3 and SP–SSR for ancillary services, and submitted for confirmation and approval on a final basis, under the authority vested in the Commission by Delegation Order No. 00–037.00, Rate Schedules SLIP–F9, SP–PTP7, SP–NW3, SP–NFT6, SP–DS3, SP–RS3, SP–EI3, and SP–SSR3, effective October 1, 2008 and ending September 30, 2013.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 8, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–22007 Filed 9–19–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–430–000]

Transcontinental Gas Pipe Line Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Eminence Enhancement Project and Request for Comments on Environmental Issues

September 15, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of Transcontinental Gas Pipe Line Corporation's (Transco) Eminence Enhancement Project (Project) involving installation of additional compression by Transco in Covington County, Mississippi.

This notice announces the opening of the scoping process we will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine which issues need to be evaluated in the EA. Please note that the scoping period will close on October 15, 2008.

This notice is being sent to affected landowners; federal, state, and local government representatives and agencies; environmental and public interest groups; Native American tribes; other interested parties in this proceeding; and local libraries and newspapers. We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Transco provided to landowners. This fact sheet addresses a number of typically asked questions, including how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

The proposed project would involve installation of one gas-fired engine-driven compressor unit consisting of a Caterpillar Model 3616 engine driving an Ariel reciprocating gas compressor. This would be installed at the existing Compressor Station 77 facility in a new 30 ft by 50 ft compressor building. Additionally, an engine cooling facility, gas coolers and misc. gas piping would be installed and/or modified at the station. This additional compression would provide an additional 46,161 dekatherms per day of incremental storage injection capacity, thereby allowing six injection/withdrawal cycles per year, an increase from the currently available two per year. The project would not create any additional storage or withdrawal capacity.

The location of the project facilities is shown in Appendix 1.[1]

Nonjurisdictional Facilities

There are no non-jurisdictional facilities associated with this project.

Land Requirements for Construction

Construction of the proposed facilities would be contained within or immediately adjacent to Compressor Station 77, located in the existing fenced Eminence storage field. Approximately 5.2 acres of the 450 acre field would be disturbed during the construction.

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[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than Appendix 1 (maps), are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA we [2] will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- land use
- water resources, fisheries, and wetlands
- cultural resources
- vegetation and wildlife
- air quality and noise
- endangered and threatened species
- hazardous waste
- public safety

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

[2] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

Currently Identified Environmental Issues

We have already identified issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Transco. This preliminary list of issues may be changed based on your comments and our analysis.

- The project may have air emissions and noise impacts.
- Safety of the storage field.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the Eminence Enhancement Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send in your comments so that they will be received in Washington, DC on or before October 15, 2008.

For your convenience, there are three methods in which you can use to submit your comments to the Commission. In all instances please reference the project docket number CP08–430–000 with your submission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You may file your comments electronically by using the Quick Comment feature, which is located on the Commission's internet Web site at *http://www.ferc.gov* under the link *to* Documents and Filings. A Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's internet Web site at *http://www.ferc.gov* under the link to Documents and Filings. eFiling involves preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file as your submission. 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. A comment on a particular project is considered a ''Comment on a Filing;'' or

(3) You may file your comments via mail to the Commission by sending an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;

Label one copy of the comments for the attention of Gas Branch 3, PJ11.3.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners whose property may be used temporarily for project purposes, who have existing easements from the pipeline, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities. By this notice we are also asking governmental agencies, especially those in Appendix 2, to express their interest in becoming cooperating agencies for the preparation of the EA.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (Appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's eFiling system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding.

If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). Only intervenors have the right to seek rehearing of the Commission's decision.

The Notice of Application for this proposed project issued on July 1, 2008 identified the date for the filing of interventions as July 22, 2008. However, affected landowners and parties with environmental concerns may be granted late intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm*.

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–22008 Filed 9–19–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Parker-Davis Project-Rate Order No. WAPA–138

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Order Concerning Firm Electric and Transmission Service Formula Rates.

SUMMARY: The Deputy Secretary of Energy confirmed and approved Rate Order No. WAPA–138 and Rate Schedules PD–F7, PD–FT7, PD–FCT7, and PD–NFT7 placing firm electric and transmission service formula rates for the Parker-Davis Project (P–DP) of the Western Area Power Administration (Western) into effect on an interim basis. The provisional rates will be in effect until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places them into effect on a final basis or until they are replaced by other rates. The provisional formula rates will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of investment, within the allowable periods.

DATES: Rate Schedules PD–F7, PD–FT7, PD–FCT7, and PD–NFT7 will be placed into effect on an interim basis on the first day of the first full billing period beginning on or after October 1, 2008, and will be in effect until FERC confirms, approves, and places the rate schedules in effect on a final basis through September 30, 2013, or until the rate schedule is superseded.

FOR FURTHER INFORMATION CONTACT: Mr. J. Tyler Carlson, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 605–2453, *carlson@wapa.gov*, or Mr. Jack Murray, Rates Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 605–2442, *jmurray@wapa.gov*.

SUPPLEMENTARY INFORMATION: Rate Schedules PD–F6, PD–FT6, PD–FCT6, and PD–NFT6 were approved under Rate Order No. WAPA–75 for the period beginning November 1, 1997, and ending September 30, 2002.[1] These rate schedules were extended through September 30, 2004, by the approval of Rate Order No. WAPA–98 on September 13, 2002.[2] These rate schedules were extended again through September 30, 2006, by the approval of Rate Order No. WAPA–113 approved on September 2, 2004.[3] These rate schedules were extended again through September 30, 2008, by Rate Order No. WAPA–131 approved on September 22, 2006.[4]

Rate Schedule PD–F6 for firm electric service is being superseded by Rate Schedule PD–F7. Under Rate Schedule PD–F7, the capacity rate is $17.45 per kilowattyear (kWyear), and the energy rate is 3.32 mills per kilowatthour (mills/kWh). The provisional rates in Rate Schedule PD–F7 equal the existing rates under Rate Schedule PD–F6.

Rate Schedules PD–FT6 and PD–FCT6 for firm point-to-point transmission service and firm transmission of Salt Lake City Area/Integrated Projects power are being superseded by Rate Schedules PD–FT7 and PD–FCT7. The provisional transmission rates under Rate Schedules PD–FT7 and PD–FCT7 are $12.96/kWyear, which is equal to the existing rates under Rate Schedules PD–FT6 and PD–FCT6.

Rate Schedule PD–NFT6 for nonfirm transmission service is being superseded by Rate Schedule PD–NFT7. Under Rate Schedule PD–NFT6, the existing nonfirm transmission rate is 2.47 mills/kWh. The provisional nonfirm transmission rate under Rate Schedule PD–NFT7 is 1.48 mills/kWh. A change to the existing formula for calculating the nonfirm transmission rate resulted in a 40 percent decrease when compared to the existing rate. The modification to the nonfirm transmission rate formula ensures that the nonfirm transmission rate will not exceed the firm transmission rate.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Under Delegation Order Nos. 00–037.00 and 00–001.00C, 10 CFR part 903, and 18 CFR part 300, I hereby confirm, approve, and place Rate Order No. WAPA–138, the proposed P–DP firm electric and transmission service formula rates, into effect on an interim basis. The new Rate Schedules PD–F7, PD–FT7, PD–FCT7, and PD–NFT7 will be promptly submitted to FERC for confirmation and approval on a final basis.

[1] WAPA–75 was approved by the Deputy Secretary of Energy on November 18, 1997 (62 FR 63150), and confirmed and approved by FERC on a final basis on March 10, 1998, in Docket No. EF98–5041–000 (82 FERC 62164).

[2] WAPA–98 was approved by the Secretary of Energy on September 13, 2002 (67 FR 60655), filed with FERC for informational purposes only, and docketed by FERC on September 24, 2002, in Docket No. EF02–5041–000.

[3] WAPA–113 was approved by the Deputy Secretary of Energy on September 2, 2004 (69 FR 55429), filed with FERC for informational purposes only, and docketed by FERC on September 3, 2004, in Docket No. EF04–5042–000.

[4] WAPA–131 was approved by the Deputy Secretary of Energy on September 22, 2006 (71 FR 57941), and filed with FERC for informational purposes only, and docketed by FERC on September 22, 2006, in Docket No. EF06–5042–000.

Dated: September 12, 2008.

Jeffery F. Kupfer,

Acting Deputy Secretary.

Department of Energy

Deputy Secretary

Rate Order No. WAPA–138.

In the matter of: Western Area Power Administration Rate Adjustment for the Parker-Davis Project Firm Electric and Transmission Service Formula Rates: Order Confirming, Approving, and Placing the Parker-Davis Project Firm Electric and Transmission Service Formula Rates Into Effect on an Interim Basis

These rates were established in accordance with section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152). This Act transferred to and vested in the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other Acts that specifically apply to the project involved.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Acronyms and Definitions

As used in this Rate Order, the following acronyms and definitions apply:

Administrator: The Administrator of the Western Area Power Administration.

Capacity: The electric capability of a generator, transformer, transmission circuit, or other equipment. It is expressed in kilowatts.

Capacity Rate: The rate which sets forth the charges for capacity. It is expressed in dollars per killowattyear and applied to each kW of reservation.

CME: Capitalized Moveable Equipment.

Customer: An entity with a contract that is receiving firm electric service or transmission service from the Parker-Davis Project.

DOE: United States Department of Energy.

DOE Order RA 6120.2: An order outlining power marketing administration financial reporting and ratemaking procedures.

Energy: Measured in terms of the work it is capable of doing over a period of time. It is expressed in kilowatthours.

Energy Rate: The rate which sets forth the charges for energy. It is expressed in mills per kilowatthour and applied to each kilowatthour of reservation.

FERC: The Federal Energy Regulatory Commission.

Firm: A type of product and/or service guaranteed to be available in accordance with the terms of the contract.

FRN: **Federal Register** notice.

FY: Fiscal year; October 1 to September 30.

kW: Kilowatt—the electrical unit of capacity that equals 1,000 watts.

kWh: Kilowatthour—the electrical unit of energy that equals 1,000 watts in 1 hour.

kWyear: Kilowattyear—the electrical unit of the yearly amount of capacity.

Mill: A monetary denomination of the United States that equals one tenth of a cent or one thousandth of a dollar.

Mills/kWh: Mills per kilowatthour—a unit of charge for energy.

Nonfirm: A type of product and/or service not always available at the time requested by the Customer.

O&M: Operation and Maintenance.

MWD: The Metropolitan Water District of Southern California.

P–DP: The Parker-Davis Project.

Power: Capacity and energy.

Proposed Rate: A rate that has been recommended by Western to the Deputy Secretary of the DOE for approval.

Provisional Rate: A rate which has been confirmed, approved, and placed into effect on an interim basis by the Deputy Secretary of the DOE.

PRS: Power Repayment Study.

Rate Brochure: A document explaining the rationale and background for the rate proposal contained in this Rate Order.

Reclamation: United States Department of the Interior, Bureau of Reclamation.

Reclamation Law: A series of Federal laws. Viewed as a whole, these laws create the originating framework under which Western markets power.

Revenue Requirement: The revenue required to recover annual expenses, such as O&M, purchase power, transmission service expenses, interest, deferred expenses, repayment of Federal investments, and other assigned costs.

SCADA: Supervisory Control and Data Acquisition.

SLCA/IP: Salt Lake City Area/Integrated Projects—the resources of the Collbran, Dolores, Rio Grande, and Seedskadee projects blended together with the CRSP to create the SLCA/IP.

Supporting Documentation: A compilation of data and documents that support the Rate Brochure and the rate proposal.

Western: United States Department of Energy, Western Area Power Administration.

Effective Date

The new interim formula rates will take effect on the first day of the first full billing period beginning on or after October 1, 2008, and will remain in effect until September 30, 2013, pending approval by FERC on a final basis.

Public Notice and Comment

Western followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in developing these formula rates. The proposed action constituted a minor rate adjustment as defined by 10 CFR part 903.2. As such, Western determined that it was not necessary to hold public information or comment forums. The steps Western took to involve interested parties in the rate process were:

1. On October 11, 2007, Western's Desert Southwest Region mailed a notice announcing an informal meeting to the P–DP customers and interested parties. The informal meeting was held November 14, 2007, in Phoenix, Arizona. At this informal meeting, Western explained the rationale for the rate adjustment, presented options for the proposed formula rates, and answered questions.

2. On December 14, 2007, Western's Desert Southwest Region e-mailed the P–DP customers and interested parties to provide the Web site address to obtain the supplemental information that was requested by the customers at the informal meeting held November 14, 2007.

3. On February 1, 2008, Western's Desert Southwest Region mailed a notice announcing a second informal meeting to the P–DP customers and interested parties. The second informal meeting was held March 12, 2008, in Phoenix, Arizona. At this informal meeting, Western explained the minor rate adjustment process and presented proposed formula rates that included

customer input from the informal meeting held November 14, 2008.

4. An FRN published on April 29, 2008 (73 FR 23248), announced the proposed formula rates. This notice began a public consultation and comment period.

5. On May 1, 2008, Western's Desert Southwest Region e-mailed the FRN (73 FR 23248) to the P–DP customers and interested parties and provided the Web site address to obtain a copy of the Rate Brochure and supporting documentation.

6. Western received one comment letter during the consultation and comment period, which ended on May 29, 2008. All formally submitted comments have been considered in preparing this Rate Order.

Comments

Written comments were received from the Irrigation & Electrical Districts Association of Arizona.

Project Description

The P–DP was formed by consolidating two projects, Parker Dam and Davis Dam, under the terms of the Act of May 28, 1954. All facilities of the P–DP were operated and maintained by Reclamation until the formation of the Department of Energy pursuant to the Department of Energy Organization Act (DOE Act). Pursuant to the DOE Act, responsibility for the power marketing functions of Reclamation, including the construction, operation, and maintenance of substations, transmission lines, and attendant facilities, was transferred to the DOE. The responsibility for operation and maintenance of the dams and powerplants remains with Reclamation.

Parker Dam, which created Lake Havasu 155 miles below Hoover Dam on the Colorado River, was authorized by the Rivers and Harbors Act of August 30, 1935. Construction of Parker Dam began in 1934 and was completed in 1942. Reclamation constructed the project partly with funds advanced by the MWD. MWD receives half of the capacity and energy from the four generating units at Parker Dam.

Davis Dam, which created Lake Mohave 67 miles below Hoover Dam on the Colorado River, was authorized under the Reclamation Project Act of 1939. Construction began in 1941, but due to construction delays caused by World War II, it was not completed until 1953. Davis Dam has five generating units.

Power generated from the P–DP is marketed to customers in Arizona, Nevada, and California. Excluding project use, the marketing period effective FY 2009 provides for 198,337 kW of capacity in the winter season and 259,206 kW of capacity in the summer season. Customers receive 1,703 kWh per kW in the winter season and 3,441 kWh per kW in the summer season.

The P–DP transmission system includes 48 substations and over 1,500 circuit miles of transmission lines in Arizona, southern Nevada, and along the Colorado River in California.

Power Repayment Study

Western prepares a PRS each FY to determine if revenues will be sufficient to repay, within the required time, all costs assigned to the P–DP. Repayment criteria are based on law, policies, including DOE Order RA 6120.2, and authorizing legislation.

The provisional formula rates under Rate Schedules, PD–F7, PD–FT–7, and PD–FCT7 are equal to the existing rates. The provisional firm electric service capacity rate under Rate Schedule PD–F7 is $17.45 per kWyear. The provisional firm electric service energy rate under Rate Schedule PD–F7 is 3.32 mills per kWh. The provisional firm point-to-point transmission service rate under Rate Schedule PD–FT7 is $12.96 per kWyear. The provisional firm transmission service rate for transmission of SLCA/IP power under Rate Schedule PD–FCT7 is $12.96 per kWyear. Under Rate Schedule PD–NFT7, the provisional rate for nonfirm transmission service will result in a rate decrease of 40 percent when compared to the existing rate. The existing rate for nonfirm transmission service under Rate Schedule PD–NFT6 is 2.47 mills per kWh. The provisional rate for nonfirm transmission service under Rate Schedule PD–NFT7 is 1.48 mills per kWh.

Existing and Provisional Rates

A comparison of the existing and provisional firm electric and transmission service rates follows:

PARKER-DAVIS PROJECT COMPARISON OF EXISTING AND PROVISIONAL RATES

Service	Existing rates	Provisional rates (effective 10/01/08)	Change
Firm Electric Service—Capacity ($/kWyear)	$17.45	$17.45	0%
Firm Electric Service—Energy (mills/kWh)	3.32	3.32	0%
Firm Point-to-Point Transmission ($/kWyear)	$12.96	$12.96	0%
Firm Transmission of SLCA/IP Power ($/kWyear)	$12.96	$12.96	0%
Nonfirm Transmission (mills/kWh)	2.47	1.48	(40%)

Certification of Rates

Western's Administrator certified that the provisional rates for P–DP firm electric and transmission service are the lowest possible rates consistent with sound business principles. The provisional rates were developed following administrative policies and applicable laws.

Firm Electric and Transmission Service Formula Rates Discussion

According to Reclamation Law, Western must establish power and transmission rates sufficient to recover operation, maintenance, purchased power expenses, interest expenses, and repayment of power investment and irrigation aid.

Formula rates for P–DP firm electric and transmission service are calculated annually. Under the rate methodology, costs that are readily identifiable as supporting either generation or transmission functions are directly allocated to generation or transmission revenue requirements. All other costs are apportioned between generation and transmission revenue requirements based on cost allocation factors. Existing cost allocation factors include SCADA, CME, percentage allocation of Western O&M, labor hours devoted to billing, and historic project investment.

Western will modify the existing rate methodology by eliminating the CME, labor hours devoted to billing, and historic project investment cost allocation factors. Western will implement a new cost allocation factor that is the ratio of the number of customers receiving firm electric or transmission service to the total number of customers. A comparison of the affected cost allocation factors follows:

PARKER-DAVIS PROJECT COMPARISON OF COST ALLOCATION FACTORS

Cost	Existing factor	Proposed factor
Systemwide (Billing and Finance)	Billing Hours	Ratio of Customers.
Operations/Dispatch	SCADA/Billing Hours	SCADA.
CME	CME Calculation	Percentage Allocation of Western O&M.
Western Principal & Interest	Historic Investment	None (Allocated to Transmission Only).

Western prepared a detailed impact analysis that determined, over the last seven years, the cost allocation factor changes would have resulted in an average annual change to either the transmission or generation revenue requirements of approximately $388,000 or 0.96%. At this time, the firm electric service and firm transmission service rates resulting from the modifications to the rate methodology are equal to existing rates and will provide sufficient revenue to recover generation and transmission revenue requirements. The nonfirm transmission rate is being decreased due to a change in the rate formula, and as a result, it will not exceed the firm point-to-point transmission rate. The change in the nonfirm transmission rate is independent of the changes to the cost allocation factors.

During informal discussions prior to the commencement of the rate adjustment process, Western received a request from customers to modify the billing practices for P–DP long-term firm transmission service. In the request, the customers noted that payments for firm electric service are required one month in advance of service and suggested that all parties be subject to the same billing terms and conditions.

Existing billing practices for P–DP long-term firm transmission service allow customers to pay after the fact, usually one month after service is provided. Additionally, the P–DP rate calculations assume the full and timely collection of revenues. To the extent that customer payments are late or uncollectible, rates may be insufficient to recover revenue requirements. This could result in a rate increase, adversely affecting all P–DP customers. In response to the customers' request, Western will modify the billing practices so that customers will be required to pay for P–DP long-term firm transmission service one month in advance of service. This requirement is incorporated into Rate Schedules PD–FT7 and PD–FCT7.

Statement of Revenue and Related Expenses

The following table provides a summary of projected revenue and expense data for the firm electric and transmission services formula rates through the 5-year provisional rate approval period.

PARKER-DAVIS PROJECT COMPARISON OF 5-YEAR RATE PERIOD (FY 2009–FY 2013) TOTAL REVENUES AND EXPENSES

	Existing rates ($000)	Provisional rates ($000)	Difference ($000)
Total Revenues [1]	$295,256	$295,256	$0
Revenue Distribution			
Expenses:			
O&M	161,701	161,701	0
Purchased Power and Wheeling	21,043	21,043	0
Interest	86,266	86,266	0
Other	7,282	7,282	0
Total Expenses	276,292	276,292	0
Principal Payments:			
Capitalized Expenses	0	0	0
Original Project and Additions	110	110	0
Replacements	18,804	18,804	0
Irrigation	50	50	0
Total Principal Payments	18,964	18,964	0
Total Revenue Distribution	295,256	295,256	0

[1] Total revenues include approximately $41,625,000 of available revenues from prior periods.

Basis for Rate Development

The existing formula rates for P–DP firm electric and transmission service under Rate Schedules PD–F6, PD–FT6, PD–FCT6, and PD–NFT6 expire September 30, 2008. The provisional formula rates will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of power investment and irrigation aid within the allowable periods. The provisional formula rates will take effect on October 1, 2008, to correspond with the start of the Federal fiscal year, and will remain in effect through September 30, 2013.

Comments

The comments and responses regarding the firm electric and transmission service rates, paraphrased for brevity when not affecting the meaning of the statement(s), are discussed below.

A. *Comment:* An interested party made a statement with regard to Senate

Bill S.2739. Section 513 of that bill contains post-September 11, 2001, security cost legislation which specifies the amount of security costs which will be considered non-reimbursable. The Interested Party requested that Western and Reclamation adjust their budgets to account for the legislation.

Response: Senate Bill S.2739 was signed into law on May 8, 2008. Reclamation is in the process of determining which costs in these rate calculations will be deemed non-reimbursable under the new law. Any security costs ultimately deemed non-reimbursable will be carried into the next fiscal year, reducing FY 2010 revenue requirements.

B. *Comment:* An interested party sought assurance that the firm electric and transmission service formula rates will include hydrologic data to be collected by Reclamation in July of 2008.

Response: Generation and purchase power forecasts used in the firm electric and transmission service formula rates are based on the most recent Annual Operating Plan (AOP) produced by Western and presented to the customers. The FY 2009 AOP, used to calculate the rates, was based on hydrologic data released by Reclamation on April 7, 2008. Additional revenues or expenses resulting from changes in hydrology will be included in the annual rate calculation for the subsequent year.

Availability of Information

Information about this rate adjustment, including power repayment studies, comments, letters, memorandums, and other supporting material made or kept by Western and used to develop the provisional rates, is available for public review in the Desert Southwest Regional Office, Western Area Power Administration, 615 South 43rd Avenue, Phoenix, Arizona.

Ratemaking Procedure Requirements

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Submission to the Federal Energy Regulatory Commission

The interim formula rates herein confirmed, approved, and placed into effect, together with supporting documents, will be submitted to FERC for confirmation and final approval.

Order

In view of the above and under the authority delegated to me, I confirm and approve on an interim basis, effective October 1, 2008, Rate Schedules PD–F7, PD–FT7, PD–FCT7, and PD–NFT7 for the Parker-Davis Project of the Western Area Power Administration. The rate schedules shall remain in effect on an interim basis, pending FERC's confirmation and approval of them or substitute rates on a final basis through September 30, 2013.

Dated: September 12, 2008.

Jeffery F. Kupfer,

Acting Deputy Secretary.

Rate Schedule PD–F7 (Supersedes Schedule PD–F6).

United States Department of Energy

Western Area Power Administration

Parker-Davis Project; Schedule of Rates for Firm Electric Service

Effective

The first day of the first full billing period beginning on or after October 1, 2008, through September 30, 2013, or until superseded, whichever occurs earlier.

Available

In the area served by the Parker-Davis Project (P–DP).

Applicable

To firm electric service customers for firm power service supplied through one meter at one point of delivery, unless otherwise provided by service agreement or contract.

Character and Conditions of Service

Alternating current at 60 hertz, three-phase, delivered and metered at the voltages and points of delivery established by service agreement or contract.

Charges

Energy Charge: Each firm electric service customer shall be billed monthly an energy charge. This charge is equal to the customer's monthly contractual energy reservation multiplied by the Energy Rate, rounded to the penny. The Energy Rate shall be equal to 50 percent of the annual generation revenue requirement divided by the estimated total generation delivery commitments, rounded to two decimal places.

Capacity Charge: Each firm electric service customer shall be billed monthly a capacity charge. This charge is equal to the customer's monthly contractual capacity reservation multiplied by the Capacity Rate, rounded to the penny. The Capacity Rate shall be equal to 50 percent of the annual generation revenue requirement divided by the estimated total generation delivery commitments, rounded to two decimal places.

Transmission Charge: Each firm electric service customer shall be billed monthly a transmission charge. This charge is equal to the customer's contractual reservation multiplied by the rate calculated in accordance with PD–FT7, rounded to the penny.

Lower Basin Development Fund Contribution Charge: The contribution charge is 4.5 mills/kWh for each kWh measured or scheduled to an Arizona purchaser and 2.5 mills/kWh for each kWh measured or scheduled to a California or Nevada purchaser.

Billing of Excess Energy

For each month in which there is excess energy available, offered, and delivered to the firm electric service customer, such excess energy shall be billed at the Energy Rate.

Billing for Unauthorized Overruns

For each month in which there is a contract violation involving an unauthorized overrun of energy and/or capacity, such overruns shall be billed at 10 times the Energy and/or Capacity Rate in this rate schedule. For each month in which there is a contract violation involving an unauthorized overrun of transmission, such overrun shall be billed at two times the Transmission Charge in this rate schedule.

Transformer Losses

If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided for in the contract.

Power Factor

The firm electric service customer will normally be required to maintain a power factor at all points of measurement between 95-percent lagging and 95-percent leading.

Rate Schedule PD–FT7 (Supersedes Schedule PD–FT6).

United States Department of Energy

Western Area Power Administration

Parker-Davis Project; Schedule of Rates for Firm Point-to-Point Transmission Service

Effective

The first day of the first full billing period beginning on or after October 1, 2008, through September 30, 2013, or until superseded, whichever occurs earlier.

Available

In the area served by the Parker-Davis Project (P–DP).

Applicable

To firm point-to-point transmission service customers where capacity and energy are supplied to the P–DP system at points of interconnection with other systems and transmitted and delivered, less losses, to points of delivery on the P–DP system.

Character and Conditions of Service

Alternating current at 60 hertz, three-phase, delivered and metered at the voltages and points of delivery established by service agreement or contract.

Long-Term Rate

For transmission service one year or longer, the annual rate for each kilowatt per year is equal to the annual transmission revenue requirement divided by the estimated transmission delivery commitments, rounded to the nearest 12 cent increment. The annual rate for long-term service is payable monthly at a rate for each kilowatt per month equal to the annual rate for long-term service divided by 12.

Short-Term Rates

For transmission service up to one year, the maximum rate for each kW is as follows:

Monthly: Equal to the annual long-term rate, divided by 12 and rounded to two decimal places.

Weekly: Equal to the annual long term rate, divided by 52 and rounded to two decimal places.

Daily: Equal to the annual long term rate, divided by 365 and rounded to two decimal places.

Hourly: Equal to the annual long term rate, divided by 8,760 and rounded to five decimal places.

Discounts may be offered from time to time in accordance with Western's Open Access Transmission Tariff.

Billing

Western will bill firm point-to-point transmission service customers monthly by applying the rates under this rate schedule to the amount of capacity reserved. Payment for service will be required one month in advance of service.

Adjustments for Reactive Power

There shall be no entitlement to transfer of reactive kilovolt-amperes at delivery points, except when such transfers may be mutually agreed upon by the customer and Western or their authorized representatives.

Adjustments for Losses

Capacity and energy losses incurred in connection with the transmission and delivery of capacity and energy under this rate schedule shall be supplied by the customer in accordance with the service agreement or contract.

Overrun of Capacity Reserved

Western will assess a charge for unauthorized use of transmission service at a rate equal to two times the applicable rate for the service at issue. The charge will be applied to use in excess of the reservation amount, which shall be the difference between the amount of transmission service actually used by the customer less the amount of transmission service the customer has reserved. The customer will incur the charge for an overrun during the calendar month or for the period of transmission service if such service is for a term of less than one month.

Rate Schedule PD–FCT7 (Supersedes Schedule PD–FCT6).

United States Department of Energy

Western Area Power Administration

Parker-Davis Project; Schedule of Rate for Firm Transmission Service of Salt Lake City Area/Integrated Projects Power

Effective

The first day of the first full billing period beginning on or after October 1, 2008, through September 30, 2013, or until superseded, whichever occurs earlier.

Available

In the area served by the Parker-Davis Project (P–DP).

Applicable

To Salt Lake City Area/Integrated Projects (SLCA/IP) southern division customers, where SLCA/IP capacity and energy are supplied to the P–DP system by the Colorado River Storage Project (CRSP) at points of interconnection with the CRSP system and transmitted and delivered on a uni-directional basis, less losses, to southern division customers at points of delivery on the P–DP system.

Character and Conditions of Service

Alternating current at 60 hertz, three-phase, delivered and metered at the voltages and points of delivery established by service agreement or contract.

Rate

The annual rate for each kilowatt per year is equal to the annual transmission revenue requirement divided by the estimated transmission delivery commitments, rounded to the nearest 12 cent increment. The annual rate is payable monthly at a rate for each kilowatt per month equal to the annual rate divided by 12.

Billing

Western will bill firm transmission service customers monthly by applying the rates under this rate schedule to the amount of capacity reserved. Payment for service will be required one month in advance of said service.

Adjustments for Reactive Power

There shall be no entitlement to transfer of reactive kilovolt-amperes at delivery points, except when such transfers may be mutually agreed upon by the customer and Western or their authorized representatives.

Adjustments for Losses

Capacity and energy losses incurred in connection with the transmission and delivery of capacity and energy under this rate schedule shall be supplied by the customer in accordance with the service agreement or contract.

Overrun of Capacity Reserved

Western will asses a charge for unauthorized use of transmission service at a rate equal to two times the applicable rate for the service at issue. The charge will be applied to use in excess of the reservation amount, which shall be the difference between the amount of transmission service actually used by the customer less the amount of transmission service the customer has reserved. The customer will incur the charge for an overrun during the calendar month or for the period of transmission service if such service is for a term of less than one month.

Rate Schedule PD–NFT7 (Supersedes Schedule PD–NFT6).

United States Department of Energy

Western Area Power Administration

Parker-Davis Project; Schedule of Rate for Nonfirm Transmission Service

Effective

The first day of the first full billing period beginning on or after October 1, 2008, through September 30, 2013, or until superseded, whichever occurs earlier.

Available

In the area served by the Parker-Davis Project (P–DP).

Applicable

To nonfirm transmission service customers where capacity and energy are supplied to the P–DP system at points of interconnection with other systems and transmitted and delivered, less losses, to points of delivery on the P–DP system.

Character and Conditions of Service

Alternating current at 60 hertz, three-phase, delivered and metered at the voltages and points of delivery established by service agreement or contract.

Rate

The nonfirm transmission service rate for each kilowatt per hour is equal to the annual transmission revenue requirement divided by the estimated transmission delivery commitments, divided by 8,760 and rounded to five decimal places. Discounts may be offered from time to time in accordance with Western's Open Access Transmission Tariff.

Billing

Western will bill nonfirm transmission customers monthly by applying the nonfirm rate under this rate schedule to the amount of capacity reserved.

Adjustments for Reactive Power

There shall be no entitlement to transfer of reactive kilovolt-amperes at delivery points, except when such transfers may be mutually agreed upon by the customer and Western or their authorized representatives.

Adjustments for Losses

Capacity and energy losses incurred in connection with the transmission and delivery of capacity and energy under this rate schedule shall be supplied by the customer in accordance with the service agreement or contract.

[FR Doc. E8–22096 Filed 9–19–08; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0143; FRL–8381–1]

The Association of American Pesticide Control Officials/State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Pesticide Operations and Management; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/ State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Pesticide Operations and Management (WC/POM) will hold a 2–day meeting, beginning on October 6-7, 2008 and ending October 7, 2008. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, October 6, 2008 from 8:30 a.m. to 5 p.m. and 8:30 a.m. to 12 noon on Tuesday, October 7, 2008.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at The Grove Hotel, 245 South Capitol Blvd., Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Jim Roelofs, Field and External Affairs Division, (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–2964; fax number: (703) 308–1850; e-mail address: *roelofs.jim@epa.gov* or Grier Stayton, SFIREG Executive Secretary, P.O. Box 466, Milford, DE 19963; telephone number: (302) 422–8152; fax (302) 422–2435; e-mail address: *aapco-sfireg@comcast.net*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are interested in SFIREG information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process are invited and encouraged to attend the meetings and participate as appropriate. Potentially affected entities may include, but are not limited to, those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

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

1. *Docket.* EPA has established a docket for this action under docket ID number EPA–HQ–OPP–2008–0143. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

1. Discussion on risk mitigation measures for soil fumigants.
2. Follow up report on updated spray drift language for agricultural pyrethroids.
3. State concerns with proposed labeling changes for picloram.
4. Refining a system for SFIREG/POM review of proposed pesticide labeling.
5. Improving groundwater advisory statements on pesticide labels.
6. Developing acceptable, boiler plate language to replace ''For Use By'' statements.
7. Risk of eye injury from certain 2,4-D products.
8. Food safety issues following pesticide misuse.
9. EPA Update/Briefing.
   a. Office of Pesticide Programs Update.
   b. Office of Enforcement Compliance Assurance Update.
10. POM Working Committee Workgroups Issue Papers/Updates.

List of Subjects

Environmental protection,

Dated: September 4, 2008.

William R. Diamond,

Director, Field and External Affairs Division, Office of Pesticide Programs

[FR Doc. E8–22077 Filed 9–19–08; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

September 8, 2008.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public L. 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

FOR FURTHER INFORMATION CONTACT: John Schauble, Deputy Chief, Broadband Division, Wireless Telecommunications Bureau, Federal Communications Commission at (202) 418–0797.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1094.

OMB Approval Date: 9/8/2008.

Expiration Date: 9/30/2011.

Title: Licensing, Operation, and Transition of the 2495–2690 MHz Band—WT Docket Nos. 03–66; 03–67; 02–68; IB Docket No. 02–364; ET Docket No. 00–258; FCC 08–83.

Form No.: N/A.

Number of Respondents: 2,500 respondents; 12,726 responses.

Estimated Time Per Response: 3.334 hours (average burden per response) and adds .50 hours for the new requirement for wireless service providers (see paragraph one of the supporting statement that will be submitted to OMB after this 60-day comment period).

Total Annual Burden: 8,457 hours.

Total Annual Cost: $266,666.

Obligation to Respond: Mandatory; Section 27.1221(f).

Nature and Extent of Confidentiality: The revised information collection requirements provide that information provided pursuant to the new requirement shall not be disclosed to additional parties except to the extent necessary to ensure compliance with FCC rules.

Needs and Uses: The Commission adopted a *Fourth Memorandum Opinion and Order* (4th MO&O), WT Docket Nos. 03–66; 03–67; 02–68; IB Docket No. 02–364; ET Docket No. 00–258; FCC 08–83, on March 18, 2008, which modifies Wireless Communications Association International, Inc.'s (WCA) proposal regarding the formula used to calculate height benchmarking and clarifies how non-contiguous licensees calculate their height benchmark. Because licensees are now required under 47 CFR 27.1221(f) to provide the geographic coordinates, the height above ground level of the center of radiation for each transmit and receive antenna, and the date transmissions commenced for each of the base stations in its geographic service area (GSA) within 30 days of receipt of a request from a co-channel, neighboring Broadband Radio Service/Educational Broadband Service (BRS/EBS) licensee(s), the Commission is revising this information collection to add the requirement referenced above from the *4th MO&O* and to eliminate the requirement for Multichannel Video Programming Distributors (MVPD) Opt-Out (Waiver Requests) that sunset on April 30, 2007. That option is no longer available and is being removed from this information collection. The information will be used to notify third parties and to prevent harmful interference to licensees' BRS/EBS operations.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–22091 Filed 9–19–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Meetings

Agency Holding the Meeting: Federal Maritime Commission.

Time and Date: September 24, 2008—10 a.m.

Place: 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

Status: A portion of the meeting will be in Open Session and the remainder of the meeting will be in Closed Session.

Matters To Be Considered:

Open Session

(1) Docket No. 06–05—*Verucci Motorcycles, LLC* v. *Senator International;*

(2) Docket No. 06–11—R.O. *White & Company, Inc., Ceres Marine Terminals, Inc.* v. *Port of Miami Terminal Operating Company, LLC,* Continental Stevedoring & Terminals, Inc., *et al.*

(3) Federal Information Security Management Act (FISMA) Report to OMB;

(4) FY2008 Budget Status Report, End-of-Year Possible Additional Funding Approvals.

Closed Session

(1) Docket No. 1883(F)—*Frank J. Kuzela* v. *Maersk Sealand;*

(2) LA/Long Beach Ports/Terminals Agreements;

(3) Internal Administrative Practices and Personnel Matters.

For More Information Contact: Karen V. Gregory, Assistant Secretary, (202) 523–5725.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E8–22139 Filed 9–18–08; 11:15 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1328]

Privacy Act of 1974; Notice of Two New Systems of Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of two new systems of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, notice is given that the Board of Governors of the Federal Reserve System (Board) proposes to add two new systems of records, BGFRS–37 (Electronic Applications) and BGFRS–38 (Transportation Subsidy Records).

DATES: Comments must be received on or before October 22, 2008. These systems of records will become effective November 3, 2008, without further notice, unless comments dictate otherwise.

ADDRESSES: The public, OMB, and Congress are invited to submit comments, identified by Docket No. OP–1328, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments. *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *Fax:* 202/452–3819 or 202/452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Brad Fleetwood, Senior Counsel, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Mail Stop 17, Washington, DC 20551, or (202) 452–3721, or *brad.fleetwood@frb.gov*. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

In accordance with 5 U.S.C. 552a(r), a report of these systems of records is being filed with the Chair of the House Committee on Oversight and Government Reform, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget.

SUPPLEMENTARY INFORMATION: The Board has determined that it is necessary to create systems of records for electronic applications, BGFRS–37 (Electronic Applications) and for transportation subsidy records, BGFRS–38 (Transportation Subsidy Records).

BGFRS–37, Electronic Applications

The Board is implementing Electronic Applications (E–Apps), a Web-based system for the electronic submission of regulatory applications, notices or proposals and related documents to the Federal Reserve System (FRS) via the Internet. The purpose of E–Apps is to provide external users the ability to submit regulatory applications, notices or proposals to the FRS as either scanned documents/images or in their native file format, such as MS Word or Excel.

E–Apps will support the electronic receipt, access, distribution, and storage of official documents related to a regulatory filing during the processing cycle of a regulatory application, notice or proposal. E–Apps also will allow for online review of submitted material, as well as for storage and distribution of internally prepared memoranda and correspondence. In addition, the contents of most documents placed into E–Apps will be full-text indexed, and will allow internal users to efficiently search for information while the documents reside in the system during an application, notice or proposal's processing life cycle.

E–Apps will, among other things, assist the Board in identifying information needed to evaluate various statutory requirements applicable to proposed officers, directors, principal shareholders, or persons with other similar interests in a depository institution, holding company or other entity in connection with our consideration of various regulatory applications, notices and proposals to determine whether to approve the particular regulatory application or notice. Thus, the Board has determined that it is necessary to create a system of records for electronic applications.

BGFRS–38, Transportation Subsidy Records

The Board currently provides employees who commute to work using public transportation a nontaxable transportation subsidy. In order to administer this program, the Board collects and maintains personal information about employees who apply to participate in the program. Thus, the Board has determined that it is necessary to create a system of records for transportation subsidy records.

The general routine uses identified in the systems of records below are described at 73 FR 24985 (May 6, 2008).

Systems of Records BGFRS–37

SYSTEM NAME:

FRB—Electronic Applications.

SYSTEM LOCATION:

Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

Some of the information is collected and maintained, on behalf of the Board, by the twelve Federal Reserve Banks.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are parties to regulatory applications, notices, and proposals submitted to the Federal Reserve Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; home address; social security number; telephone number; date and place of birth; citizenship; occupation and employment history; education and professional credentials; business and banking affiliations; legal and related matters; personal financial information; and other similar information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 19, 25 and 25A of the Federal Reserve Act (12 U.S.C. 321–328, 466, 601–604(a) and 611–631); the Change in Bank Control Act (12 U.S.C. 1817(j)); Section 18(c) of the Bank Merger Act (12 U.S.C. 1828(c)); Section 32 of the Federal Deposit Insurance Act (12 U.S.C. 1831i); Sections 3, 4, and 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842, 1843 and 1844); Section 5 of the Bank Service Company Act (12 U.S.C. 1865); Sections 7, 8 and 10 of the International Banking Act (12 U.S.C. 3105, 3106 and 3107); Section 208 of the Board's Regulation H (12 CFR 208); Section 211 of the Board's Regulation K (12 CFR 211); Section 212 of the Board's Regulation L (12 CFR 212); Section 225 of the Board's Regulation Y (12 CFR 225); and Executive Order 9397.

PURPOSE(S):

These records are collected and maintained to assist the Board in evaluating proposed officers, directors, principal shareholders, or persons with other similar interests in a depository institution, holding company or other entity in connection with the Board's consideration of various regulatory applications, notices and proposals to determine whether to approve the particular regulatory application, notice or proposal.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, G, and I apply to this system. These records may also be used to disclose certain information to other bank and thrift regulatory agencies consistent with the Board's information sharing regulation or pursuant to explicit information sharing agreements.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper and electronic form by local Reserve Banks during the processing period of the application, notice or proposal. Electronic records are stored in the Federal Reserve Integrated Records Management Architecture (FIRMA).

RETRIEVABILITY:

Records can be retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Access to records is limited to those persons whose official duties require it. Paper records are secured by lock and key and electronic records are password protected.

RETENTION AND DISPOSAL:

All records are retained for 15 years after final action on the application, notice or proposal.

SYSTEM MANAGER AND ADDRESS:

Office Applications Section, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

NOTIFICATION PROCEDURE:

An individual desiring to learn of the existence of, or to gain access to, his or her record in this system of records should submit a request in writing to the Secretary of the Board, Board of Governors of the Federal Reserve

System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. The request should contain: (1) A statement that it is made pursuant to the Privacy Act of 1974, (2) the name of the system of records expected to contain the record requested or a concise description of such system of records, (3) necessary information to verify the identity of the requester, and (4) any other information that may assist in the rapid identification of the record for which access is being requested.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedures,'' above.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedures,'' above except that the envelope should be clearly marked ''Privacy Act Amendment Request.'' The request for amendment of a record should: (1) Identify the system of records containing the record for which amendment is requested, (2) specify the portion of that record requested to be amended, and (3) describe the nature of and reasons for each requested amendment.

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom the record pertains or the individual's agent (for example, law firms, consultants) on regulatory applications, notices or proposals. These individuals or agents may aggregate information on individuals or groups of individuals by submitting separate biographical/financial data for several individuals, and/or including lists or tables that contain personal information on multiple individuals (for example, a stockholder listing with names, addresses, phone numbers, and social security numbers). Information may also be obtained from other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain portions of this system of records may be exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

BGFRS–38

SYSTEM NAME:

FRB—Transportation Subsidy Records.

SYSTEM LOCATION:

Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present employees and members of the Board who apply for a transportation subsidy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications submitted by employees for transportation subsidies, which may include name, employee ID number, the last four digits of the employee's social security number, home address, current commuting pattern and estimated commuting cost, and other information related to carrying out activities under the transportation subsidy program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 10 and 11 of the Federal Reserve Act (12 U.S.C. 244 and 248) and Executive Order 9397.

PURPOSE(S):

These records are collected and maintained by the Board in order to administer the Board's transportation subsidy program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, and I apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper form and electronic form.

RETRIEVABILITY:

Records can be retrieved by employee name or ID number.

ACCESS CONTROLS:

Access to records is limited to those whose official duties require it. Paper records are secured by lock and key and electronic records are password protected.

RETENTION AND DISPOSAL:

Transportation subsidy applications are destroyed three years after a form is outdated or three years after a respective staff member no longer actively participates in the program.

SYSTEM MANAGER AND ADDRESS:

Chief Financial Officer, Management Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

NOTIFICATION PROCEDURES:

An individual desiring to learn of the existence of, or to gain access to, his or her record in this system of records shall submit a request in writing to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. The request should contain: (1) A statement that it is made pursuant to the Privacy Act of 1974, (2) the name of the system of records expected to contain the record requested or a concise description of such system of records, (3) necessary information to verify the identity of the requester, and (4) any other information that may assist in the rapid identification of the record for which access is being requested.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedures'' above.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedures'' above except that the envelope should be clearly marked ''Privacy Act Amendment Request.'' The request for amendment of a record should: (1) Identify the system of records containing the record for which amendment is requested, (2) specify the portion of that record requested to be amended, and (3) describe the nature of and reasons for each requested amendment.

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom the record pertains.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

By order of the Board of Governors of the Federal Reserve System, September 16, 2008.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E8–22016 Filed 9–19–08; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Consumer Empowerment Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 30th meeting of the American Health Information Community Consumer Empowerment Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.).

DATES: October 7, 2008, from 1 p.m. to 4 p.m. [Eastern].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC

20201), Conference Room 1114. Please use the C Street entrance closest to 3rd Street and bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/consumer/.*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on how to encourage the widespread adoption of a personal health record that is easy-to-use, portable, longitudinal, affordable, and consumer-centered.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/consumer/ce_instruct.html*.

Dated: September 12, 2008.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–22021 Filed 9–19–08; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Electronic Health Records Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 26th meeting of the American Health Information Community Electronic Health Records Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: October 30, 2008, from 1 p.m. to 3 p.m. [Eastern].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 1114. Please use the C Street entrance closest to 3rd Street and bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/healthrecords/.*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on ways to achieve widespread adoption of certified EHRs, minimizing gaps in adoption among providers.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/healthrecords/ehr_instruct.html*.

Dated: September 12, 2008.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–22028 Filed 9–19–08; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Quality Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 21st meeting of the American Health Information Community Quality Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.).

DATES: October 17, 2008, from 1 p.m. to 4 p.m. [Eastern].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 1114. Please use the C Street entrance closest to 3rd Street and bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/quality/.*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on how health information technology can provide the data needed for the development of quality measures that are useful to patients and others in the health care industry, automate the measurement and reporting of a comprehensive current and future set of quality measures, and accelerate the use of clinical decision support that can improve performance on those quality measures.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/quality/quality_instruct.html*.

Dated: September 12, 2008.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–22029 Filed 9–19–08; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Personalized Healthcare Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 18th meeting of the American Health Information Community Personalized Healthcare Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.).

DATES: October 14, 2008, from 1 p.m. to 4 p.m. [Eastern Time].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 1114. Please use the C Street entrance closest to 3rd Street and bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/healthcare/.*

SUPPLEMENTARY INFORMATION: The Workgroup will discuss progress made to date and future steps regarding possible common data standards to incorporate interoperable, clinically useful genetic/genomic information and analytical tools into Electronic Health Records (EHRs), as it relates to the transition to the new AHIC.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/healthcare/phc_instruct.html*.

Dated: September 12, 2008.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–22030 Filed 9–19–08; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Confidentiality, Privacy, & Security Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 22nd meeting of the American Health Information Community Confidentiality, Privacy, & Security Workgroup in accordance with the Federal Advisory

Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.).

DATES: October 8, 2008, from 1 p.m. to 5 p.m. [Eastern Time].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 1114. Please use the C Street entrance closest to 3rd Street and bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/confidentiality/*.

SUPPLEMENTARY INFORMATION: The Workgroup Members will continue discussing and evaluating the confidentiality, privacy, and security protections and requirements for participants in electronic health information exchange environments.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/cps_instruct.html*.

Dated: September 12, 2008.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–22031 Filed 9–19–08; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Sixth Meeting of the Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Disease Prevention and Health Promotion.

ACTION: Notice of meeting.

Authority: 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended. The Committee is governed by the provision of Public Law 92—463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

SUMMARY: The U.S. Department of Health and Human Services (HHS) announces the sixth in a series of federal advisory committee meetings regarding the national health promotion and disease prevention objectives for 2020 to be held in Washington, DC. This meeting will be open to the public. The Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020 will review the nation's health promotion and disease prevention objectives and efforts to develop goals and objectives to improve the health status and reduce health risks for Americans by the year 2020. The Committee will provide to the Secretary of Health and Human Services advice and consultation for developing and implementing the next iteration of national health promotion and disease prevention goals and objectives and provide recommendations for initiatives to occur during the initial implementation phase of the goals and objectives. HHS will use the recommendations to inform the development of the national health promotion and disease prevention objectives for 2020 and the process for implementing the objectives. The intent is to develop and launch objectives designed to improve the health status and reduce health risks for Americans by the year 2020.

DATES: The Committee will meet on October 15, 2008 from 2 p.m. to 4 p.m. Eastern Daylight Time.

ADDRESSES: The meeting will be held online, via WebEx software. For detailed instructions about how to make sure that your windows computer and browser is set up for WebEx, please visit the ''Secretary's Advisory Committee'' page of the Healthy People Web site at: *http://www.healthypeople.gov/hp2020/advisory/default.asp*

FOR FURTHER INFORMATION CONTACT: Emmeline Ochiai, Designated Federal Officer, Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020, U.S. Department of Health and Human Services, Office of Public Health and Science, Office of Disease Prevention and Health Promotion, 1101 Wootton Parkway, Room LL–100, Rockville, MD 20852, (240) 453–8259 (telephone), (240) 453–8281 (fax). Additional information is available on the Internet at *http://www.healthypeople.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: Every 10 years, through the Healthy People initiative, HHS leverages scientific insights and lessons from the past decade, along with the new knowledge of current data, trends, and innovations to develop the next iteration of national health promotion and disease prevention objectives. Healthy People provides science-based, 10-year national objectives for promoting health and preventing disease. Since 1979, Healthy People has set and monitored national health objectives to meet a broad range of health needs, encourage collaborations across sectors, guide individuals toward making informed health decisions, and measure the impact of our prevention and health promotion activities. Healthy People 2020 will reflect assessments of major risks to health and wellness, changing public health priorities, and emerging issues related to our nation's health preparedness and prevention.

Public Participation at Meeting: Members of the public are invited to listen to the online Advisory Committee meeting. There will be no opportunity for oral public comments during the online Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020 meeting. Written comments, however, are welcome throughout the development process of the national health promotion and disease prevention objectives for 2020. They can be submitted through the Healthy People Web site at: *http://www.healthypeople.gov/hp2020/comments/* or they can be e-mailed to *HP2020@hhs.gov*. Please note that the public comment Web site will be updated throughout the Healthy People development process, so people should return to the site frequently and provide their input.

To listen to the Committee meeting, individuals must pre-register to attend the Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020 at the Healthy People Web site located at *http://www.healthypeople.gov*. Participation in the meeting is limited. Registrations will be accepted until maximum WebEx capacity is reached and must be completed by close of business Eastern Daylight Time on October 14, 2008. A waiting list will be maintained should registrations exceed WebEx capacity. Individuals on the waiting list will be contacted as additional space for the meeting becomes available.

Registration questions may be directed to Hilary Scherer at *HP2020@norc.org* (e-mail), (301) 634–9374 (phone) or (301) 634–9301 (fax).

Dated: September 8, 2008.

Carter Blakey,

Acting Director, Office of Disease Prevention and Health Promotion.

[FR Doc. E8–22068 Filed 9–19–08; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis Meeting (ACET)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following council meeting.

Times and Dates:

8:30 a.m.–5:30 p.m., October 7, 2008.

8:30 a.m.–2 p.m., October 8, 2008.

Place: Corporate Square, Building 8, 1st Floor Conference Room, Atlanta, Georgia 30333, Telephone (404) 639–8317.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters to be Discussed: Agenda items include issues pertaining to update on nucleic acid amplification guidelines; update on interferon gamma release assays guidelines; update on the isolation guidelines; update on travel restrictions guidelines and other related tuberculosis issues.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Margie Scott-Cseh, Coordinating Center for Infectious Diseases, Strategic Business Unit, 1600 Clifton Road, NE., M/S E–07, Atlanta, Georgia 30333, Telephone (404) 639–8317.

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 the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: September 15, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. E8–22040 Filed 9–19–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0372]

Global Harmonization Task Force, Study Groups 1 and 5; Proposed and Final Documents; Availability; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of July 11, 2008 (73 FR 39968). The notice announced the availability of Global Harmonization Task Force documents entitled ''Role of Standards'' and ''Clinical Investigations.'' The notice was published with an incorrect document number. This document corrects that number.

FOR FURTHER INFORMATION CONTACT: Paul Gadiock, Center for Devices and Radiological Health (HFZ–215), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 240–276–2343.

SUPPLEMENTARY INFORMATION: In FR Doc. E8–15797, appearing on page 39968 in the **Federal Register** of Friday, July 11, 2008, the following correction is made:

1. On page 39968, in the third column, in the third paragraph, in the 8th and 9th lines, ''SG5(PD)/N37:2007'' is corrected to read ''SG5(PD)/N3R7:2007.''

Dated: September 11, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–22094 Filed 9–19–08; 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 Biophysics of Neural Systems Study Section, October 2, 2008, 8 am to October 3, 2008, 5 pm, One Washington Circle Hotel, One Washington Circle, Washington, DC 20037 which was published in the **Federal Register** on September 9, 2008, 73 FR 52395–52397.

The meeting will be held one day only October 2, 2008, from 8 am to 8 pm. The meeting location remains the same. The meeting is closed to the public.

Dated: September 15, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–22055 Filed 9–19–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive And Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; R13 Conference Application.

Date: October 23, 2008.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: D.G. Patel, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Ancillary Study for PKD.

Date: October 27, 2008.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: D.G. Patel, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, Md 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Digestive Diseases and Nutrition Training and Mentored Applications Review.

Date: October 29, 2008.

Time: 2 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *Ls38z@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS).

Dated: September 15, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–22072 Filed 9–19–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 Library of Medicine Special Emphasis Panel P41 SEP.

Date: November 7, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Arthur A. Petrosian, PhD, Scientific Review Administrator, Division of Extramural Programs, National Library of Medicine, National Institutes of Health, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–496–4253, *petrosia@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: September 15, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–22052 Filed 9–19–08; 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 Neurogenesis and Cell Fate Study Section, October 2, 2008, 8 a.m. to October 3, 2008, 4 p.m., Renaissance M Street Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037 which was published in the **Federal Register** on September 9, 2008, 73 FR 52395–52397.

The meeting will be held one day only October 2, 2008, from 8 a.m. to 7 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: September 11, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–21881 Filed 9–19–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Project: National Outcome Measures for Substance Abuse Prevention (OMB No. 0930–0230)—Revision

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) is requesting Office of Management and Budget (OMB) approval for CSAP's data collection set of National Outcome Measures (NOMs) identified for the field of prevention. The current approval, under OMB No. 0930–0230, is expiring on December 31, 2008. All new grantees initially funded at the end of FY08 and beyond (subject to OMB approval) will be required to use these measures as appropriate at the State, substate, program and participant levels. CSAP is requesting approval to continue collecting data using measures in the following domains: Abstinence from Alcohol and Other Drugs, Employment/Education, Crime and Criminal Justice, Access/Service Capacity, Retention, Social Support/Social Connectedness, Cost-Effectiveness, and Use of Evidence-Based Practices. These NOMs relate to youth ages 12 to 17 and to adults ages 18 and older.

CSAP is proposing to eliminate 22 of the 49 measures that received OMB clearance in 2005, to reduce reporting burden for grantees. CSAP also requests permission to make minor changes to the question wording and response categories for some of the remaining measures. Since the National Survey of Drug Use and Health (NSDUH) provides an economical extant source of data for NOMs measures at the State level, it is important that the NOMs conform to NSDUH question wording. CSAP believes NOMs measures are necessary to assess the performance of its prevention programs. Based on its long history working with States, communities, and prevention providers, the Data Analysis Coordination and Consolidation Center (DACCC) and outside expert panels believe consistent prevention measures allow for valid comparison evaluations. CSAP is requesting to modify the wording of 12 previously approved questions in order to make them comparable to individual NOMs items. For example, NSDUH items on 30-day use ask respondents to report the number of *days* on which they used specific substances. Three currently approved NOMs 30-day use questions ask respondents for the number of *occasions* on which they used substances. CSAP would like to change the wording of these questions and their corresponding response options to conform to NSDUH wording. Second, response options for NSDUH questions typically include a *Don't Know* response option. CSAP is requesting modification of nine currently approved NOMs questions to include this response option.

CSAP intends to implement the following approach in collecting NOMs data:

Required NOMs Data for States. CSAP pre-populates State level NOMs measures for all but three domains using data from the NSDUH. States supply the data on the number of persons served, cost efficiency, and evidence based practices from their own administrative databases.

Required NOMs Data for Discretionary Grantees. SAMHSA's CSAP has identified specific outcome measures that are required of non-State discretionary grant recipients. These NOMs represent the domains noted above and relate to youth ages 12 to 17 and to adults ages 18 and older. Grantees providing services are required to administer surveys to all participants at program entry (baseline), program exit, and three to six months following program exit.

CSAP believes that the NOMs measures are necessary to assess the performance of its prevention programs; based on its long history working with States, communities, and prevention providers, and on input from its Data Analysis Coordination and Consolidation Center (DACCC) and from outside expert panels who made recommendations based on a review of existing measures using standard criteria. Additionally, we believe that these measures can be collected at the National, State, substate, and/or program level as appropriate, providing the consistency of measurement towards which we strive. NOMs epidemiologic measures are already collected by other agencies and no burden will be imposed on SAMHSA/CSAP grantees. The NOMs measures will be used as follows:

National/State: Outcome trend measures are used to identify need and monitor global effectiveness at the population level, for the purpose of informing Federal resource allocation decisions.

Community: Outcome trend measures are used to (1) determine need and target resources to communities at greatest risk and (2) track performance of universal programs and environmental strategies. The data will inform allocation of community resources.

Program: Outcome pre/post measures are used to assess program performance of direct service programs at the individual program participant level.

BURDEN ESTIMATE

SAMHSA/CSAP program	Number of grantees	Number of respondents	Responses per respondent	Hours/ response	Total hours
FY 09					
Science/Services:					
Fetal Alcohol	6	4,800	3	0.75	10,800
Workplace	6	6,000	1	0.75	4,500
Capacity:					
HIV/Targeted Capacity	135	35,300	3	0.75	79,425
SPF SIG	42	....	1	0.75	0
SPF SIG/Community Level *	....	480	1	0.75	360
SPF SIG/Program Level *	....	12,000	1	0.75	9,000
Methamphetamine	12	3,000	3	0.75	6,750
FY10					
Science/Services:					
Fetal Alcohol	6	4,800	3	0.75	10,800
Workplace	6	6,000	2	0.75	9,000
Capacity:	....	....	....	0.75	0
HIV/Targeted Capacity	135	35,300	3	0.75	79,425
SPF SIG	42	....	1	0.75	0
SPF SIG/Community Level *	....	480	1	0.75	360
SPF SIG/Program Level *	....	12,000	1	0.75	9,000
Methamphetamine	12	3,000	3	0.75	6,750
FY11					
Science/Services:					
Fetal Alcohol	6	4,800	3	0.75	10,800
Workplace	6	6,000	3	0.75	13,500
Capacity					
HIV/Targeted Capacity	135	35,300	3	0.75	79,425
SPF SIG	42	....	1	0.75	0
SPF SIG/Community Level *	....	480	1	0.75	360
SPF SIG/Program Level *	....	1,200	1	0.75	900

BURDEN ESTIMATE—Continued

SAMHSA/CSAP program	Number of grantees	Number of respondents	Responses per respondent	Hours/ response	Total hours
Methamphetamine	12	3,000	3	0.75	6,750
Annual Average		10,196		0.75	15,359

* The Strategic Prevention Framework State Incentive Grant (SPF SIG) has a three level evaluation: The Grantee, Community and Program Level. The Grantee level data will be pre-populated by SAMHSA. The use of the Community Level instrument is optional as they relate to targeted interventions implemented during the reporting period. At the program level, items will be selected to direct services implemented.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857 *AND* e-mail her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received within 60 days of this notice.

Dated: September 12, 2008.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. E8–22053 Filed 9–19–08; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Central Utah Project Completion Act

AGENCIES: Department of the Interior, Office of the Assistant Secretary—Water and Science.

ACTION: Notice of Availability, Final Environmental Assessment (FEA) and Finding of No Significant Impact (FONSI), Hobble Creek Stream Restoration, Utah County, Utah.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, the Central Utah Project Completion Act Office has evaluated the environmental impacts of a proposal to relocate, and restore natural stream sinuosity, and fisheries habitat, in Hobble Creek, a tributary to Utah Lake in Utah County, Utah, to assist recovery of the endangered June sucker fish (*Chasmistes liorus*). Following a review of issues, with public involvement, the Department has concluded that no significant impacts affecting the quality of the human environment are anticipated to result from this action. Therefore, no Environmental Impact Statement will be prepared.

Under the Proposed Action, approximately the last one mile of Hobble Creek, where it enters Utah Lake, will be relocated onto property owned by the State of Utah. The project will improve the hydrology of the stream, open the upper reaches of Hobble Creek to spawning June sucker, which currently exist in Utah Lake. As part of the project, adjacent wetlands and connecting side channels will be constructed on the property to create backwater habitat for survival and rearing of larval stages of June sucker produced in the creek. After construction, the project lands would be managed by the Utah Division of Wildlife Resources for protection of wetlands and conservation of the June sucker. The Utah Transit Authority, State of Utah, and the U.S. Fish and Wildlife Service served as cooperating agencies in completing the environmental evaluations under NEPA.

This project is being implemented in cooperation with the June Sucker Recovery Implementation Program (JSRIP).

FOR FURTHER INFORMATION CONTACT: Copies of the Final EA and FONSI are available by contacting Mr. Ralph G. Swanson at the Central Utah Project Completion Act Office, 302 East 1860 South, Provo, Utah 84606, by calling 801/379–1254, or E-mail at *rswanson@uc.usbr.gov*.

Copies of the Final EA and FONSI are also available for inspection at:

Springville City Library, 50 South Main, Springville, Utah 84663;

Department of the Interior, Central Utah Project Completion Act Office, 302 East 1860 South, Provo, Utah 84606.

In addition, both documents are available at the JSRIP Web site at *http://www.junesuckerrecovery.org* or the Utah Transit Authority Web site at *http://www.rideuta.com*.

SUPPLEMENTARY INFORMATION: None.

Reed R. Murray,

CUP Program Director, Department of the Interior.

[FR Doc. E8–22050 Filed 9–19–08; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2008–N0200; 10120–1113–0000–C2]

Draft Recovery Plan for the Prairie Species of Western Oregon and Southwestern Washington

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability of the draft Recovery Plan for the Prairie Species of Western Oregon and Southwestern Washington for public review and comment. The listed species addressed in the recovery plan are: Fender's blue butterfly (*Icaricia icarioides fenderi*), *Erigeron decumbens* var. *decumbens* (Willamette daisy), *Lomatium bradshawii* (Bradshaw's lomatium), *Lupinus sulphureus* ssp. *kincaidii* (Kincaid's lupine), *Sidalcea nelsoniana* (Nelson's checker-mallow) and *Castilleja levisecta* (golden paintbrush).

ADDRESSES: Copies of the draft recovery plan are available by request from the U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, 2600 SE 98th Avenue, Suite 100, Portland, Oregon 97266 (phone: 503–231–6179). An electronic copy of the draft recovery plan is also available at *http://endangered.fws.gov/recovery/index.html#plans.* Printed copies of the draft recovery plan will be available for distribution within 4 to 6 weeks.

FOR FURTHER INFORMATION CONTACT: Cat Brown, Fish and Wildlife Biologist, at the above Portland address and telephone number.

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals and plants is a primary goal of the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*) and our endangered species program. Recovery means improvement of the status of listed species to the point at which listing is no longer required under the criteria set out in section 4(a)(1) of the Act. Recovery plans describe actions necessary for the conservation and survival of the species, establish criteria for downlisting or delisting listed species, and estimate time and cost for implementing the measures needed for recovery.

The Act requires the development of recovery plans for endangered or threatened species unless such a plan would not promote the conservation of the species. Section 4(f) of the Act requires that public notice, and an opportunity for public review and comment, be provided during recovery plan development. The U.S. Fish and Wildlife Service (''we'') will consider all information presented during the public comment period on each new or revised recovery plan.

The native prairies of western Oregon and southwest Washington are among the most imperiled ecosystems in the United States. Six native prairie species in the region—one butterfly and five plants—have been added to the Federal List of Endangered and Threatened Wildlife and Plants since 1988. In this draft recovery plan, we develop recovery strategies and objectives for Fender's blue butterfly (*Icaricia icarioides fenderi*), *Erigeron decumbens* var. *decumbens* (Willamette daisy), *Lomatium bradshawii* (Bradshaw's lomatium), *Lupinus sulphureus* ssp. *kincaidii* (Kincaid's lupine), *Sidalcea nelsoniana* (Nelson's checker-mallow) and *Castilleja levisecta* (golden paintbrush). When completed, this plan will replace and supersede previously approved recovery plans for *Lomatium bradshawii* and *Sidalcea nelsoniana.* It will augment, but not replace, the existing recovery plan for *Castilleja levisecta;* this new Prairie Species Recovery Plan will provide recommendations for the reintroduction of *Castilleja levisecta* into its historical range in the Willamette Valley, consistent with the species' published recovery plan. In addition to recovery strategies for these six listed species, the plan will recommend conservation strategies for one candidate species, the Taylor's checkerspot butterfly (*Euphydryas editha taylori*), and another six plant species of concern: *Delphinium leucophaeum* (pale larkspur), *Delphinium oreganum* (Willamette Valley larkspur), *Delphinium pavonaceum* (peacock larkspur), *Horkelia congesta* ssp. *congesta* (shaggy horkelia), *Sericocarpus rigidus* (white-topped aster), and *Sisyrinchium hitchcockii* (Hitchcock's blue-eyed grass). All of the species addressed in this recovery plan are threatened by the continued degradation, loss and fragmentation of their native prairie ecosystems.

We developed the draft recovery plan in coordination with the Western Oregon and Southwestern Washington Prairie Species Recovery Team, which includes representatives from two Federal agencies (U.S. Fish and Wildlife Service and Bureau of Land Management), two state agencies (Washington Department of Natural Resources and Oregon Department of Transportation), the Confederated Tribes of the Grande Ronde Community of Oregon, Washington State University, and several other experts from the academic and private sectors.

Our recovery strategy for the species addressed in this recovery plan is to protect remaining fragments of upland and wet prairie habitats and to restore them to fully functioning prairie ecosystems. The draft recovery plan calls for viable populations of the listed prairie species to be protected in a series of recovery zones distributed across their historical ranges. Recovery actions will include habitat management, restoration of historical disturbance regimes, control of noxious nonnative plants, carefully planned reintroductions, population monitoring, active research, and public involvement and outreach. The recovery actions are designed to ameliorate threats and increase population sizes of Fender's blue butterfly, *Lupinus sulphureus* ssp. *kincaidii, Erigeron decumbens* var. *decumbens, Lomatium bradshawii, Sidalcea nelsoniana,* and *Castilleja levisecta* to achieve recovery goals, which, if successful, may allow their eventual delisting (removal from the List of Endangered and Threatened Wildlife and Plants).

The widespread loss and degradation of prairie habitats in western Oregon and southwestern Washington have been responsible for the decline of many other plant and animal species associated with these communities. We believe that a holistic, ecosystem management approach to the restoration of prairie habitats will not only contribute to the recovery of the listed prairie species, but will also contribute to the protection of populations of the associated prairie species of concern discussed in this plan, as well as other native prairie species.

Public Comments Solicited

We solicit written comments on the draft recovery plan. All comments received by the date specified above will be considered prior to approval of this plan. If you wish to comment, you may submit your comments and materials concerning this recovery plan by any of these methods:

1. You may submit written comments and information by mail, facsimile or in person to the Oregon Fish and Wildlife Office at the above address (see **ADDRESSES**).

2. You may send comments by electronic mail (e-mail) to: *FW1PrairieRecoveryPlan@fws.gov.* If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include your name and return address in your e-mail message.

Comments and materials received, as well as supporting documentation used in preparation of the recovery plan, will be available for inspection, during normal business hours at the above Portland address (see **ADDRESSES**).

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While we will try to honor your written request to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 3, 2008.

David J. Wesley,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. E8–22173 Filed 9–19–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Jamestown S'Klallam Amended Tribal Liquor Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes an amendment to the Jamestown S'Klallam Tribal Liquor Control Ordinance published in the **Federal Register** May 19, 1994. The amendment regulates and controls the possession and consumption of liquor within the tribal lands. The tribal lands are located in Indian Country and this amended

Ordinance allows for possession of alcoholic beverages within their boundaries. This Ordinance will increase the ability of the tribal government to control liquor sales, possession and consumption by the community and its members.

DATES: *Effective Date:* This Ordinance is effective on October 22, 2008.

FOR FURTHER INFORMATION CONTACT: Betty Scissons, Tribal Government Services Officer, Northwest Regional Office, 911 NE 11th Ave., 8th Floor, Portland, OR 97232, Telephone: (503) 231–6723, Fax (503) 231–2189; or Elizabeth Colliflower, Office of Indian Services, 1849 C Street, NW., Mail Stop 4513–MIB, Washington, DC 20240, Telephone: (202) 513–7640.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Jamestown S'Klallam Tribe amended the Tribal Liquor Control Ordinance by Resolution No. 06–08 on February 19, 2008. The purpose of this Ordinance is to govern the sale and possession of alcohol within tribal lands of the Tribe.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the amended Jamestown S'Klallam Tribal Liquor Control Ordinance was duly adopted by the Jamestown S'Klallam Tribal Council on February 19, 2008.

Dated: September 11, 2008.

George Skibine,

Acting Deputy Assistant Secretary for Policy and Economic Development.

The amended Jamestown S'Klallam Tribal Liquor Control Ordinance reads as follows:

JAMESTOWN S'KLALLAM TRIBE AMENDED

TRIBAL LIQUOR CONTROL ORDINANCE

PART I, POLICY AND DEFINITIONS.

Section 1.1 Public Policy Declared.

This Ordinance shall be cited as the ''Jamestown S'Klallam Tribal Liquor Control Ordinance.'' Under the inherent sovereignty of the Jamestown S'Klallam Tribe, and pursuant to the provisions of the Tribal Constitution, Article II, Powers of the Tribal Council, Section 1, Enumerated Powers, subsection (i), this ordinance shall be deemed an exercise of the Tribe's power for the protection of the welfare, health, peace, morals and safety of the people of the Tribe. It is further the Tribe's policy to assure that any transaction, importation, sale or consumption involving an alcoholic beverage, while within the Tribe's jurisdiction, shall occur in strict compliance with this Ordinance, the laws of the United States and where applicable, the State of Washington.

Section 1.2 Definitions.

(a) Alcoholic Beverage: Shall mean any intoxicating liquor, beer, or any wine, as defined under the provisions of this Ordinance or other applicable law.

(b) Council: Shall mean the Tribal Council of the Jamestown S'Klallam Tribe.

(c) Legal Age: Shall mean the age requirements as defined in Part 11, Section 2.1.

(d) Liquor Store: Shall mean any store established by the Tribe for the sale of alcoholic beverages or any entity licensed by the Tribe to sell alcoholic beverages.

(e) On-Site Dealer: Shall mean the Jamestown S'Klallam Tribe or duly authorized licensee when it sells, or keeps for sale, any alcoholic beverage authorized under this Ordinance for consumption on the premises where sold.

(f) On-Site Sale: Shall mean the sale of any alcoholic beverage for consumption only upon the premises where sold.

(g) Sale: Shall mean the transfer of any bagged, bottled, boxed, canned or kegged alcoholic beverage, or the serving of any contents of any bagged, bottled, boxed, canned or kegged alcoholic beverage by any means whatsoever for a consideration of currency exchange.

(h) Transaction: Shall mean any transfer of any bagged, bottled, boxed, canned or kegged alcoholic beverage, or the transfer of any contents of any bagged, bottled, boxed, canned or kegged alcoholic beverage from any liquor store, on-site dealer or vendor to any person.

(i) Vendor: Shall mean any person employed or under the supervision by and of a liquor store or on-site dealer who conducts sales or transactions involving alcoholic beverages.

Section 1.3 General Prohibition.

It shall be a violation of Tribal law to manufacture for sale, sell, offer, or keep for sale, possess, transport or conduct any transaction involving any alcoholic beverage except in compliance with the terms, conditions, limitations and restrictions specified in this Ordinance.

Section 1.4 Tribal Control of Alcoholic Beverages.

The Council shall have the sole and exclusive right to authorize the importation of alcoholic beverages for sale or for the purpose of conducting transactions therewith, and no person or organization shall so import any such alcoholic beverage into the Jamestown S'Klallam Indian Country, which includes the reservation and trust lands of the Tribe, wherever situated, unless authorized by the Council.

Section 1.5 Community Liquor Store.

The Council may establish and maintain anywhere within the Jamestown S'Klallam Indian Country that the Council may deem advisable, a community liquor store or stores for the sale of alcoholic beverages in accordance with the revisions of this Ordinance. The Council may set the prices of alcoholic beverages sold.

Section 1.6 Community On-Site Dealer.

The Council may establish and maintain anywhere within the Jamestown S'Klallam Indian Country that the Council may deem advisable, a community on-site dealer or dealers for storage and on-site sale of alcoholic beverages in accordance with the provisions of this Ordinance. The Council may set the prices of alcoholic beverages sold.

Section 1.7 State of Washington Licenses and Agreements.

The Council or operator may negotiate an agreement or obtain a State of Washington liquor license for any Tribally operated establishment that sells alcoholic beverages or conducts transactions involving alcoholic beverages to the extent required by applicable law to allow the Tribe to sell liquor in Indian Country under its control.

Section 1.8 Disputes; Violations; Penalties.

Any disputes or violations that arise under this Ordinance shall be resolved by mediation or by a suit in Tribal Court, which shall have exclusive civil and criminal jurisdiction for actions brought under this Ordinance.

PART II, COMPLIANCE WITH THE LAWS OF THE STATE OF WASHINGTON.

Section 2.1 Applicability of State Law.

The Council and its agents shall act in conformity with State laws regarding the sale of liquor to the extent required by applicable federal law including 18 U.S.C. § 1161.

Section 2.2 Persons Under 21 Years of Age: Restrictions.

The Council shall comply with the State of Washington laws regarding restrictions on those persons under the age of 21 years in any Tribal establishment operating pursuant to the provisions of this Ordinance.

Section 2.3 Restrictions on Intoxicated Persons.

No Tribally operated or licensed establishment shall sell, give, or furnish any alcoholic beverage or in any way allow any alcoholic beverage to be sold, given or furnished to a person who is obviously intoxicated.

Section 2.4 Hours and Days of Sale.

No Tribally operated or licensed establishment shall sell or furnish alcoholic beverages for on-site purposes during hours or on days not in compliance with applicable law.

PART III, TRIBAL LICENSING AND REGULATION.

Section 3.1 Power to License and Tax.

The power to establish Tribal licenses and levy taxes under the provisions of this Ordinance is vested exclusively with the Council. If the Council enters into any agreements with the State regarding the sale of liquor, the agreement shall be deemed tribal law.

Section 3.2 Tribally Owned Establishments.

The Council can issue by resolution an appropriate license to a Tribally owned establishment upon determining the site for the establishment and obtaining the necessary licensing or agreement from the State of Washington.

Section 3.3 License of Retail Sales.

3.3.1 The Council shall have the power to issue licenses to any tribal or state chartered corporation, individual or partnership or other entity to undertake any sale or transaction which the Tribe itself has the power to undertake under this ordinance for the sale of alcoholic beverages at a retail store.

3.3.2 Applications for licenses shall be submitted in the form prescribed by the Council or its authorized employees. The Council may, within its sole discretion and subject to the conditions in this Ordinance issue or refuse to issue the license applied for upon payment of such fee as the Council may prescribe.

3.3.3 Every license shall be issued in the name of the applicant and no license shall be transferable or assignable without the written approval of the Council nor shall the licensee allow any other person or entity to use the license.

3.3.4 The Council may, for violations of this Ordinance, suspend or cancel any license. A license is a privilege and no person shall have vested rights therein. Prior to cancellation or suspension, the Council shall send notice of its intent to cancel or suspend the license to the licensee.

3.3.5 No license under this Ordinance shall be for a period longer than one year.

Section 3.4 Regulations.

The Council may, consistent with this ordinance, adopt regulations it deems necessary to implement this Ordinance.

PART IV, CONSTRUCTION.

Section 4.1 Severability.

If any part of this Ordinance, or the application thereof to any party, person, or entity or to any circumstances, shall be held invalid for any reason whatsoever, the remainder of the section or Ordinance shall not be affected thereby, and shall remain in full force and effect as though no part thereof had been declared to be invalid.

Section 4.2 Amendment or Repeal of Ordinance.

This Ordinance may be amended or repealed by a majority vote of the Council.

Section 4.3 Sovereign Immunity.

Nothing in this Ordinance is intended to nor shall be construed as a waiver of the sovereign immunity of the Jamestown S'Klallam Tribe.

Section 4.4 Effective Date.

This Ordinance shall be effective upon the date that the Secretary of the Interior certifies this Ordinance and publishes it in the **Federal Register**.

Section 4.5 Jurisdiction.

Notwithstanding anything in this Ordinance to the contrary, nothing herein is intended to nor shall be construed as a grant of jurisdiction from the Jamestown S'Klallam Tribe to the State of Washington beyond that provided by applicable law. The Tribe shall operate in conformity with State law and Tribal law to the extent provided pursuant to 18 D.S.C. § 1161.

Section 4.6 Enforcement.

4.6.1 In any proceeding under this Ordinance, conviction of one unlawful sale or distribution of liquor shall establish prima facie intent of unlawfully keeping liquor for sale, selling liquor or distributing liquor in violation of this Ordinance.

4.6.2 Any person who shall sell or offer for sale or distribute or transport in any manner, liquor in violation of this Ordinance, or who shall operate or shall have liquor for sale in his possession without a license, shall be guilty of a violation of this Ordinance subjecting them to civil damages assessed by the Tribal Council.

4.6.3 Any person within the boundaries of the reservation or trust land of the Tribe who buys liquor from any person other than a properly licensed facility shall be guilty of a violation of this Ordinance.

4.6.4 Any person who keeps or possesses liquor upon their person or in any place or on premises conducted or maintained by their principal or agent with the intent to sell or distribute it contrary to the provisions of this Ordinance, shall be guilty of a violation of this Ordinance.

4.6.5 Any person who knowingly sells liquor to a person under the influence of liquor shall be guilty of a violation of this Ordinance.

4.6.6 Any person engaging wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employee of such person, who shall knowingly permit any person to drink liquor in any public conveyance shall be guilty of an offense. Any person who shall drink liquor in a public conveyance shall be guilty of a violation of this Ordinance.

4.6.7 No person under the age of 21 years shall consume, acquire or have in their possession any liquor or alcoholic beverage. No person shall permit any other person under the age of 21 to consume liquor on his premises or any premises under their control except in those situations set out in this section. Any person violating this section shall be guilty of a separate violation of this Ordinance for each and every drink so consumed.

4.6.8 Any person who shall sell or provide any liquor to any person under the age of 21 years shall be guilty of a violation of this Ordinance for each such sale or drink provided.

4.6.9 Any person who transfers in any manner an identification of age to a person under the age of 21 years for the purpose of permitting such person to obtain liquor shall be guilty of an offense; provided, that corroborative testimony of a witness other than the underage person shall be a requirement of finding a violation of this Ordinance.

4.6.10 Any person who attempts to purchase an alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of 21 years shall be guilty of violating this Ordinance.

4.6.11 Any person guilty of a violation of this Ordinance shall be liable to pay the Tribe the amount of $500 per violation as civil damages to defray the Tribe's cost of enforcement of this Ordinance.

4.6.12 When requested by the provider of liquor, any person shall be required to present official documentation of the bearer's age, signature and photograph. Official documentation includes one of the following:

(1) Driver's license or identification card issued by any state department of motor vehicles;

(2) United States Active Duty Military ID;

(3) Passport.

4.6.13 Liquor which is possessed, including for sale, contrary to the terms of this Ordinance is declared to be contraband. Any Tribal agent, employee or officer who is authorized by the Tribal Council to enforce this section shall seize all contraband and preserve it in accordance with the provisions established for the preservation of impounded property.

4.6.14 Upon being found in violation of the Ordinance, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Tribe.

Section 4.7 Abatement.

4.7.1 Any room, house, building, vehicle, structure, or other place where liquor is sold, manufactured, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this Ordinance or of any other Tribal law relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such place, is hereby declared to be a nuisance.

4.7.2 The Chairman of the Tribal Councilor, if the Chairman fails or refuses to do so, by a majority vote, the Tribal Council shall institute and maintain an action in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this Ordinance. In addition to all other remedies at Tribal law, the Tribal Court may also order the room, house, building, vehicle, structure, or place closed for a period of one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient sum of not less than $25,000 payable to the Tribe and on the condition that liquor will not be thereafter manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this Ordinance or of any other applicable Tribal law and that they will pay all fines, costs and damages assessed against them for any violation of this Ordinance. If any conditions of the bond be violated, the bond may be recovered for the use of the Tribe.

4.7.3 In all cases where any person has been found in violation of this Ordinance relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, an action may be brought to abate as a nuisance any real estate or other property involved in the violation of the Ordinance and violation of this Ordinance shall be prima facie evidence that the room, house, building, vehicle, structure, or place against which such action is brought is a public nuisance.

Section 4.8 Authority of CEO

4.8.1 The Tribal Council hereby authorizes the Chief Executive Officer to promulgate such rules, regulations, policies and procedures which he/she deems necessary to implement the provisions of this Ordinance.

Certification of Adoption

I, Heather Johnson Jock, Secretary of the Jamestown S'Klallam Tribal Council, do hereby certify that the foregoing Jamestown S'Klallam Liquor Control Ordinance was adopted at a meeting of the Jamestown S'Klallam Tribal Council held on the 19th day of Feb., 2008, at the Jamestown S'Klallam Tribal Office in Blyn, Washington, and where a quorum was present and approving the Ordinance by resolution by a vote of 5 FOR and 0 AGAINST with 0 ABSTAINING.

\s\ Heather Johnson Jock
Heather Johnson Jock, Secretary of the Tribal Council

[FR Doc. E8–21996 Filed 9–19–08; 8:45 am]
BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Sac & Fox Tribe of the Mississippi in Iowa Liquor Control Code

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Liquor Control Code of the Sac & Fox Tribe of the Mississippi in Iowa. The Code regulates and controls the possession, sale, and consumption of liquor within the tribal lands. The tribal lands are located in Indian Country and this Code allows for possession and sale of alcoholic beverages within their boundaries. This Code will increase the ability of the tribal government to control the tribe's liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal services.

DATES: *Effective Date:* This Ordinance is effective September 22, 2008.

FOR FURTHER INFORMATION CONTACT: David Christensen, Tribal Operations Officer, Midwest Regional Office, One Federal Drive, Room 550, Ft. Snelling, MN 55111, Telephone (612) 725–4554; or Elizabeth Colliflower, Office of Tribal Services, 1849 C Street, NW., Mail Stop 4513–MIB, Washington, DC 20240; Telephone (202) 513–7627; Fax (202) 501–0679.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian Country. The Sac & Fox Tribe of the Mississippi in Iowa, Tribal Council adopted this Liquor Code on June 11, 2008. The purpose of this Code is to govern the sale, possession and distribution of alcohol within the Sac & Fox Tribe of the Mississippi in Iowa tribal land.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that this Liquor Control Code of the Sac & Fox Tribe of the Mississippi in Iowa was duly adopted by the Sac & Fox Tribal Council on June 11, 2008.

Dated: September 11, 2008.

George T. Skibine,

Acting Deputy Assistant Secretary for Policy and Economic Development.

The Sac & Fox Tribe of the Mississippi in Iowa Liquor Control Code reads as follows:

SAC & FOX TRIBE OF THE MISSISSIPPI IN IOWA

TITLE 21. LIQUOR CONTROL

ARTICLE I

GENERAL PROVISIONS

CHAPTER 1. GENERALLY

Sec. 21–1101. Authority and Purpose.

The purpose of this Title is to regulate and control the distribution, possession and sale of liquor within lands subject to the jurisdiction of the Sac and Fox Tribe of the Mississippi in Iowa. The authority for enactment of this Title is as follows:

(a) The Act of August 15, 1953, (Pub. L. 83–277, 67 Stat. 586, codified at 18 U.S.C. § 1161), which provides a federal statutory basis for the Tribe to regulate the activities of the manufacture, distribution, sale and consumption of liquor on Indian lands under the jurisdiction of the Tribe; and

(b) Article X, Section 1 (e), (h), (k), and (n) of the Constitution and Bylaws of the Sac and Fox Tribe of the Mississippi in Iowa, which vests the Tribal Council with legislative and administrative authority to protect and preserve the property and natural resources of the Tribe; to protect the peace, safety, and general welfare of the Tribe; to preserve order among members of the Tribe; to impose license fees on persons coming upon Tribal Lands to do business; and otherwise empowers the Tribal Council to act for the Tribe. This Title 21 was approved and adopted by the Tribal Council on June 11, 2008 by Resolution No. 10–2008.

Sec. 21–1102. Public Policy.

It is the policy of the Tribe to strictly limit the sale of liquor on Tribal Lands. The Tribal Council has determined that the regulated sale and consumption of Alcoholic Beverages at the site of the Casino Property is an appropriate activity that will enhance the revenues of the Tribe's Casino Enterprise. Accordingly, sales of Alcoholic Beverages shall be permitted, but shall be geographically limited to Casino Property and strictly regulated in accordance with this Title and the Regulations.

Sec. 21–1103. Citation.

This Title shall be cited as the ''Sac and Fox Tribe of the Mississippi in Iowa Liquor Control Act'' and may also be referred to as ''Title 21.''

Sec. 21–1104. Federal Approval.

This Title, as of the Effective Date, has been approved by the United States Secretary of the Interior, in accordance with 18 U.S.C. Section 1161.

Sec. 21–1105. Effective Date.

This Title is effective as of September 22, 2008, the date of publication in the **Federal Register**.

Sec. 21–1106. Definitions.

Unless the context requires otherwise, as used in this Title:

(a) ''Alcoholic Beverage'' means any intoxicating liquor, beer, or any wine as defined under the provisions of this Title.

(b) ''Application'' means a formal written request for the issuance of a Liquor License, supported by a verified statement of facts, as described in detail at Section 21–3107 of this Title.

(c) ''Beer'' means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains or made by the fermentation of or by distillation of the fermented products of fruit, fruit extracts, or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than five percent of alcohol by weight but not including mixed drinks or cocktails mixed on the premises.

(d) ''Casino Enterprise'' means the Meskwaki Bingo Casino Hotel, a casino and hotel operation located on Tribal Lands and wholly owned by the Tribe.

(e) ''Casino Property'' means all real property, including the buildings, adjacent parking lots and all related infrastructure that comprise the Casino Enterprise.

(f) ''Code'' means the Code of the Sac and Fox Tribe of the Mississippi in Iowa, including any amendments thereto.

(g) ''Director'' means the Director of Liquor Control as described in detail at Section 21–2102 of this Title.

(h) ''Distributor'' means a Person duly licensed by the State and the Tribe who is entitled to purchase, sell, manufacture, deliver and/or distribute all forms of Alcoholic Beverages to licensed retail establishments within the State, including the Casino Enterprise.

(i) ''Intoxicating Liquor'' means any liquid either commonly used, or reasonably adopted to use for beverage purposes, containing in excess of three and two-tenths percentum of alcohol by weight. This shall include any type of wine, regardless of alcohol content.

(j) ''Liquor License'' means a Tribal liquor license issued in accordance with Chapter 3 of this Title.

(k) ''Person'' means any individual, association, partnership, corporation, joint venture or other form of business association.

(l) ''Qualified Sponsor'' means the sponsor of a Special Event, which may be (i) a duly authorized representative of the Casino Enterprise, (ii) a State licensed distributor, wholesaler or manufacturer of Alcoholic Beverages; or (iii) other Person possessing the requisite license and other legal authority to conduct the proposed activity on Tribal Lands.

(m) ''Regulations'' means all Regulations adopted under this Title in accordance with Section 21–2103 hereof.

(n) ''Sale'' or ''Sell'' means and includes the exchange, barter, and traffic and also includes the selling or supplying or distributing by any means whatsoever of any Intoxicating Liquor or beer.

(o) ''Special Event'' means any social, charitable or for-profit discreet activity or event (i) licensed hereunder; (ii) conducted on Casino Property by a Qualified Sponsor; and (iii) overseen by Casino Enterprise management, at which Alcoholic Beverages are sold by a vendor, wholesaler or distributor licensed by the State and/or the Tribe, as applicable.

(p) ''State'' means the State of Iowa.

(q) ''Tribal Constitution'' means the Constitution and Bylaws of the Sac and Fox Tribe of the Mississippi in Iowa, approved by the Secretary of the Interior on October 15, 1937, and any amendments thereto.

(r) ''Tribal Council'' means the duly elected governing body of the Tribe.

(s) ''Tribal Lands'' means all land owned by the Tribe over which the Tribe exercises jurisdiction, whether held in trust for the Tribe by the United States of America for the benefit of the Tribe, owned in fee simple by the Tribe, or otherwise.

(t) ''Tribe'' means the Sac and Fox Tribe of the Mississippi in Iowa.

(u) ''Wholesaler'' means any person, other than a vintner, brewer or bottler of beer or wine, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in alcoholic liquor, wine, or beer. A wholesaler shall not sell for consumption upon Tribal Lands.

(v) ''Wine'' means any beverage containing more than five percent of alcohol by weight but not more than seventeen percent of alcohol by weight or twenty-one and twenty-five hundredths percent of alcohol by volume obtained by the fermentation of the natural sugar contents of fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses, or cactus.

Sec. 21–1107. Construction.

This Title shall be interpreted and applied in a manner consistent with all other laws, ordinances, resolutions, and regulations of the Tribe.

Sec. 21–1108. Severability.

If a court of competent jurisdiction finds any provision of this Title to be invalid or illegal under applicable Federal or Tribal law, such provision shall be severed from this Title and the remainder of this Title shall remain in full force and effect.

Sec. 21–1109. Headings.

Headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this Title.

Sec. 21–1110. Amendments.

This Title may be amended only upon an affirmative vote of a majority of the Tribal Council, the approval of the Secretary, and the publication of the approved amendment in the **Federal Register**.

CHAPTER 2. REGULATION OF INTOXICATING LIQUOR.

Sec. 21–2101. General Prohibition

It shall be unlawful to manufacture for sale, sell, offer, or keep for sale, possess or transport all forms of Intoxicating Liquor or beer except upon the terms, conditions, limitations, and restrictions specified in this Title and the Regulations.

Sec. 21–2102. Director Appointment and Authority.

The Tribal Council shall appoint a Director of Liquor Control who shall have the following duties and authority:

(a) To publish and enforce this Title and the rules and Regulations governing the sale, manufacture, and distribution of Intoxicating Liquor and beer on Tribal Lands;

(b) To employ or procure the services of managers, accountants, security personnel, inspectors, and such other persons as shall be reasonably necessary to allow the Director and/or the Tribal Council to perform their respective functions under this Title;

(c) To issue Liquor Licenses, with the approval of the Tribal Council, permitting the sale or distribution of liquor on Tribal Lands;

(d) To convene and facilitate Tribal Council hearings on violations of this Title for the issuance or revocation of licenses hereunder;

(e) To bring suit in the appropriate court to enforce this Title as necessary;

(f) To determine and seek damages for violation of this Title;

(g) To make such reports as may be required;

(h) To compile information and conduct background investigations to determine the suitability of an applicant for a Liquor License;

(i) To collect fees levied or set in accordance with this Title, and to keep accurate records, books and accounts;

(j) To develop forms for applications, licenses and other matters covered by this Title;

(k) To take or facilitate all action necessary to follow or implement applicable provisions of State law, as required;

(l) To coordinate with other departments and agencies of the Tribe to ensure the effective enforcement of this Title and the Regulations; and

(m) To exercise such other powers as are necessary and appropriate to fulfill the purposes of this Title.

Sec. 21–2103. Promulgation of Regulations.

The Director is hereby authorized to make rules and Regulations not inconsistent with this Title to the end that this Title shall be applied and administered uniformly throughout Tribal Lands. All such proposed Regulations shall be first submitted to the Tribal Council for consideration, possible revision and final approval. Following approval by the Tribal Council, copies of all Regulations shall be made available to all persons subject to this Title.

Sec. 21–2104. Director as Employee of Tribe.

The Director and other individuals employed under the Director's supervision shall be employees of the Tribe. The Director may be removed for cause at any time by vote of the Tribal Council.

Sec. 21–2105. Interim Appointment.

As of the Effective Date, the Tribal Council designates the Tribe's Executive Director to serve as the Director of Liquor Control until such time as a permanent appointment is made in accordance with this Title.

Sec. 21–2106. Inspection Rights.

The premises on which Intoxicating Liquor and beer is sold or distributed shall be open for inspection by the Director or his designee at all reasonable times for the purpose of ascertaining whether this Title and the rules and Regulations promulgated hereunder are being strictly followed.

Sec. 21–2107. Tribal Control of Importation and Sale of Intoxicating Liquor.

The Tribal Council shall have the sole and exclusive right to control and restrict the importation of all forms of Intoxicating Liquor and beer, except as otherwise provided in this Title and no person or organization shall so import any such Intoxicating Liquor or beer into the Tribal Lands, unless authorized by a Liquor License issued under this Title. No licensed distributor, wholesaler or distillery shall sell any form of Intoxicating Liquor or beer within the Tribal Lands to any person or organization unless licensed hereunder and except as otherwise provided in this Title. It is the intent of this Section to retain in the Tribal Council exclusive control within Tribal Lands as the sole authorizer and controller of all forms of Intoxicating Liquor and beer sold by retailers, distributors, wholesalers or vendors within the Tribal Lands or imported therein, and except as otherwise provided in this Title. The powers of the Director under this Title are by express delegation of the Tribal Council.

Sec. 21–2108. Limitation on Powers.

In the exercise of their respective powers and duties under this Title, the Director, the Tribal Council, and their individual members, representatives and employees, shall not accept any gratuity, compensation or other thing of value from any liquor wholesaler, retailer, or distributor or from any licensee or applicant under this Title.

Sec. 21–2109. Possession of Liquor Contrary to this Title.

All forms of Intoxicating Liquor and beer which are possessed contrary to the terms of this Title are declared to be contraband. Any Tribal agent, employee, or officer who is authorized by this Title and the Regulations to enforce this Section shall have the authority to and shall seize all contraband.

Sec. 21–2110. Disposition of Seized Contraband.

Any officer, employee or agent of the Tribe seizing contraband shall preserve the contraband in accordance with applicable law. Upon being found in violation of this Title, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Tribe.

CHAPTER 3. LIQUOR LICENSES.

Sec. 21–3101. Power to License and Tax.

The power to establish licenses and levy taxes under the provisions of this Title is vested exclusively with the Tribal Council. The Tribal Council has delegated certain authority and responsibilities to the Director of Liquor Control and to the Tax Director, each in accordance with the express provisions in this Title and Title 17 (Taxation). The Tribal Council retains primary responsibility for implementation, oversight and enforcement of this Title.

Sec. 21–3102. Types of Licenses

There is hereby authorized three categories of Liquor Licenses, as follows:
Class I—Retail,
Class II—Special Event, and
Class III—Distributor.

Sec. 21–3103. Class I—Retail License Description.

Only one Class I Retail License shall be permitted under this Title. Such license shall be approved subject to the Director's determination, with the concurrence of the Tribal Council, that all of the conditions set forth at Section 21–3108 have been fully satisfied. Upon recommendation of the Director, the Tribal Council may, on or following the Effective date, issue a Class I—Retail License to the business operation of the Tribe known as the ''Meskwaki Bingo Casino Hotel.'' The Class I—Retail License shall entitle the Casino Enterprise to sell at retail in restaurants, bars, and other areas designated by Regulation, any Alcoholic Beverages permitted hereunder. All such sales shall be strictly limited to the physical area defined herein as the Casino Property. All purchases, deliveries and retail sales of Alcoholic Beverages on the Casino Property shall be in strict compliance with this Title, the terms of the Liquor License and the Regulations promulgated hereunder.

Sec. 21–3104. Class II—Special Event License Description.

Upon (i) request of the General Manager of the Casino Enterprise or his designee, and (ii) recommendation of the Director, a Class II—Special Event License may be issued by the Tribal Council to the Qualified Sponsor of a Special Event. The duration of such license shall be established at the time of issuance; provided, however, the duration shall not be longer than fourteen (14) days. The license shall entitle the Qualified Sponsor to sell at retail the type(s) of Alcoholic Beverages specified in the license. All Alcoholic Beverage sales approved under the terms of the Class II—Special Event License shall comply in all respects with this Title and the Regulations promulgated hereunder.

Sec. 21–3105. Class III—Distributor License Description.

A Class III—Distributor License may be issued to an applicant who (i) is licensed by the State to purchase all forms of Intoxicating Liquor and beer at wholesale and to distribute to retail outlets in the State, and (ii) who meets the criteria under this Title and the Regulations to sell Intoxicating Liquor and beer to the Casino Enterprise.

Sec. 21–3106. Term of Licenses.

The terms of the various Liquor Licenses are as follows:
Class I—Retail: two years;
Class II—Special Events: one to fourteen days; and
Class III—Distributor: two years.

Sec. 21–3107. Procedure for Obtaining Licenses.

(a) The Class I—Retail License authorized hereunder shall be issued to the Casino Enterprise subject to a recommendation by the Director and a determination by the Tribal Council's that the Casino Enterprise has satisfied the criteria described in Section Sec. 21–3108 of this Title.

(b) A Class II—Special Event License may be issued upon recommendation of the Director to an applicant who meets the definition of a Qualified Sponsor. The process for application shall be established by Regulation and shall include proof that the applicant holds all necessary State licenses.

(c) A Class III—Distributor License may be issued upon recommendation of the Director to an applicant who meets the criteria for a Distributor. The process for application shall be established by Regulation and shall include proof that the Applicant holds all necessary State licenses.

(d) In the event dual Tribal and State licenses are required by State law, no Person shall be allowed or permitted to sell, distribute or provide Intoxicating Liquor or beer on Tribal Lands unless such person is also licensed by the State, as required, to sell or provide such Intoxicating Liquor and beer.

Sec. 21–3108. Conditions to Issuance of Class I—Retail License.

In addition to requirements established by Regulation and other provisions of this Title, Tribal Council may, upon recommendation of the Director, issue the Class I—Retail License to the Casino Enterprise only after the Tribal Council has determined to its satisfaction that the Casino Enterprise has adopted and is prepared to implement the following procedures and requirements, as necessary to ensure compliance with this Title and the Regulations:

(a) Security and surveillance procedures ensuring the proper use and handling of all forms of Alcoholic Beverages;

(b) Appropriate revenue and accounting procedures pertaining to the purchase and sale of Alcoholic Beverages;

(c) Inventory control procedures and adequate storage, dispensing, service, management, pricing and security measures relating to the purchase and sale of Alcoholic Beverages;

(d) Identification procedures to ensure that no person under the age of twenty-one will be served any form of Alcoholic Beverage;

(e) Procedures ensuring that all aspects of Alcoholic Beverage management, purchase and sale comply with Tribal and any applicable State laws;

(f) Casino personnel have received appropriate training relating to compliance with this Title and the Regulations, service of Alcoholic Beverages, safety, health, revenue management and patron management issues;

(g) The Gaming Commission has reviewed the procedures for Alcoholic Beverage sales and has determined that such sales are not in violation of any provision of the Tribal-State Compact, the Gaming Code, the Gaming Regulations or other applicable law relating to gaming; and

(h) Such other requirements as the Director and the Tribal Council shall impose by Regulation.

Sec. 21–3109. Content of Liquor License Application.

(a) No Class II or Class III Liquor License shall issue under this Title except upon a sworn Application filed with the Director containing a full and complete showing of the following:

(1) Satisfactory proof that the applicant is licensed by the State to sell, distribute, manufacture or transport, as applicable, Intoxicating Liquor and/or beer.

(2) Agreement by the applicant to accept and abide by Tribal law and all conditions of the Tribal license.

(3) Payment of a license fee as prescribed by the Director.

(4) Satisfactory proof that the applicant has not been convicted of a

felony or had his/her/its State license revoked or suspended.

(5) Satisfactory proof that notice of the Application has been posted in a prominent, noticeable place on the premises where intoxicating beverages are to be sold for at least 30 days prior to consideration by the Tribal Council and has been published at least once in the Tribal newspaper. The notice shall state the date, time, and place when the application shall be considered by the Tribal Council pursuant to Sec. 21–3110 of this Title.

(b) Any holder of a Tribal Liquor License shall be required to comply, as a condition of retaining such license, with all applicable Tribal laws and regulations.

Sec. 21–3110. Hearing on Application for Tribal Liquor License.

(a) All applications for a Tribal Liquor License shall, upon recommendation of the Director, be considered by the Tribal Council in open session at which the applicant, his/her attorney, and any person protesting the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the Application. After the hearing, the Tribal Council, by vote and Resolution, shall determine whether to grant or deny the application based on:

(1) Whether the requirements of this Title and the Regulations have been met; and

(2) Whether the Director, with the approval of the Tribal Council, in its discretion, determines that granting the license is in the best interest of the Tribe.

(c) In the event the applicant for the Class II—Special Event License is a duly authorized representative of the Casino Enterprise, the requirements of this Section may be modified upon a showing by the applicant that all safety, health, security, inventory control, management and other matters pertaining to the Special Event conform in all respects with this Title and the Regulations.

Sec. 21–3111. License Fees.

The fee schedule for Liquor Licenses shall be established by the Director with the approval of the Tribal Council.

Sec. 21–3112. License not a Property Right.

Notwithstanding any other provision of this Title, a Tribal Liquor License is a mere permit for a fixed duration of time. A Tribal Liquor License shall not be deemed a property right or vested right of any kind, nor shall the granting of a Tribal Liquor License give rise to a presumption of legal entitlement to a license in a subsequent time period.

Sec. 21–3113. No Transfer or Assignment.

No Tribal Liquor License issued under this Title may be assigned or transferred without the prior written approval of the Tribal Council, as expressed by formal Resolution.

Sec. 21–3114. Revocation of License.

Upon recommendation of the Director, the Tribal Council may revoke a Liquor License for reasonable cause upon notice and hearing at which the licensee shall be given an opportunity to respond to any charges against it and to demonstrate why the Liquor License should not be suspended or revoked.

CHAPTER 4. REGULATION OF LIQUOR SALES AND DISTRIBUTION.

Sec. 21–4101. Retail Sales Limited to Tribal Casino Enterprise.

The retail sale of Intoxicating Liquor on Tribal Lands shall be prohibited except for (i) retail sales that comply with this Title, and (ii) retail sales that occur within the Casino Property.

Sec. 21–4102. Importation and Delivery of Liquor.

No Intoxicating Liquor or beer may be imported for resale or otherwise distributed on Tribal Lands except in conformance with this Title.

Sec. 21–4103. Additional Prohibitions.

(a) A person shall not sell or dispense any Alcoholic Beverage on the premises covered by the Tribal Liquor License except in conformance with the days and hours established by the State during which Alcoholic Beverages may be sold at retail for consumption on the premises.

(b) Any person who shall sell or offer for sale or distribute or transport in any manner, any liquor in violation of this ordinance, or who shall operate a motor vehicle or shall have any Alcoholic Beverage in his/her possession with intent to sell or distribute without a license, shall be guilty of a violation of this Title.

(c) Any person who sells any form of Intoxicating Liquor or beer to a person apparently under the influence of liquor shall be guilty of a violation of this Title.

Sec. 21–4104. Use and Consumption.

All Alcoholic Beverage sales shall be for the personal use and consumption of the purchaser. Resale of any Alcoholic Beverage purchased within Tribal Lands is prohibited. Any person who is not licensed pursuant to this Title who purchases an Alcoholic Beverage within Tribal Lands and sells it, whether in the original container or not, shall be guilty of a violation of this Title and shall be subject to criminal and/or civil penalties under this Title, the Law and Order Code, and the Regulations.

Sec. 21–4105. Cash Sales Only.

All sales of Alcoholic Beverages within Tribal Lands shall be on a cash only basis and no credit shall be extended to any person, organization, or entity, except that this provision does not prevent the use of major credit cards.

Sec. 21–4106. Tribal Sales Tax.

a) The Tribal Tax Director shall have jurisdiction over all matters pertaining to a sales tax on Alcoholic Beverages sold on Tribal Lands. The amount of such tax shall be determined by the Tribal Tax Director with the approval of the Tribal Council, all in accordance with Title 17 (Taxation) of the Code.

b) The Tribal Treasurer shall establish a tax revenue account for the Tribe. The money received by the Tax Department from the taxes imposed by this Title shall be credited by the Treasurer to the tax revenue account of the Tribe to be used in the provision of tribal governmental services, including, but not limited to health, education, safety and welfare.

CHAPTER 5. AGE AND OTHER RESTRICTIONS.

Sec. 21–5101. Sales to Persons Under 21.

It shall be unlawful to sell or give any Alcoholic Beverage to any person under the age of twenty-one (21) years. Any Person who violates this section shall be guilty of a Class 4 Offense as described at Sec. 13–51107 of the Law and Order Code of the Tribe. Violations of this Section by persons or entities which are not subject to the criminal jurisdiction of the Tribe may, following notice and a hearing, be subject to a civil penalty in accordance with the Regulations promulgated hereunder. The levy of a civil penalty by the Director under this Section is in addition to the power to suspend or revoke any Liquor License and to report such violation to the appropriate State authorities.

Sec. 21–5102. Purchase, Possession by Minor.

It shall be unlawful for any person under the age of twenty-one (21) years to purchase, attempt to purchase or possess or consume any form of Alcoholic Beverage, or to misrepresent his age for the purpose of purchasing or attempting to purchase such Alcoholic Beverage. Any person who violates any of the provisions of this section shall be guilty of a Class 5 offense as described at Section 13–51113 of the Law and Order Code of the Tribe. Violations of this Section by persons or entities which are not subject to the criminal jurisdiction of the Tribe may, following notice and a hearing, be subject to a civil penalty in accordance with the Regulations promulgated hereunder. The levy of a civil penalty by the Director under this Section is in addition to the power to suspend or revoke any license and to report such violation to the appropriate State authorities.

Sec. 21–5103. Evidence of Legal Age Demanded.

Upon attempt to purchase any Alcoholic Beverage at a site licensed under this Title by any person who appears to the seller to be under legal age, such seller shall demand, and the prospective purchaser upon such demand, shall present satisfactory evidence that he or she is of legal age. Any person under legal age who presents to any seller falsified evidence as to his or her age shall be guilty of a Class 5 Offense under Sec. 13–51113 of the Law and Order Code of the Tribe.

CHAPTER 6. JURISDICTION, PENALTIES AND ENFORCEMENT.

Sec. 21–6101. Jurisdiction

All licensees and others who voluntarily enter onto Tribal Lands and transact business or otherwise engage in activity governed by this Title voluntarily submit to the jurisdiction of the Tribe and the personal jurisdiction of the Tribal Court System for purposes of enforcement of this Title and the Regulations.

Sec. 21–6102. Civil Penalties.

The Director shall recommend to the Tribal Council a schedule of civil penalties and administrative fines as he/she deems necessary for the effective enforcement of this Title. Such schedule shall be considered and adopted by the Tribal Council in the form of a Regulation in accordance with Section 21–2103 of this Title. The imposition of any civil penalty or administrative fine shall not limit the ability of the Tribal Council, upon recommendation of the Director, to suspend or revoke any license issued hereunder for the violation of any of the provisions of this Title or the Regulations. The Director shall also propose regulations relating to the process for administrative hearings before the Tribal Council. [All final administrative orders may be appealed to the Tribal Court.]

Sec. 21–6103. Criminal Violations.

All criminal violations hereunder shall be prosecuted in accordance with laws of the Tribe, and applicable federal law. In the event a criminal act is committed by a person over whom the Tribe does not exercise criminal jurisdiction, then the matter may be referred to appropriate State authorities for prosecution under State law.

CHAPTER 7. USE OF PROCEEDS AND INTERPRETATION.

Sec. 21–7101. Application of Proceeds.

The gross proceeds collected by the Director from all licensing activities under this Title and from fines imposed as a result of violations of this Title, shall be applied as follows:

a) First, for the payment of all necessary personnel, administrative costs, and legal fees incurred in the enforcement of this Title; and

b) Second, the remainder shall be deposited in the operating fund of the Tribe and expended by the Tribal Council for governmental services and programs on Tribal Lands.

Sec. 21–7102. Consistency With State Law.

All provisions and transactions under this Title shall be in conformity with State law regarding alcohol to the extent required by 18 U.S.C. Section 1161 and with all federal laws regarding alcohol in Indian Country, as defined at 18 U.S.C. Section 1151.

Sec. 21–7103. No Impact on Tribal Sovereignty.

Nothing in this Title shall be applied or interpreted to in any manner limit the immunity of the Tribe from uncontested suit or to otherwise limit the sovereign status of the Tribe.

Sec. 21–7104. Prior Enactments Repealed.

All prior Tribal enactments, laws, ordinances, resolutions or provisions thereof that are repugnant or inconsistent to any provision of this Title are hereby repealed.

[FR Doc. E8–22019 Filed 9–19–08; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU 80808]

Notice of Proposed Withdrawal and Transfer of Jurisdiction; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Department of Energy (DOE) has filed an application requesting the Secretary of the Interior to withdraw approximately 936 acres of land from the United States mining and mineral leasing laws and transfer jurisdiction to the DOE. The land would be used for ancillary facilities at the DOE's Crescent Junction Uranium Mill Tailings Repository in connection with moving the Moab Mill Site uranium mill tailings to the Repository. Except for existing claims, rights, and interests, including oil and gas leases that would be retained by the Secretary of the Interior, full management, jurisdiction, authority, responsibility, and liability for all activities conducted on the land would be vested in the DOE.

DATES: Comments must be received on or before December 22, 2008.

ADDRESSES: Comments should be sent to the Moab Field Office Manager, Bureau of Land Management, 82 East Dogwood Avenue, Moab, Utah 84532.

FOR FURTHER INFORMATION CONTACT: Mary von Koch, Realty Specialist, Moab Field Office at the above address, 435–259–2128.

SUPPLEMENTARY INFORMATION: The DOE has filed an application with the Bureau of Land Management (BLM) requesting the Secretary of the Interior withdraw the following described land from mining and mineral leasing and transfer jurisdiction to the DOE, subject to valid existing claims, rights, and interests:

Salt Lake Meridian

T. 21 S., R. 19 E.,

Sec. 22, S½, excluding SE¼SE¼SW¼, NE¼SW¼SE¼, S½SW¼SE¼, and SE¼SE¼;

Sec. 23, S½, excluding S½S½N½SW¼, S½SW¼, and W½SW¼SW¼SE¼;

Sec. 26, the land lying North of the railroad right-of-way, excluding W½W½NW¼NE¼, N½NW¼, N½SW¼NW¼, N½NE¼SE¼NW¼, and NW¼SE¼NW¼;

Sec. 27, the land lying North of the railroad right-of-way, excluding N½NE¼, SW¼NE¼, N½SE¼NE¼, SW¼SE¼NE¼, E½NE¼NW¼, and E½SE¼NW¼.

The area described contains approximately 936 acres in Grand County.

The purpose is to transfer jurisdiction of the 936 acres to the DOE and to protect DOE's ancillary facilities at the DOE's Crescent Junction Uranium Mill Tailings Repository in connection with moving the Moab Mill Site uranium mill tailings to the Repository.

The land proposed for transfer is located within a temporary DOE withdrawal created by Public Land Order No. 7649, and is therefore already segregated from mining and mineral leasing.

Except for existing claims, rights, and interests, including oil and gas leases that would be retained by the Secretary of the Interior, full management, jurisdiction, authority, responsibility, and liability for all activities conducted on the land would be vested in the DOE.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed action may present their views in writing to the BLM Moab Field Office Manager, at the address noted above.

Comments, including names and street addresses of respondents, and records relating to the proposed action will be available for public review during regular business hours at the BLM Moab Field Office at the address specified above. Individual respondents may request confidentiality. 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.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal and transfer of jurisdiction. All interested persons who desire a public meeting for the purpose of being heard on the proposal must submit a written request to the BLM Moab Field Office at the address indicated above within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

There are no suitable alternatives. Rights-of-way or interagency agreements are not considered desirable or acceptable alternatives. They would not protect the BLM from the associated liability risks and they would not adequately constrain nondiscretionary uses that could adversely affect public health and safety.

All potential sites within a reasonable vicinity of the Repository were evaluated. The preferred site is strategically located adjacent to the Repository as identified by DOE as the optimal location for the ancillary facilities.

This application will be processed in accordance with the regulations set forth in 43 CFR 2300.

Authority: 43 CFR 2310.3–1.

Dated: September 12, 2008.

Jeff Rawson,

State Director.

[FR Doc. E8–22042 Filed 9–19–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1430–FR; WYW–137524]

Notice of Realty Action: Recreation and Public Purposes Act Lease/Patent of Public Lands in Converse County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for lease and conveyance under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended, approximately 15.29 acres of public land in Converse County, Wyoming. Converse County proposes to use the land for a primitive park.

DATES: Interested parties may submit comments regarding the proposed lease/conveyance of the lands until November 6, 2008.

ADDRESSES: Send written comments to the Field Manager, Casper Field Office, 2987 Prospector Drive, Casper, Wyoming 82604.

FOR FURTHER INFORMATION CONTACT: Joe Meyer, Field Manager, Bureau of Land Management, Casper Field Office, at (307) 261–7600.

SUPPLEMENTARY INFORMATION: The following described public land in Converse County, Wyoming, has been examined and found suitable for lease and conveyance under the provisions of the R&PP Act, as amended (43 U.S.C. 869 *et seq.*):

Sixth Principal Meridian, Wyoming

T. 28 N., R. 71 W.,
Sec. 9, Esterbrook Townsite, block 1, lots 6–10; block 2, lots 6–9, 11–15; block 3, lots 6–15; block 4, lots 3–5, 12–18; block 5, lots 1–13; block 6, lots 1–19; block 7, lots 1–4, 21, 23–30.

The land described contains 15.29 acres, more or less.

In accordance with the R&PP Act, Converse County filed an application to lease with eventual purchase the above-described 15.29 acres of public land which was classified for R&PP use in 1965. Converse County proposes to use the land for a primitive park. Additional detailed information pertaining to this application, plan of development, and site plan is in case file W–137524, located in the BLM Casper Field Office at the above address.

The land is not needed for any Federal purpose. The lease/conveyance is consistent with the Casper Resource Management Plan dated December 7, 2007, and would be in the public interest. The patent, when issued, will be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945); and
2. All minerals, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

The patent will be subject to all valid existing rights documented on the official public land records at the time of patent issuance.

Comments: Interested parties may submit comments regarding the use of the land for a primitive park as proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision to lease/convey under the R&PP Act, or any other factor not directly related to the suitability of the land for R&PP use.

Confidentiality of Comments: Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Only written comments submitted by postal service or overnight mail to the Field Manager—BLM Casper Field Office will be considered properly filed. Electronic mail, facsimile or telephone comments will not be considered properly filed.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the decision to lease/convey the land as described in this notice will become effective November 21, 2008.

Authority: 43 CFR 2740.

Joe Meyer,

Field Manager, Casper, WY.

[FR Doc. E8–22051 Filed 9–19–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

Captain John Smith Chesapeake National Historic Trail Advisory Council

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: As required by the Federal Advisory Committee Act, the National Park Service (NPS) is hereby giving notice that the Advisory Committee on the Captain John Smith Chesapeake National Historic Trail will hold a meeting. Designated through an amendment to the National Trails System Act (16 U.S.C. 1241), the new trail will consist of ''a series of water routes extending approximately 3,000 miles along the Chesapeake Bay and its tributaries in the States of Virginia, Maryland, Delaware, and in the District of Columbia,'' tracing the 1607–1609 voyages of Captain John Smith to chart the land and waterways of the Chesapeake Bay. This meeting is open to the public. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should register via e-mail at *Christine_Luceron@nps.gov* or telephone: (757) 898–2432. For those wishing to make comments, please provide a written summary of your comments prior to the meeting.

DATES: The Captain John Smith Chesapeake National Historic Trail Advisory Council will meet from 9:30 a.m. to 4:30 p.m. on Wednesday, October 22, 2008.

ADDRESSES: The meeting will be held at the Historic Jamestowne Visitor Center, 1368 Colonial Parkway, Jamestown, VA 23081. For more information, please contact the NPS Chesapeake Bay Program Office, 410 Severn Avenue—Suite 109, Annapolis City Marina, Annapolis, MD 21403. For background information and questions regarding the Captain John Smith Chesapeake National Historic Trail, please contact John Maounis, Superintendent, telephone: (410) 267–5778. John Maounis is the Designated Federal Official for the Advisory Council.

FOR FURTHER INFORMATION CONTACT: Christine Lucero, Partnership Coordinator for the Captain John Smith Chesapeake National Historic Trail, telephone: (757) 898–2432 or e-mail: *Christine_Lucero@nps.gov*.

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), this notice announces a meeting of the Captain John Smith Chesapeake National Historic Trail Advisory Council.

Topics to be discussed during this meeting will include a review of the purpose of the Advisory Council, a review of the Comprehensive Management Plan/Environmental Assessment public meeting results, and the establishment of sub-committees.

The Committee meeting is open to the public. Members of the public who would like to make comments to the Committee should preregister via e-mail at *Christine_Lucero@nps.gov* or telephone: (757) 898–2432; a written summary of comments should be provided prior to the meeting. Comments will be taken for 30 minutes at the beginning of the meeting. If additional time is needed, the time allotted for comments can be extended by an additional 30 minutes. All comments will be made part of the public record and will be electronically distributed to all Committee members.

Dated: September 4, 2008.

John Maounis,

Superintendent, Captain John Smith National Historic Trail, National Park Service, Department of the Interior.

[FR Doc. E8–21557 Filed 9–19–08; 8:45 am]

BILLING CODE 4312–52–M

DEPARTMENT OF THE INTERIOR

National Park System Advisory Board; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix, and Parts 62 and 65 of title 36 of the Code of Federal Regulations, that the National Park System Advisory Board will meet December 2–3, 2008, in Corpus Christi, TX. The agenda will include the review of proposed actions regarding the National Historic Landmarks Program and the National Natural Landmarks Program. Interested parties are encouraged to submit written comments and recommendations that will be presented to the board. Interested parties also may attend the board meeting and upon request may address the board concerning an area's national significance.

DATES: (a) Written comments regarding any proposed National Historic Landmarks matter or National Natural Landmarks matter listed in this notice will be accepted by the National Park Service until November 21, 2008. (b) The Board will meet on December 2–3, 2008.

Location: The meeting will be held in the meeting room at the Comfort Suites North Padre Island, 15209 Windward Drive, Corpus Christi, TX 78418, telephone 361–949–1112.

FOR FURTHER INFORMATION CONTACT: (a) For information concerning the National Park System Advisory Board or to request to address the Board, contact Shirley Sears Smith, Office of Policy, National Park Service, 1849 C Street, NW., Room 2228, Washington, DC 20240; telephone 202–208–7160, e-mail *Shirley_S_Smith@nps.gov*. (b) To submit a written statement specific to, or request information about, any National Historic Landmarks matter listed below, or for information about the National Historic Landmarks Program or National Historic Landmarks designation process and the effects of designation, contact J. Paul Loether, Chief, National Register of Historic Places and National Historic Landmarks Program, National Park Service, 1849 C Street, NW. (2280), Washington, DC 20240; e-mail *Paul_Loether@nps.gov*. (c) To submit a written statement specific to, or request information about, any National Natural Landmarks matter listed below, or for information about the National Natural Landmarks Program or National Natural Landmarks designation process and the effects of designation, contact Dr. Margaret Brooks, Program Manager, National Natural Landmarks Program, National Park Service, 225 N. Commerce Park Loop, Tucson, Arizona 85745, e-mail *Margi_Brooks@nps.gov*.

SUPPLEMENTARY INFORMATION: The Board will convene its business meeting at 8:30 a.m. on December 2 and adjourn at 5 p.m. On December 3, the Board will tour Padre Island National Seashore. During the course of the two days, the Board will be addressed by National Park Service Director Mary Bomar, and will be briefed by other National Park Service officials regarding environmental, education, and partnership programs. The Board will receive status reports on matters pending before the Board and will consider proposed actions concerning the National Historic Landmarks Program and the National Natural Landmarks Program. Other officials of the Department of the Interior and the

National Park Service may address the Board, and other miscellaneous topics and reports may be covered.

A. NHL Nominations

National Historic Landmarks (NHL) Program matters will be considered during the morning session of the business meeting, during which the Board may consider the following:

Arizona

- Sage Memorial Hospital School of Nursing, Ganado Mission, Ganado, AZ.

California

- Steedman Estate/Casa del Herrero, Santa Barbara County, CA.

Colorado

- Ludlow Tent Colony Site, Las Animas County, CO.

Connecticut

- Richard Alsop IV House, Middletown, CT.

Florida

- The Miami Circle at Brickell Point Site, Miami, FL.

Illinois

- New Philadelphia Town Site, Pike County, IL.

Minnesota

- Christ Church Lutheran, Minneapolis, MN.

Pennsylvania

- Alfred Newton Richards Medical Research Laboratories and David Goddard Laboratories Buildings, Philadelphia, PA.

Wisconsin

- Aldo Leopold Shack and Farm, Fairfield & Lewiston Townships, WI.

The Board also may consider a proposal to withdraw NHL designation for the Florence Mills House, New York City, NY.

B. NNL Nominations

National Natural Landmarks (NNL) Program matters will be considered during the morning session of the business meeting, during which the Board may consider the following:

Kentucky

- Big Bone Lick, Boone County, KY.

New York and Vermont

- Chazy Fossil Reef, Grand Isle County, VT, and Clinton County, NY.

Pennsylvania

- Nottingham Park Serpentine Barrens, Chester County, PA.

Texas

- Cave Without a Name, Kendall County, TX.

The Board meeting will be open to the public. The order of the agenda may be changed, if necessary, to accommodate travel schedules or for other reasons. Space and facilities to accommodate the public are limited and attendees will be accommodated on a first-come basis. Anyone may file with the Board a written statement concerning matters to be discussed. The Board also will permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time.

Draft minutes of the meeting will be available for public inspection about 12 weeks after the meeting, in room 7252, Main Interior Building, 1849 C Street, NW., Washington, DC.

Dated: September 12, 2008.

Bernard Fagan,

Chief, Office of Policy.

[FR Doc. E8–22049 Filed 9–19–08; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before September 6, 2008.

Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by October 7, 2008.

J. Paul Loether,

Chief, National Register of Historic Places/ National, Historic Landmarks Program.

COLORADO

San Juan County

Tobasco Mine and Mill, (Hinsdale County Metal Mining MPS) S. of San Juan Co. Rd. 5 and Hinsdale Co. Rd. 34, Lake City, 08000983

Hinsdale County

Tobasco Mine and Mill, (Hinsdale County Metal Mining MPS) S. of San Juan Co. Rd. 5 and Hinsdale Co. Rd. 34, Lake City, 08000983

KANSAS

Marshall County

Waterville Opera House, (Theaters and Opera Houses of Kansas MPS) 200 E. Front St., Waterville, 08000984

McPherson County

Farmers State Bank, 101 S. Main, Lindsborg, 08000985

Ness County

Lion Block, 216 West Main, Ness City, 08000986

Shawnee County

St. John African Methodist Episcopal Church, 701 SW Topeka Blvd., Topeka, 08000987

Wyandotte County

Northeast Junior High School, (Public Schools of Kansas MPS) 400 Troup Ave., Kansas City, 08000988

LOUISIANA

Orleans Parish

Blue Plate Building, 1315 S. Jefferson Davis Pkwy., New Orleans, 08000989

Tivoli Theatre, 3933 Washington Ave., New Orleans, 08000990

MAINE

Hancock County

Sea Change, 27 Corning Way, Northeast Harbor, 08000991

Surry Town Hall, 1217 Surry Rd., Surry, 08000993

Oxford County

Soldiers Memorial Library, (Maine Public Libraries MPS) 85 Main St., Hiram, 08000992

NORTH DAKOTA

Griggs County

Oscar-Zero Missile Alert Facility, St. Hwy. 45, Cooperstown, 08000994

OHIO

Franklin County

Temperance Row Historic District, Vicinity of Park, Grove, Walnut and University Sts., Westerville, 08000995

UTAH

Utah County

Fisher, Albert, Mansion and Carriage House, 1206 W. 200 S., Salt Lake City, 08000996

VERMONT

Chittenden County

House at 44 Front Street, (Burlington, Vermont MPS) 42–44 Front St., Burlington, 08000997

WASHINGTON

King County

Messenger of Peace Chapel Car, 38625 SE. King St., Snoqualmie, 08000998

Walla Walla County

Battle of Walla Walla—Frenchtown, Hwy. 12, Mile post 328, Lowden, 08000999

WISCONSIN

Columbia County

Byrns, Daniel and Nellie, House, 221 Mill St., Lodi, 08001000

Pruyn, Joel M., Block, 146 S. Main St., Lodi, 08001001

WYOMING

Campbell County

Gillette Post Office, (Historic U.S. Post Offices in Wyoming, 1900–1941, TR) 301 S. Gillette Ave., Gillette, 08001002

Converse County

Hotel LaBonte, 206 Walnut St., Douglas, 08001003

Natrona County

Grant Street Grocery and Market, 815 S. Grant St., Casper, 08001005

Platte County

Platte County Courthouse, 800 9th St., Wheatland, 08001004

[FR Doc. E8–22074 Filed 9–19–08; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Franks Tract, Sacramento-San Joaquin Bay-Delta, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an environmental impact statement/environmental impact report (EIS/EIR) and notice of public scoping meetings.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), the Bureau of Reclamation (Reclamation) and the California Department of Water Resources (DWR) intend to prepare an EIS/EIR for the Franks Tract Project. Reclamation is the lead Federal agency under NEPA and DWR is the lead State agency under CEQA for preparation of the EIS/EIR.

The Franks Tract Project is designed to address water quality and fish protection issues in the central and southern Sacramento-San Joaquin River Delta (Delta). The project would consist of the construction of barriers around Franks Tract to prevent salinity intrusion and the movement of sensitive fish species into the central and southern Delta.

DATES: Written comments on the scope of the EIS/EIR will be accepted on or before November 21, 2008.

A series of public scoping meetings will be held to solicit public input on alternatives, concerns, and issues to be addressed in the EIS/EIR. The meeting dates are as follows:

- Monday, October 6, 2008, 10 a.m. to 12 p.m., Sacramento, CA.
- Tuesday, October 7, 2008, 6 p.m. to 8:30 p.m., Rio Vista, CA.
- Wednesday, October 8, 2008, 6 p.m. to 8:30 p.m., Antioch, CA.
- Thursday, October 9, 2008, 6 p.m. to 8:30 p.m., Stockton, CA.

ADDRESSES: The public scoping meeting locations are:

- Sacramento at the Federal Building, Cafeteria Conference Rooms C–1001 and C–1002, 2800 Cottage Way.
- Rio Vista at the Memorial Building, 610 St. Francis Way.
- Antioch at the Contra Costa Public Library, 501 W. 18th Street.
- Stockton at the Memorial Civic Auditorium, North Hall, 525 North Center Street.

Written comments on the scope of the EIS/EIR should be sent to Ms. Lynnette Wirth, Bureau of Reclamation, 2800 Cottage Way, Public Affairs, Sacramento, CA 95825, e-mailed to *lwirth@mp.usbr.gov*, or faxed to 916–978–5114.

FOR FURTHER INFORMATION CONTACT: Ms. Sharon McHale, Reclamation Project Manager, at 916–978–5086 (TDD 916–978–5608), or via e-mail at *smchale@mp.usbr.gov*; or Mr. Ajay Goyal, DWR Project Manager, at 916–651–9823, or via e-mail at *agoyal@water.ca.gov*.

SUPPLEMENTARY INFORMATION: The project location would be in the vicinity of Franks Tract in the Delta. Franks Tract is connected tidally to the San Joaquin River via False River. During low flow conditions, high salinity water enters Franks Tract on flood tide while fresher water flows back into False River during ebb tide. The higher salinity water mixes within Franks Tract and is drawn into Old River through levee breaches on the east side of Franks Tract. These conditions impact salinity conditions in the adjacent Delta channels and the central and south Delta.

Background

The CALFED Bay-Delta Authorization Act of 2004 (Pub. L. 108–361) authorized the Secretary of the Interior to conduct a feasibility study and actions at Franks Tract to improve water quality in the Delta. As part of the feasibility study, an EIS/EIR is required to address environmental effects.

Objectives

The objectives of the Franks Tract Project are:

- To improve the quality of water in the central and south Delta being pumped at the Central Valley Project, C.W. ''Bill'' Jones Pumping Plant and the State Water Project, Harvey O. Banks Pumping Plant.
- To improve fisheries conditions throughout the Delta.

Alternatives

The following alternatives are currently under consideration:

- Operable Gates on False River: This alternative involves installation of operable gates on the West False River near the confluence with the San Joaquin River west of Franks Tract. The barrier would provide a physical obstruction to salt intrusion entering Franks Tract via the western end of False River.
- Operable Gate on Three Mile Slough: This alternative involves installation of an operable gate in Three Mile Slough. The barrier would be closed on ebb tide to prevent water from the San Joaquin River from entering the Sacramento River. This action serves to keep flow in the San Joaquin River and increases the net westerly flow past Jersey Point.

Special Assistance for Public Scoping Meetings

If special assistance is required at the public hearings, please contact Ms. Lynnette Wirth at 916–978–5100, TDD 916–978–5608, or via e-mail at *lwirth@mp.usbr.gov*. Please notify Ms. Wirth as far in advance as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified. A telephone device for the hearing impaired (TDD) is available at 916–978–5608.

Public Disclosure

Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 13, 2008.

Susan M. Fry,

Regional Environmental Officer, Mid-Pacific Region.

[FR Doc. E8–22045 Filed 9–19–08; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–657]

In the Matter of: Certain Automotive Multimedia Display and Navigation Systems, Components Thereof, and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 19, 2008, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Honeywell International Inc. of Morristown, New Jersey. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain automotive multimedia display and navigation systems, components thereof, and products containing same that infringe certain claims of U.S. Patent Nos. 6,664,945; 6,700,482; 6,289,277; 6,691,030; 6,308,132; and 5,923,286. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Bryan F. Moore, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2767.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2008).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 12, 2008, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain automotive multimedia display or navigation systems, components thereof, or products containing same that infringe one or more of claims 1–7 of U.S. Patent No. 6,664,945; claims 1, 10–12, and 20 of U.S. Patent No. 6,700,482; claims 1, 4, 5, 9, 11, 13, and 20 of U.S. Patent No. 6,289,277; claims 2, 3, and 25 of U.S. Patent No. 6,691,030; claims 1–7 and 17 of U.S. Patent No. 6,308,132; and claim 5 of U.S. Patent No. 5,923,286, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Honeywell International Inc., 101 Columbia Road, Morristown, New Jersey 07960.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Alpine Electronics, Inc., 1–1–8 Nishi-Gotanda, Shinagawa-ku, Tokyo 141–8501, Japan

Alpine Electronics of America, Inc., 19145 Gramercy Place, Torrance, California 90501

Denso Corporation, 1–1, Showa-cho, Kariya, Aichi 448–8661, Japan

Denso International America, Inc., 24777 Denso Drive, P.O. Box 5047, Southfield, Michigan 48086–5047

Pioneer Corporation, 1–4–1 Meguro, Meguro-ku, Tokyo 153–8654, Japan

Pioneer Electronics (USA) Inc., 2255 E. 220th Street, Long Beach, California 90810

Kenwood Corporation, 2967–3, Ishikawa-machi, Hachioji-shi, Tokyo 192–8525, Japan

Kenwood USA Corporation, 2201 E. Dominguez Street, Long Beach, California 90810

(c) The Commission investigative attorney, party to this investigation, is Bryan F. Moore, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: September 15, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–22085 Filed 9–19–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–455 (Final) and 731–TA–1149–1150 (Final)]

Circular Welded Carbon Quality Steel Line Pipe From China and Korea

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–455 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation Nos. 731–TA–1149–1150 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports from China and less-than-fair-value imports from China and Korea of certain circular welded carbon quality steel line pipe, provided for in subheadings 7306.19.10 and 7306.19.51 [1] of the Harmonized Tariff Schedule of the United States.[2]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* September 9, 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 these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of certain circular welded carbon quality steel line pipe. The antidumping and countervailing duty investigations were requested in a petition filed on April 3, 2008, by Maverick Tube Corp. (Houston, TX), Tex-Tube Co. (Houston, TX), U.S. Steel Corp. (Pittsburgh, PA), and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (Pittsburgh, PA).

The Department of Commerce has postponed its preliminary determinations as to whether imports of certain circular welded carbon quality steel line pipe from China and Korea are being, or are likely to be sold, in the United States at less than fair value.[3] For purposes of efficiency, the Commission is scheduling the final phase of the antidumping investigations concerning China and Korea so that they may proceed concurrently with the Commission's countervailing duty investigation concerning China.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on November 10, 2008, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on November 24, 2008, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 17, 2008. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 19, 2008, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

[1] Prior to February 2, 2007, the subject merchandise was provided for in subheadings 7306.10.10 and 7306.10.50.

[2] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as circular welded carbon quality steel pipe of a kind used for oil and gas pipelines (line pipe), not more that 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, length, surface finish, end finish or stenciling. The term ''carbon quality steel'' includes both carbon steel and carbon steel mixed with small amounts of alloying elements that may exceed the individual weight limits for nonalloy steels imposed in the Harmonized Tariff Schedule of the United States. For additional information concerning the scope of the subject merchandise from Korea, *see* 73 FR 23184, April 29, 2008. For additional information concerning the scope of the subject merchandise from China, *see* 73 FR 52297, September 9, 2008.

[3] Certain Circular Welded Carbon Quality Steel Line Pipe from the Republic of Korea and the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigations, 73 FR 50941, August 29, 2008. Commerce is scheduled to make its preliminary determinations by October 30, 2008.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is November 17, 2008. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is December 2, 2008; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before December 2, 2008. On December 15, 2008, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 17, 2008, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 17, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–22086 Filed 9–19–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1014, 1016, and 1017 (Review)]

Polyvinyl Alcohol from China, Japan, and Korea

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the antidumping duty orders on polyvinyl alcohol from China, Japan, and Korea.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty orders on polyvinyl alcohol from China, Japan, and Korea would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews 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).

DATES: *Effective Date:* September 11, 2008.

FOR FURTHER INFORMATION CONTACT: Angela Wissler (202–708–5409), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On September 5, 2008, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (73 F.R. 53444, September 16, 2008). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews 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 these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on January 7, 2009, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on January 27, 2009, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 21, 2009. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 22, 2009, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is January 16, 2009. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is February 5, 2009; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before February 5, 2009. On March 4, 2009, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 6, 2009, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: September 17, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–22087 Filed 9–19–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Settlement Agreement Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Notice is hereby given that on September 12, 2008, a proposed Settlement Agreement regarding the Bunker Hill Mining and Metallurgical Complex Superfund Site also known as the Coeur d'Alene Basin Site in Idaho and the Omaha Lead Site in Nebraska was filed with the United States Bankruptcy Court for the Southern District of Texas in *In re Asarco LLC,* No. 05–21207 (Bankr. S.D. Tex.) (Docket No. 9101–6, Plan Exhibit 12–C). The proposed Agreement entered into by the United States on behalf of the Environmental Protection Agency (EPA), Department of Interior (DOI), and Department of Agriculture Forest Service (FS) and Asarco LLC provides, *inter alia,* that (A) with respect to the Coeur d'Alene Basin Site, (i) the United States on behalf of EPA shall have an allowed general unsecured claim of $41.464 million for past costs and future oversight costs, (ii) the Successor Coeur d'Alene Custodial and Work Trust shall be paid $373.179 million to perform work, (iii) the United States on behalf of DOI and FS, as co-Natural Resources Trustees, shall have an allowed general unsecured claim of $67.5 million, (B) with respect to the Omaha Lead Site, the United States on behalf of EPA shall have an allowed general unsecured claim of $187.5 million, and (C) additional payments may be made with respect to the Coeur d'Alene Basin and Omaha Lead Sites relating to the Supplemental Distribution and Litigation Proceeds as provided in Debtors' Plan of Reorganization. The Settlement Agreement is subject to confirmation of Debtors' Plan of Reorganization.

The Department of Justice will receive comments relating to the proposed Agreement for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Asarco LLC,* DJ Ref. No. 90–11–3–08633. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The proposed Agreement may be examined at the Office of the United States Attorney for the Southern District of Texas, 800 North Shoreline Blvd, #500, Corpus Christi, TX 78476–2001, at the office of the Environmental Protection Agency Region 7, 901 North Fifth Street, Kansas City, Kansas 66101, or at the office of the Environmental Protection Agency Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. During the public comment period, the proposed Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the proposed Agreement 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 $8.25 (without attachments) or $38 (with attachments) (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert E. Maher, Jr.

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–22010 Filed 9–19–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJP) Docket No. 1487]

Meeting of the Department of Justice's (DOJ's) Global Justice Information Sharing Initiative Federal Advisory Committee

AGENCY: Office of Justice Programs (OJP), Justice.

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting of DOJ's Global Justice Information Sharing Initiative (Global) Federal Advisory Committee (GAC) to discuss the Global Initiative, as described at *http://www.it.ojp.gov/global.*

DATES: The meeting will take place on Thursday, October 23, 2008, from 8:30 a.m. to 4 p.m. ET.

ADDRESSES: The meeting will take place at the Gaylord National Hotel and Convention Center, 201 Waterfront Street, National Harbor, Maryland, 20745, Phone: (301) 965–2000.

FOR FURTHER INFORMATION CONTACT: J. Patrick McCreary, Global Designated Federal Employee (DFE), Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street Northwest, Washington, DC 20531; Phone: (202) 616–0532 [note: this is not a toll-free number]; E-mail: *James.P.McCreary@usdoj.gov.*

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Due to security measures, however, members of the public who wish to attend this meeting must register with Mr. J. Patrick McCreary at the above address at least seven (7) days in advance of the meeting. Registrations will be accepted on a space available basis. Access to the meeting will not be allowed without registration. All attendees will be required to sign in at the meeting registration desk. Please bring photo identification and allow extra time prior to the meeting. Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the DFE.

Anyone requiring special accommodations should notify Mr. McCreary at least seven (7) days in advance of the meeting.

Purpose

The GAC will act as the focal point for justice information systems integration activities in order to facilitate the coordination of technical, funding, and legislative strategies in support of the Administration's justice priorities.

The GAC will guide and monitor the development of the Global information sharing concept. It will advise the Assistant Attorney General, OJP; the Attorney General; the President (through the Attorney General); and local, state, tribal, and federal policymakers in the executive, legislative, and judicial branches. The GAC will also advocate for strategies for accomplishing a Global information sharing capability.

J. Patrick McCreary,

Global DFE, Bureau of Justice Assistance, Office of Justice Programs.

[FR Doc. E8–22110 Filed 9–19–08; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

September 16, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (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 this 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 Amy Hobby on 202–693–4553 (this is not a toll-free number) / e-mail: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), 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 Standards Administration.

Type of Review: Extension without change of an existing OMB Control Number.

Title of Collection: Construction Recordkeeping and Reporting.

OMB Control Number: 1215–0163.

Affected Public: Businesses or other for-profits, Not-for-profit institutions.

Total Estimated Number of Respondents: 240,534.

Total Estimated Annual Burden Hours: 2,491,396.

Total Estimated Annual Costs Burden: $0.

Description: Recordkeeping and reporting by Federal and Federally assisted construction contractors and subcontractors is necessary to substantiate their compliance with nondiscrimination and affirmative action contractual obligations. For additional information, see related notice published at 73 FR 34333 on June 17, 2008.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E8–21981 Filed 9–19–08; 8:45 am]

BILLING CODE 4510–CM–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

September 16, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (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 this 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: *DOL_PRA_PUBLIC@dol.gov*.

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), 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: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection.

Title of Collection: Coke Oven Emissions (29 CFR 1910.1029).

OMB Control Number: 1218–0128.

Affected Public: Business or other for-profits.

Estimated Number of Respondents: 19.

Estimated Total Annual Burden Hours: 52,701.

Estimated Total Annual Costs Burden: $815,488.

Description: The purpose of the Coke Oven Emissions standard at 29 CFR 1910.1029 and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to coke oven emissions. Employers must monitor employee exposure, reduce employee exposure to within permissible exposure limits, and provide employees with medical examinations and training. For additional information, see related 60-day preclearance notice published in the **Federal Register** at 73 FR 39988 on July 11, 2008. PRA documentation prepared in association with the preclearance notice is available on *http://www.regulations.gov* under docket number OSHA 2008–0022.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E8–21982 Filed 9–19–08; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

September 17, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (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 this 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 Amy Hobby on 202–693–4553 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@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 an existing OMB Control Number.

Title of Collection: Contribution Operations.

OMB Control Number: 1205–0178.

Agency Form Number(s): ETA–581.

Affected Public: State Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Annual Burden Hours: 1,802.

Total Estimated Annual Costs Burden: $0.

Description: The Contribution Operations Report provides quarterly data on State agencies' volume and performance in wage processing, promptness of liable employer registration, timeliness of filing contribution and wage reports, extent of tax delinquency, and results of the field audit program. For additional information, see related notice published at 73 FR 34041 on June 16, 2008.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E8–22058 Filed 9–19–08; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''Cognitive and Psychological Research.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before October 22, 2008.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628. (This is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau of Labor Statistics' Behavioral Science Research Laboratory (BSRL) conducts theoretical, applied, and evaluative research aimed at improving the quality of data collected and published by the Bureau. Since its creation in 1988, the BSRL has advanced the study of survey methods research, approaching issues of non-sampling error within a framework that draws heavily on the theories and methods of the cognitive, statistical, and social sciences. The BSRL research focuses primarily on the assessment of survey instrument design and survey administration, as well as on issues related to interviewer training, the interaction between interviewer and respondent in the interview process, and the usability of data-collection instruments by both interviewers and respondents. Improvements in these areas result in better accuracy and response rates of BLS surveys, frequently reduce costs in training and survey administration, and further ensure the effectiveness of the Bureau's overall mission.

II. Current Action

Office of Management and Budget clearance is being sought for ''Cognitive and Psychological Research.'' The purpose of this request for clearance by the BSRL is to conduct cognitive and psychological research designed to enhance the quality of the Bureau's data collection procedures and overall data management. The BLS is committed to producing the most accurate and complete data within the highest quality assurance guidelines. The BSRL was created to aid in this effort and over the past 20 years it has demonstrated the effectiveness and value of its approach. Over the next few years, demand for BSRL consultation is expected to remain high as approaches are explored and tested for dealing with increasing nonresponse in key Bureau surveys. Moreover, as the use of Web-based surveys continues to grow, so too will the need for careful tests of instrument design and usability, human-computer interactions, and the impact of multiple modes on data quality. The BSRL is uniquely equipped with both the skills and facilities to accommodate these demands.

The extension of the accompanying clearance package reflects an attempt to accommodate the increasing interest by BLS program offices and other agencies in the methods used, and the results obtained, by the BSRL. This package reflects planned research and development activities for FY2009 through FY2011, and its approval will enable the continued productivity of a state-of-the-art, multi-disciplinary program of behavioral science research to improve BLS survey methodology.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Cognitive and Psychological Research.

OMB Number: 1220–0141.

Affected Public: Individuals and Households.

Total Respondents: 1,200.

Frequency: One time.

Total Responses: 1,200.

Average Time per Response: 60 minutes.

Estimated Total Annual Burden Hours: 1,200 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 17th day of September 2008.

Cathy Kazanowski,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. E8–22084 Filed 9–19–08; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Charter Renewal for the Maritime Advisory Committee for Occupational Safety and Health (MACOSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: MACOSH charter renewal; notice of.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C., App. 2), and after consultation with the General Services Administration, the Secretary of Labor has determined that the charter renewal of the Maritime Advisory Committee for Occupational Safety and Health (''Committee'') is in the public interest. The Committee will better enable OSHA to perform the duties imposed by the Occupational Safety and Health Act of 1970 (''OSH Act''), 29 U.S.C. 651 *et seq.*). Authority to establish this Committee is found in Sections 6(b) and 7(b) of the OSH Act, Section 41 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), other general agency authority in Title 5 of the United States Code, and 29 CFR part 1912.

FOR FURTHER INFORMATION CONTACT: Joseph V. Daddura, Director, Office of Maritime, Directorate of Standards and Guidance, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2086.

SUPPLEMENTARY INFORMATION:

I. Background

The Committee will advise OSHA on matters relevant to the safety and health of employees in the maritime industry. This includes advice on maritime issues that will result in more effective enforcement, training, and outreach programs, and streamlined regulatory efforts. The maritime industry includes the shipbuilding, ship-repair, shipbreaking, longshoring, and marine-terminal industries.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act and OSHA's regulations covering advisory committees (29 CFR part 1912). The Committee charter will be filed 15 days from the date of this publication.

II. Authority and Signature

This notice was prepared under the direction of Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, pursuant to Sections 6(b) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 656), Section 41 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), other general agency authority in Title 5 of the United States Code, and 29 CFR part 1912.

Signed at Washington, DC this 16th day of September 2008.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E8–21983 Filed 9–19–08; 8:45 am]

BILLING CODE 4510–26–P

MILLENNIUM CHALLENGE CORPORATION

[MCC 08–13]

Notice of Quarterly Report (April 1, 2008–June 30, 2008)

AGENCY: Millennium Challenge Corporation.

SUMMARY: The Millennium Challenge Corporation (MCC) is reporting for the quarter April 1, 2008 through June 30, 2008 respect to both assistance provided under section 605 of the Millennium Challenge Act of 2003 (Pub. L. 108–199, Division D (the Act)), and transfers or allocations of funds to other federal agencies pursuant to section 619(b) of the Act. The following report shall be made available to the public by means of publication in the **Federal Register** and on the Internet Web site of the MCC (*http://www.mcc.gov*) in accordance with section 612(b) of the Act.

ASSISTANCE PROVIDED UNDER SECTION 605

Projects	Obligated	Objectives	Cumulative disbursements	Measures
Country: Madagascar Year: 2008 Quarter 3 Total Obligation: $109,773,000 Entity to which the assistance is provided: MCA Madagascar Total Quarterly Disbursement: $8,685,734				
Land Tenure Project	$37,803,000	Increase Land Titling and Security.	$10,942,352	Legislative proposal reflecting the National Land Tenure Program submitted to Parliament and passed. Number of land disputes reported and resolved in the target zones and sites of implementation. Percentage of land documents inventoried, restored, and/or digitized. Average time and cost required to carry out property transactions. Percent of reported land conflicts resolved on titled land in zone 3, 4, 5 during the title regularization operations. Percentage of land in the zones that is demarcated and ready for titling.
Finance Project	35,888,000	Increase Competition in the Financial Sector.	7,278,223	The number of savings accounts and outstanding value of accounts from primary banks. Maximum check clearing delay. Volume of funds in payment system and number of transactions. Increased public awareness of new financial instruments as measured by surveys within intervention zones and large towns. The amount of government debt issued with maturities in excess of 52 weeks.

ASSISTANCE PROVIDED UNDER SECTION 605—Continued

Projects	Obligated	Objectives	Cumulative disbursements	Measures
				The number of new individual investors buying government debt securities. The number of bank branches of the Central Bank of Madagascar capable of accepting auction tenders. Percentage of all loans included in the central database.
Agricultural Business Investment Project.	17,683,000	Improve Agricultural Projection Technologies and Market Capacity in Rural Areas.	6,298,006	Number of rural producers receiving or soliciting information from Agricultural Business Centers about the opportunities. Intervention zones identified and description of beneficiaries within each zone submitted. Number of visitors receiving information from National Coordinating Center with respect to business opportunities. Change in farm income due to improved production and marketing practices. Change in enterprise income due to improved production and marketing practices. Number of farmers and business employing technical assistance received.
Program Administration * and Control, Monitoring and Evaluation.	18,399,000	....	10,483,218	
Pending subsequent reports **.	....	....	2,792,569	
Country: Honduras Year: 2008 Quarter 3 Total Obligation: $215,000,000 Entity to which the assistance is provided: MCA Honduras Total Quarterly Disbursement: $2,425,623				
Rural Development Project	70,687,000	Increase the productivity and business skills of farmers who operate small and medium-size farms and their employees.	13,892,587	Increase in farm income resulting from Rural Development Project. Funds lent by MCA-Honduras to financial institutions. Increase in employment income resulting from Rural Development Project. Number of Program farmers harvesting high-value horticulture crops. Number of hectares harvesting high-value horticulture crops.
Transportation Project	127,491,876	Reduce transportation costs between targeted production centers and national, regional and global markets.	2,950,530	Freight shipment cost from Tegucigalpa to Puerto Cortes. Price of basic food basket. Number of days per year road is passable.
Program Administration * and Control, Monitoring and Evaluation.	16,821,124	....	3,797,930	
Pending subsequent reports **.	....	....	820,880	
Country: Cape Verde Year: 2008 Quarter 3 Total Obligation: $110,078,488 Entity to which the assistance is provided: MCA Cape Verde Total Quarterly Disbursement: $856				
Watershed and Agricultural Support.	10,848,630	Increase agricultural production in three targeted watershed areas on three islands.	2,540,462	Increase in horticultural productivity. Increase in annual income. Value-added for farms and agribusiness.
Infrastructure Improvement	78,760,208	Increase integration of the internal market and reduce transportation costs.	9,728,013	Volume of goods shipped between Praia and other islands. Mobility Ratio: Percentage of beneficiary population who take at least 5 trips per month. Savings on transport costs from improvements.
Private Sector Development.	7,200,000	Spur private sector development on all islands through increased investment in the priority sectors and through financial sector reform.	228,391	Value added in priority sectors above current trends. Volume of private investment in priority sectors above current trends.

ASSISTANCE PROVIDED UNDER SECTION 605—Continued

Projects	Obligated	Objectives	Cumulative disbursements	Measures
Program Administration * and Control, Monitoring and Evaluation.	13,269,650	....	5,294,622	
Pending subsequent reports **.	....	....	−202,688	
Country: Nicaragua Year: 2008 Quarter 3 Total Obligation: $175,000,000 Entity to which the assistance is provided: MCA Nicaragua Total Quarterly Disbursement: $2,733,324				
Property Regularization Project.	22,000,000	Increase Investment by strengthening property rights.	3,565,857	Value of investment on land. Value of urban land. Value of rural land. Number of days to conduct a land transaction. Total cost to conduct a land transaction.
Transportation Project	105,193,200	Reduce transportation costs between Leon and Chinandega and national, regional and global markets.	5,224,522	Price of a basket of goods. Travel Time.
Rural Business Development Project.	32,897,500	Increase the value added of farms and enterprises in the region.	7,694,853	Annual percentage increase in value-added of clients of business office. Number of jobs created. Number of program farm plots harvesting higher-value crops or reforesting under improvement of Water Supply Activities.
Program Administration *, Due Diligence, Monitoring and Evaluation.	14,909,300	....	5,789,142	
Pending subsequent reports **.	....	....	289,788	
Country: Georgia Year: 2008 Quarter 3 Total Obligation: $295,300,000 Entity to which the assistance is provided: MCA Georgia Total Quarterly Disbursement: $5,425,650				
Regional Infrastructure Rehabilitation.	211,700,000	Key Regional Infrastructure Rehabilitated.	33,890,792	Reduction in Akhalkalaki-Ninotsminda-Teleti journey time. Reduction in vehicle operating costs. Increase in internal regional traffic volumes. Decreased technical losses in gas through the main North-South pipeline. Reduction in the production of greenhouse gas emissions measured in tons of CO_2 equivalent. Increased collection rate of the Georgian Gas Company (GOGC). Number of household beneficiaries served by Regional Infrastructure Development projects. Actual operations and maintenance expenditures.
Regional Enterprise Development.	47,500,000	Enterprises in Regions Developed.	7,496,900	Increase in annual revenue in portfolio companies. Increase in number of portfolio company employees and number of local suppliers. Increase in portfolio companies' wages and payments to local suppliers. Jobs created. Increase in aggregate incremental net revenue to project assisted firms. Direct household net income. Direct household net income for market information initiative beneficiaries. Number of beneficiaries.
Program Administration *, Due Diligence, Monitoring and Evaluation.	36,100,000	....	9,880,202	
Pending subsequent reports **.	....	....	41,339	

ASSISTANCE PROVIDED UNDER SECTION 605—Continued

Projects	Obligated	Objectives	Cumulative disbursements	Measures
Country: Vanuatu Year: 2008 Quarter 3 Total Obligation: $65,690,000 Entity to which the assistance is provided: MCA Vanuatu Total Quarterly Disbursement: $0				
Transportation Infrastructure Project.	60,587,816	Facilitate transportation to increase tourism and business development.	11,123,498	Number of Tourists. Number of days per year road is closed. Number of S–W Bay, Malekula flights cancelled per year due to flooding. Vessel wait time at wharf.
Program Administration *, Due Diligence, Monitoring and Evaluation.	5,074,768	....	691,874	
Pending subsequent reports **.	....	....	67,893	
Country: Armenia Year: 2008 Quarter 3 Total Obligation: $235,650,000 Entity to which the assistance is provided: MCA Armenia Total Quarterly Disbursement: $3,938,667				
Irrigated Agriculture Project (Agriculture and Water).	145,680,000	Increase agricultural productivity Improve and Quality of Irrigation.	10,191,511	Increase in hectares covered by high value added horticultural and fruit crops. Percentage of respondents satisfied with irrigation services. Share of Water User Association water charges as percentage of Water User Association annual operations and maintenance costs. Number of farmers using improved on-farm water management practices. Annual increase in irrigated land in Project area. State budget expenditures on maintenance of irrigation system. Value of loans provided under the project.
Rural Road Rehabilitation Project.	67,100,000	Better access to economic and social infrastructure.	3,051,693	Government budgetary allocations for routine maintenance of the entire road network. Average daily traffic in Project area. Kilometers of Package 1 road sections rehabilitated. Kilometers of Package 2 road sections rehabilitated. Kilometers of Package 3 road sections rehabilitated.
Program Administration *, Due Diligence, Monitoring and Evaluation.	22,870,000	....	4,102,597	
Pending subsequent reports **.	....	....	1,817,120	
Country: Benin Year: 2008 Quarter 3 Total Obligation: $307,298,040 Entity to which the assistance is provided: MCA Benin Total Quarterly Disbursement: $3,004				
Access to Financial Services.	19,650,000	Expand Access to Financial Services.	1,113,118	Operational self-sufficiency of participating microfinance institutions. Number of microfinance institutions supervised by the microfinance cellule. Total incremental increase in value of new credit extended and savings received by financial institutions participating in the project. Share value of all loans outstanding that have one or more installments of principal over 30 days past due. Total number of loans guaranteed by land titles per year.
Access to Justice	34,270,000	Improved Ability of Justice System to Enforce Contracts and Reconcile Claims.	771,228	Number of cases processed at the arbitration center. Percentage of all cases in the "Tribunal de Premiere Instance" courts per year. Percentage of all cases resolved in court of appeals per year. Average distance to reach TPI. Number of enterprises registered through the registration center. Average number of days required to register an enterprise.

ASSISTANCE PROVIDED UNDER SECTION 605—Continued

Projects	Obligated	Objectives	Cumulative disbursements	Measures
Access to Land	36,020,000	Strengthen property rights and increase investment in rural and urban land.	5,797,561	Total value of additional investments in target rural land parcels. Total value of additional investments in target urban land parcels.
Access to Markets	169,447,000	Improve Access to Markets through Improvements to the Port of Cotonou.	3,240,672	Total metric tons of exports and imports passing through Port of Cotonou per year.
Program Administration *, Due Diligence, Monitoring and Evaluation.	47,911,040		6,472,234	
Pending subsequent reports **.			6,391,225	
Country: Ghana Year: 2008 Quarter 3 Total Obligation: $547,009,000 Entity to which the assistance is provided: MCA Ghana Total Quarterly Disbursement: $26,675				
Agriculture Project	240,984,050	Enhance Profitability of cultivation, services to agriculture and product handling in support of the expansion of commercial agriculture among groups of smallholder farms.	4,701,182	Number of hectares irrigated. Number of days to conduct a land transaction. Number of land disputes in the pilot registration districts. Registration of land rights in the pilot registration districts. Metric tons of products passing through post-harvest treatment. Portfolio-at-risk of agriculture loan fund. Value of loans disbursed to clients from agricultural loan fund. Number of additional loans. Vehicle operating costs on minor, medium and major rehabilitated roads.
Rural Development	101,288,000	Strengthen the rural institutions that provide services complementary to, and supportive of, agricultural and agriculture business development.	289,905	Time/quality per procurement. Score card of citizen satisfaction with services. Gross enrollment rates. Gender parity in school enrollment. Distance to collect water. Time to collect water. Distance to sanitation facility. Travel time to sanitation facility. Incidence of guinea worm, diarrhea or bilharzias. Average number of days lost due to guinea worm, diarrhea or bilharzias. Percentage of households, schools, and agricultural processing plants in target districts with electricity. Number of inter-bank transactions. Value of deposit accounts in rural banks.
Transportation	143,104,000	Reduce the transportation costs affecting agriculture commerce at sub-regional levels.	89,728	Volume capacity ratio. Vehicles per hour at peak hour. Travel time at peak hour. International roughness index. Annual average daily vehicle and passenger traffic.
Program Administration *, Due Diligence, Monitoring and Evaluation.	61,633,000		7,451,123	
Pending subsequent reports **.			3,002,158	
Country: El Salvador Year: 2008 Quarter 3 Total Obligation: $460,940,000 Entity to which the assistance is provided: MCA El Salvador Total Quarterly Disbursement: $1,080,991				
Human Development Project.	95,073,470	Increase human and physical capital of residents of the Northern Zone to take advantage of employment and business opportunities.	43,734	Number of students enrolled in the Chalatenango Center functioning as a MEGATEC institute. Graduation rate of students enrolled in the Chalatenango Center functioning as a MEGATEC institute. Number of students enrolled in participating middle technical schools. Graduation rate of students enrolled in participating middle technical schools. Number of students enrolled in non-formal training activities.

ASSISTANCE PROVIDED UNDER SECTION 605—Continued

Projects	Obligated	Objectives	Cumulative disbursements	Measures
				Graduation rate of students enrolled in non-formal training activities. Number of households with access to water in the Northern Zone. Number of households with access to basic sanitation in the Northern Zone. Number of households with electricity in the Northern Zone. Number of individuals that benefit annually from the strategic infrastructure projects.
Productive Development Project.	87,466,174	Increase production and employment in the Northern Zone.	128,866	Investment in productive chains by selected beneficiaries.
Connectivity Project	233,559,995	Reduce travel cost and time within the Northern Zone, with the rest of the country, and within the region.	0	Weighted average of the International Roughness Index for the rehabilitation of the Transnational Highway. Weighted average of the International Roughness Index for the rehabilitation of the network of connecting roads.
Program Administration * and Control, Monitoring and Evaluation.	44,840,361		1,591,125	
Pending Subsequent Report **.			4,199,397	
Country: Mali Year: 2008 Quarter 3 Total Obligation: $460,811,164 Entity to which the assistance is provided: MCA Mali Total Quarterly Disbursement: $1,428,452				
Bamako Sénou Airport Improvement Project.	89,631,177	Establish an independent and secure link to the regional and global economy.	1,377,281	Number of weekly flight arrivals and departures. Average time for passengers to complete departures and arrivals procedures.
Industrial Park Project	94,456,519	Develop a platform for industrial activity to be located within the Airport domain.	2,080,155	Occupancy level. Average number of days required for operator to connect to Industrial Park water and electricity services.
Alatona Irrigation Project	234,884,675	Increase the agricultural production and productivity in the Alatona zone of the ON.	0	Weighted average of the International Roughness Index for the rehabilitation of the Niono-Goma Coura road. Annual average daily count of vehicles on the Niono-Goma Coura road. Total amount of land irrigated by the Project in the Alatona zone. Average water volume delivered at the farm level in the Alatona zone. Crop water requirements as a percentage share of water supply at the canal headworks in the Alatona Zone. Number of 5 and 10 hectare farm plots allocated in the Alatona zone. Total market garden parcels allocated in the Alatona zone. Number of titles registered in the land registration office granted to households in the Alatona zone. Number of students enrolled in schools established by the Project. Graduation rate of students enrolled in schools established by the Project. Number of farms adopting at least one new extension technique as a percentage of all farms receiving technical assistance under the Project. Total amount of credit extended in loan portfolios by participating microfinance institutions and banks in the Alatona zone. Number of active clients of microfinance institutions and banks in the Alatona zone.
Program Administration * and Control, Monitoring and Evaluation.	41,838,793		5,031,561	

ASSISTANCE PROVIDED UNDER SECTION 605—Continued

Projects	Obligated	Objectives	Cumulative disbursements	Measures
Pending Subsequent Report**.	....	....	0	
Country: Mongolia Year: 2008 Quarter 3 Total Obligation: $5,022,683 Entity to which the assistance is provided: MCA Mongolia Total Quarterly Disbursement: $420,562				
Property Rights Project	172,200	Increase security and capitalization of land assets held by lower-income Mongolians, and increased peri-urban herder productivity and incomes.	0	Immovable property value of hashaa plots. Households accessing bank credit. Hashaa plots directly registered by the Property Rights Project. Income of herder households on long-term lease land. Herd mortality rate. Number of herder groups adopting intensive/semi-intensive farm management techniques.
Rail Project	0	Increase rail traffic and shipping efficiency.	0	Increase in GDP due to rail improvements. Freight turnover. Mine traffic. Percent of wagons leased by private firms. Railway operating ratio. Customer satisfaction. Wagon time to destination. Average locomotive availability.
Vocational Education Project.	226,600	Increase employment and income among unemployed and under-employed Mongolians.	8,519	Annual salary. Rate of employment. Non-governmental funding of vocational education. Students completing newly designed long-term programs. Certified vocational education teachers. Percent of active teachers receiving certification training.
Health Project	186,500	Increase the adoption of behaviors that reduce non-communicable diseases (NCDIs) among target populations and improved medical treatment and control of NCDIs.	200	Diabetes and hypertension controlled. Cervical cancer prevention. Percentage of cancer cases diagnosed in early stages. Percentage of those with known diagnosis of hypertension/diabetes out of all actual cases in adult population. Women screened for breast and cervical cancer. Counseling for diabetes and hypertension.
Program Administration * and Control, Monitoring and Evaluation.	4,437,383	....	411,844	
Pending subsequent reports**.				
Country: Mozambique (CIF ONLY) [1] Year: 2008 Quarter 3 Total Obligation: $25,346,200 Entity to which the assistance is provided: MCA Mozambique Total Quarterly Disbursement: $179,571				
Water and Sanitation Project.	7,436,411	Increase access to reliable and quality water and sanitation facilities.	0	Value of productive days gained due to less diarrhea, cholera and/or malaria. School attendance days gained due to less diarrhea, cholera and/or malaria. Number (Percent) of businesses with access to improved water source. Reduction in time for rural/urban households to access improved water sources. Number (Percent) of urban households with access to improved water sources. Number (Percent) of rural households with access to improved water sources. Number (Percent) of urban households with access to improved sanitation facilities.
Road Rehabilitation Project	4,500,000	Increase access to productive resources and markets.	0	Increase in agricultural production among communities affected by road rehabilitation works. Increase in the number of new businesses within 5 km of rehabilitated roads. Reduction in vehicle operating costs as a result of rehabilitated roads. Time savings due to a reduction in time to travel a fixed length of rehabilitated road.

ASSISTANCE PROVIDED UNDER SECTION 605—Continued

Projects	Obligated	Objectives	Cumulative disbursements	Measures
				Weighted average of the International Roughness Index for the rehabilitation roads. Average annual daily traffic volume on rehabilitated roads disaggregated by vehicle type.
Land Tenure Services Project.	190,083	Establish efficient, secure land access for households and investors.	0	Increase (Percent) in value of new investments on land. Number of new businesses. Reduction (Percent) in time to right to land usage. More efficient, free and secure land transfers/transactions. Increase (Percentage) in parcel-holder land value. Reduction (Percent) in costs to right to land usage.
Farmer Income Support Project.	751,000	Improve coconut productivity and diversification into cash crop.	0	Reduction (Percentage) in loss of coconut production and coconut products' sales. Increased income (Percentage) from sales from intercropping activities to small farm plot holders. Increased number (Percentage) of live coconut trees. Increased productive capacity (Percentage) of coconut trees.
Program Administration * and Control, Monitoring and Evaluation.	12,504,676	....	179,571	
Pending Subsequent Report **.	....	....	0	

Country: Lesotho (CIF ONLY) Year: 2008 Quarter 3 Total Obligation: $15,668,000
Entity to which the assistance is provided: MCA Lesotho Total Quarterly Disbursement: $1,436,864

Projects	Obligated	Objectives	Cumulative disbursements	Measures
Water Project	4,913,000	Improve the water supply for industrial and domestic needs, and enhance rural livelihoods through improved watershed management.	0	Increased urban access to potable water supply. Increase in volume of water delivered after treatment at Metolong site. Decrease in percentage of urban water that is not accounted for (non-revenue losses plus physical losses). Number of people covered per year in rural areas with MCC funded rural water supply. Number of new VIP latrines provided to households.
Health Project	4,436,000	Increase access to life-extending ART and essential health services by providing a sustainable delivery platform.	55,823	Increase in the percentage of health facilities providing full package of standard services for level of center (MoHSW 2007 standard). Increase in TB treatment success rate. Increase in the percentage of health facilities staffed with standard number and type of qualified staff (MoHSW 2007 standard). Increase in the number of patients treated in health centers in Lesotho. Increase in immunization rate (measles). Number of people receiving ARV treatment (number). Increase in annual enrollment at National Health Training College. Increase in average referred tests performed at the central laboratory per quarter during the past year. Increase in average number of blood units collected per quarter during the past year.
Private Sector Development Project.	723,072	Stimulate investment by improving access to credit, reducing transaction costs and increasing the participation of women in the economy.	173,992	Increase in the percentage of the adult population listed by a private credit bureau with current information on repayment history, unpaid debts or credit outstanding. Increase in the number of payments associated with salaries and pensions made through EFT per year. Land used as collateral (number of mortgage bonds registered). Land transaction costs (percent of property value). Land transaction times (median number of days necessary to complete a procedure). Increase in the number of pending civil cases in the High Court.

ASSISTANCE PROVIDED UNDER SECTION 605—Continued

Projects	Obligated	Objectives	Cumulative disbursements	Measures
				Gender equality index (percent change in index of knowledge, attitudes, and practices for supporting gender equality in economic rights).
Program Administration * and Control, Monitoring and Evaluation.	5,595,928	....	1,606,370	
Pending Subsequent Report **.	0	....	0	
Country: Morocco (CIF ONLY) Year: 2008 Quarter 3 Total Obligation: $32,400,000 Entity to which the assistance is provided: MCA Lesotho Total Quarterly Disbursement: $28,781				
Fruit Tree Productivity	6,959,765	Reduce volatility of agricultural production and increase volume of fruit agricultural production.	N/A	Total annual volume of production of dates and olives. Cropped area covered by olive trees. Survival rate of newly planted olive trees after 2 years project-supported establishment period. Yield of rehabilitated olive trees. Cropped area covered by date trees. Yield of rehabilitated date palms.
Small Scale Fisheries	7,005,874	Improve quality of fish moving through domestic channels and assure the sustainable use of fishing resources.	N/A	State of fish stock. Domestic fish consumption level. Fisherman net revenue. Average fisherman sales price at PDA. Volume sold at wholesale markets. Fish sale price. Average sales price. Volume of sales among mobile fish vendors.
Artisan and Fez Medina	6,142,437	Increase value added to tourism and artisan sectors.	N/A	Average revenue of potters receiving Artisan Production Activity. Employment and wages among Project graduates. Tourist arrivals. Artisan profits (artisans engaged in product finishing and points of sale). Employment created. SME value added.
Financial Services	500,000	Increase supply and decrease costs of financial services available to microenterprises.	N/A	Gross loan portfolio outstanding of microcredit associations. Portfolio at risk >30 days ratio. Operating Expense Ratio.
Enterprise Support	0	Improved survival rate of new SMEs and INDH-funded income generating activities; increased revenue for new SMEs and INDH-funded income generating activities.	0	Average annual sales of participating businesses. Survival rate of participating businesses.
Program Administration * and Control, Monitoring and Evaluation.	11,791,924	....	136,527	TBD.
Pending Subsequent Report **.	N/A	....	N/A	TBD.

619(b) Transfer or allocation of funds

U.S. agency to which funds were transferred or allocated	Amount	Description of program or project
USAID	$250,000	Threshold Program.

* Program administration funds are used to pay items such as salaries, rent, and the cost of office equipment.

** These amounts represent disbursements made that will be allocated to individual projects in the subsequent quarter(s) and reported as such in subsequent quarterly report(s).

[1] Beginning in fiscal year 2007, CIF (i.e., Compact Implementation Funding) is assistance made available to a country, upon signature of a compact, under the authority of Section 609(g) of the Act. It is additional to compact program assistance provided under Section 605 of the Act upon entry into force of the compact and is included in the overall total of compact funding. As of this report, only CIF funds have been obligated for Mozambique, Lesotho and Morocco.

Dated: September 16, 2008.

Matthew McLean,

Vice President, Congressional and Public Affairs, Millennium Challenge Corporation.

[FR Doc. E8–22037 Filed 9–19–08; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before October 22, 2008 to be assured of consideration.

ADDRESSES: Send comments to Mr. Nicholas A. Fraser, Desk Officer for NARA, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5167; or electronically mailed to *Nicholas_A._Fraser@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on June 25, 2008 (73 FR 36128). Two comments were received. One comment requested that the veteran or requestor should be afforded the opportunity to request their entire record on the form so they don't have to request it more than once. Another comment requested replacing ''service'' with ''component'' in several areas of the form; changing ''VA Loan'' to ''VA Loan Programs''; and requesting all documents in the Official Military Personnel File (OMPF). Both comments were accepted and the changes were made to the SF 180. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Request Pertaining to Military Records.

OMB number: 3095–0029.

Agency form number: SF 180.

Type of review: Regular.

Affected public: Veterans, their authorized representatives, state and local governments, and businesses.

Estimated number of respondents: 1,028,769.

Estimated time per response: 5 minutes.

Frequency of response: On occasion (when respondent wishes to request information from a military personnel record).

Estimated total annual burden hours: 85,731 hours.

Abstract: The authority for this information collection is contained in 36 CFR 1228.168(b). In accordance with rules issued by the Department of Defense (DOD) and Department of Homeland Security (DHS, U.S. Coast Guard), the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers military service records of veterans after discharge, retirement, and death. When veterans and other authorized individuals request information from or copies of documents in military service records, they must provide in forms or in letters certain information about the veteran and the nature of the request. Federal agencies, military departments, veterans, veterans' organizations, and the general public use Standard Forms (SF) 180, Request Pertaining to Military Records, in order to obtain information from military service records stored at NPRC. Veterans and next-of-kin of deceased veterans can also use eVetRecs (*http://www.archives.gov/research_room/vetrecs/*) to order copies.

Dated: September 17, 2008.

Martha Morphy,

Assistant Archivist for Information Services.

[FR Doc. E8–22106 Filed 9–19–08; 8:45 am]

BILLING CODE 7515–01–P

OFFICE OF NATIONAL DRUG CONTROL POLICY

Paperwork Reduction Act; 30-Day Notice

AGENCY: Office of National Drug Control Policy.

ACTION: Notice of Submission to OMB and 30-Day Public Comment Period.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 *et seq.*), the Office of National Drug Control Policy (ONDCP) announces that it will submit to the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs (OIRA) an information collection request for processing under 5 CFR 1320.10.

SUPPLEMENTARY INFORMATION: The ONDCP Drug Free Communities (DFC) Support Program received no comments following the publication of its 60-day notice of proposed information collection. As identified in the 60-day notice, the information is currently being collected under an existing ONDCP DFC program, and no additional information will be requested from respondents. ONDCP requests that OMB review and approve the information collection request, and solicits additional comments and recommendations.

Type of Information Collection Request: Renewal request with a new class of grantees.

Titles: Drug-Free Communities (DFC) Support Program National Evaluation; Sober Truth on Preventing Underage Drinking (STOP Act) Program National Evaluation.

DFC Support Program: The DFC Support Program National Evaluation will support a rigorous evaluation and an effective grant monitoring and tracking system. The evaluation will make use of two separate collection instruments: (1) A monitoring and tracking questionnaire (online tool) will serve as a semi-annual report for DFC grantees; and, (2) a typology classification questionnaire will be used annually to classify respondents into coalition typology.

Frequency: Semi-annually and annually.

Affected Public: Anti-Drug Coalitions.

Type of Respondents: Directors of Anti-Drug Coalitions or their designees.

STOP Act Program: The STOP Act Program National Evaluation will make use of the monitoring and tracking questionnaire (online tool) to serve as a semi-annual report for STOP Act grantees and will provide information for SAMHSA.

Frequency: Semi-annually.

Affected Public: Current and former Drug Free Communities Anti-Drug Coalitions.

Type of Respondents: Directors or their designees.

Requests for Information: Direct information requests to Kenneth Shapiro at *kshapiro@ondcp.eop.gov,* by facsimile transmission to (202) 395–6641, or mail to Office of National Drug Control Policy, 750 17th Street, NW., Room 631, Washington DC 20503.

Comments: Submit comments within 30 days of publication to John Kraemer, Desk Officer for the ONDCP at *jkraemer@omb.eop.gov*, by facsimile transmission to (202) 395–6074, or mail to Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington DC 20503.

Dated: September 17, 2008.

Daniel R. Petersen,

Assistant General Counsel.

[FR Doc. E8–22098 Filed 9–19–08; 8:45 am]

BILLING CODE 3180–02–P

NATIONAL SCIENCE FOUNDATION

Membership of National Science Foundation's Senior Executive Service Performance Review Board

AGENCY: National Science Foundation.

ACTION: Announcement of Membership of the National Science Foundation's Senior Executive Service Performance Review Board.

SUMMARY: This announcement of the membership of the National Science Foundation's Senior Executive Service Performance Review Board is made in compliance with 5 U.S.C. 4314(c)(4).

ADDRESSES: Comments should be addressed to Director, Division of Human Resources Management, National Science Foundation, Room 315, 4201 Wilson Boulevard, Arlington, VA 22230.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph F. Burt at the above address or (703) 292–8180.

SUPPLEMENTARY INFORMATION: The membership of the National Science Foundation's Senior Executive Service Performance Review Board is as follows:

Kathie L. Olsen, Deputy Director, Chairperson.

Anthony A. Arnolie, Director, Office of Information and Resource Management and Chief Human Capital Officer.

Richard A. Behnke, Head, Upper Atmosphere Research Section.

Deborah L. Crawford, Deputy Assistant Director for Computer and Information Science and Engineering.

Penelope L. Firth, Deputy Director, Division of Environmental Biology.

Deborah F. Lockhart, Deputy Director, Division of Mathematical Sciences.

Martha A. Rubenstein, Director, Budget Division.

Dated: September 16, 2008.

Joseph F. Burt,

Director, Division of Human Resources Management.

[FR Doc. E8–22005 Filed 9–19–08; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–3]

Notice of Docketing and Issuance of Amendment to Materials License SNM–2502, Carolina Power and Light Company, H.B. Robinson Steam Electric Plant, Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance of Amendment to Materials License SNM–2502.

FOR FURTHER INFORMATION CONTACT: Kevin M. Witt, Project Manager, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards, Mail Stop EBB–3D–02M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 492–3323; e-mail: *Kevin.Witt@nrc.gov*.

SUPPLEMENTARY INFORMATION: On March 30, 2005, the U.S. Nuclear Regulatory Commission (NRC or the Commission) renewed NRC Materials License No. SNM–2502 to the Carolina Power And Light Company (CP&L) for the H.B. Robinson Steam Electric Plant (HBRSEP) Independent Spent Fuel Storage Installation (ISFSI), located in Hartsville, South Carolina. The renewed license authorizes CP&L to receive, possess, store, and transfer spent nuclear fuel and associated radioactive materials resulting from the operation of the HBRSEP in an ISFSI at the power plant site for a term of 40 years. The NRC staff also issued an Environmental Assessment and Finding of No Significant Impact related to the issuance of the renewed ISFSI license on March 17, 2005, in accordance with the National Environmental Policy Act, and in conformance with the applicable requirements of 10 CFR Part 51.

On September 26, 2007, CP&L submitted an application to NRC, in accordance with 10 CFR Part 72, requesting an amendment to NRC Materials License No. SNM–2502. CP&L's license amendment requests four separate administrative changes. Specifically, the first administrative change request was to delete the preoperational license conditions in Section 1.2 of the Technical Specifications (TSs). The second administrative change request was to revise the referenced drawing numbers from the original vendor numbers to the plant's document control numbers. The third administrative change request was to clarify that the lifting height restriction specified in Table 2–1 of Appendix A is measured in feet—the licensee has requested that the single apostrophe symbol be replaced by the abbreviation ''ft.'' The fourth administrative change request was to clarify the level of sensitivity and titles of training plans. An additional change was made by the NRC to correct a regulatory reference in the safeguards license condition (TS Appendix B) description of the amendment process. As a result of these change requests, CP&L also requested the pages of the TSs be re-formatted to ensure consistent page numbering.

Pursuant to 10 CFR 72.46, the NRC has docketed, approved and issued Amendment No. 1 to Materials License No. SNM–2502 held by CP&L for the receipt, possession, transfer, and storage of spent fuel at the HBRSEP ISFSI. Amendment No. 1 is effective as of the date of issuance.

Amendment No. 1 complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings, as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in Amendment No. 1. The issuance of Amendment No. 1 satisfied the criteria specified in 10 CFR 51.22(c)(11) for a categorical exclusion. Thus, the preparation of an environmental assessment or an environmental impact statement is not required.

In accordance with 10 CFR 72.46(b)(2), the NRC has determined that Amendment No. 1 does not present a genuine issue as to whether public health and safety will be significantly affected. Therefore, the publication of a notice of proposed action and an opportunity for hearing or a notice of hearing is not warranted. Notice is hereby given of the right of interested persons to request a hearing on whether the action should be rescinded or modified.

Further Information:

For further details with respect to this action, see the application dated September 26, 2007, and Amendment No. 1, which are available electronically, at NRC's Electronic Reading Room, at: *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the application is ML072820139 and the ADAMS accession number for Amendment No. 1 is ML082560545. If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact NRC's Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

These documents may also be viewed electronically on the public computers located at NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents, for a fee.

Dated at Rockville, Maryland, this 12th day of September, 2008.

For the Nuclear Regulatory Commission.

Kevin M. Witt,

Project Manager, Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E8–22048 Filed 9–19–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: NRC will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) October 27–28, 2008. A sample of agenda items to be discussed during the public session includes: (1) ACMUI subcommittee reports on cesium chloride (CsCl), permanent implant brachytherapy rulemaking, and fingerprinting; (2) Y–90 microsphere brachytherapy licensing guidance; (3) potential changes to 10 CFR Parts 20 and 35; (4) patient needs, concerns, and rights in radiation medicine; (5) infiltration of fluorine-18 (F–18) and therapeutic radiopharmaceuticals as medical events; (6) status of recommendations for modifying training and experience attestation requirements; (7) status of technical basis for the Petition for Rulemaking (PRM) 35–20 (Ritenour) and follow-up; (8) Potential rulemaking and associated Regulatory Issue Summary (RIS) regarding multiple RSOs on a medical-use license; (9) status of current and future 10 CFR Part 35 rulemaking; and (10) medical isotope shortages. A copy of the agenda will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/agenda* or by e-mailing Ms. Ashley Tull at the contact information below.

Purpose: Discuss issues related to 10 CFR Part 35 Medical Use of Byproduct Material.

Date and Time for Closed Sessions: October 27, 2008 from 8 a.m. to 9 a.m. This session will be closed so that ACMUI can discuss internal Committee business and receive annual ethics training.

Date and Time for Open Sessions: October 27, 2008, from 9 a.m. to 5 p.m. and October 28, 2008, from 8 a.m. to 4 p.m.

Address for Public Meeting: U.S. Nuclear Regulatory Commission, Two White Flint North Building, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland 20852.

Public Participation: Any member of the public who wishes to participate in the meeting should contact Ms. Tull using the information below.

FOR FURTHER INFORMATION CONTACT: Ashley M. Tull, e-mail: *ashley.tull@nrc.gov*, telephone: (240) 888–7129.

Conduct of the Meeting

Leon S. Malmud, M.D., will chair the meeting. Dr. Malmud will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Tull at the contact information listed above. All submittals must be received by October 20, 2008, and must pertain to the topic on the agenda for the meeting.
2. Questions and comments from members of the public will be permitted during the meeting, at the discretion of the Chairman.
3. The transcript will be available on ACMUI's Web site (*http://www.nrc.gov/reading-rm/doc-collections/acmui/tr/*) on or about January 27, 2009. A meeting summary will be available on or about December 11, 2008.
4. Persons who require special services, such as those for the hearing impaired, should notify Ms. Tull of their planned attendance.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, *U.S. Code of Federal Regulations,* Part 7.

Dated: September 16, 2008.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E8–22066 Filed 9–19–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on October 2–4, 2008, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, October 22, 2007 (72 FR 59574).

Thursday, October 2, 2008, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10 a.m.: License Renewal Application and Final Safety Evaluation Report (SER) for the Shearon Harris Nuclear Power Plant, Unit 1 (Open)—The Committee will hear a briefing by and hold discussions with representatives of the NRC staff and Carolina Power & Light Company regarding the license renewal application for the Shearon Harris Nuclear Power Plant, Unit 1, and the associated NRC staff's final SER.

10:15 a.m.–12:15 p.m.: Status of Resolution of Generic Safety Issue (GSI)–191, ''Assessment of Debris Accumulation on Pressurized-Water Reactor (PWR) Sump Performance'' (Open)—The Committee will hear a briefing by and hold discussions with representatives of the NRC staff and PWR Owners Group regarding the staff and industry activities associated with the resolution of GSI–191.

1:15 p.m.–3:15 p.m.: Selected Chapters of the SER Associated with the Economic Simplified Boiling Water Reactor (ESBWR) Design Certification Application (Open/Closed)—The Committee will hear a briefing by and hold discussions with representatives of the NRC staff and General Electric-Hitachi Nuclear Energy (GEH) regarding selected Chapters of the NRC staff's SER With Open Items associated with the ESBWR design certification application.

3:30 p.m.–4 p.m.: Quality Assessment of Selected Research Projects (Open)—The Committee will discuss the draft final report on the quality assessment of the NRC research projects on: FRAPCON/FRAPTRAN Code work at the Pacific Northwest National Laboratory (PNNL), and NUREG/CR–6943, ''A Study of Remote Visual Methods to Detect Cracking in Reactor Components.''

4 p.m.–5:15 p.m.: Historical Perspectives and Insights on Reactor Consequence Analyses (Open)—The Committee will discuss the draft White Paper prepared by the ACRS Senior Technical Advisor on historical perspectives and insights on reactor consequence analyses.

5:30 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting.

Friday, October 3, 2008, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:30 a.m.: Future Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future ACRS meetings and matters related to the conduct of ACRS business, including anticipated workload and member assignments.

9:30 a.m.–9:45 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

9:45 a.m.–10 a.m.: Subcommittee Reports (Open)—Report by and discussions with the Chairman of the ACRS Subcommittee on Materials, Metallurgy, and Reactor Fuels regarding Proposed Supplemental Pressurized Thermal Shock Rule (10 CFR 50.61) that was discussed during the Subcommittee meeting on October 1, 2008. Report by and discussions with the Chairman of the ACRS Subcommittee on Reliability and PRA regarding the draft final NUREG–1855, ''Guidance on the Treatment of Uncertainties in Risk-Informed Decisionmaking,'' that was discussed during the Subcommittee meeting on September 30, 2008.

10:15 a.m.–11:30 a.m.: Preparation for Meeting with the Commission on November 7, 2008 (Open)—Discussion of proposed topics for meeting with the Commission on November 7, 2008.

12:30 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, October 4, 2008, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–1 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

1 p.m.–1:30 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 26, 2007 (72 FR 54695). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) Public Law 92–463, I have determined that it may be necessary to close portions of this meeting noted above to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(2) and (6). In addition, it may be necessary to close a portion of the meeting to protect information designated as proprietary by General Electric-Hitachi or its contractors pursuant to 5 U.S.C. 552b c(4).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Girija Shukla, Cognizant ACRS staff (301–415–6855), between 7:30 a.m. and 4 p.m., (ET). ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html or http://www.nrc.gov/reading-rm/doc-collections/ACRS/*.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: September 16, 2008.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E8–22069 Filed 9–19–08; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Fiscal Year 2009 Tariff-Rate Quota Allocations for Raw Cane Sugar, Refined and Specialty Sugar, and Sugar-Containing Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of country-by-country allocations of the FY 2009 in-quota quantity of the tariff-rate quota for imported raw cane sugar, refined and specialty sugar, and sugar-containing products.

EFFECTIVE DATE: September 22, 2008.

ADDRESSES: Inquiries may be mailed or delivered to Leslie O'Connor, Director of Agricultural Affairs, Office of Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Leslie O'Connor, Office of Agricultural Affairs, telephone: 202–395–6127 or facsimile: 202–395–4579.

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS), the United States maintains a tariff-rate quota for imports of raw cane sugar and refined sugar. Pursuant to Additional U.S. Note 8 to chapter 17 of the HTS, the United States maintains a tariff-rate quota for imports of sugar-containing products.

Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customs areas. The President delegated this authority to the United States Trade Representative under Presidential Proclamation 6763 (60 FR 1007).

On September 9, 2008, the Secretary of Agriculture announced the sugar program provisions for fiscal year (FY) 2009 (Oct. 1, 2008, through Sept. 30, 2009). The Secretary of Agriculture announced an in-quota quantity of the tariff-rate quota for raw cane sugar for FY 2009 of 1,117,195 metric tons* raw value, which is the minimum amount to which the United States is committed under the World Trade Organization (WTO) Uruguay Round Agreements. USTR is allocating this quantity (1,117,195 metric tons* raw value) to the following countries:

Country	FY 2009 Raw Cane Sugar Allocations (metric tons raw value)
Argentina	45,281
Australia	87,402
Barbados	7,371
Belize	11,583
Bolivia	8,424
Brazil	152,691
Colombia	25,273
Congo	7,258
Costa Rica	15,796
Cote d'Ivoire	7,258
Dominican Republic	185,335
Ecuador	11,583
El Salvador	27,379
Fiji	9,477
Gabon	7,258
Guatemala	50,546
Guyana	12,636
Haiti	7,258
Honduras	10,530
India	8,424
Jamaica	11,583
Madagascar	7,258
Malawi	10,530
Mauritius	12,636
Mexico	7,258
Mozambique	13,690
Nicaragua	22,114
Panama	30,538
Papua New Guinea	7,258
Paraguay	7,258
Peru	43,175
Philippines	142,160
South Africa	24,220
St. Kitts & Nevis	7,258
Swaziland	16,849
Taiwan	12,636
Thailand	14,743
Trinidad & Tobago	7,371
Uruguay	7,258
Zimbabwe	12,636

These allocations are based on the countries' historical shipments to the United States. The allocations of the raw cane sugar tariff-rate quota to countries that are net importers of sugar are conditioned on receipt of the appropriate verifications of origin, and certificates for quota eligibility must accompany imports from any country for which an allocation has been provided.

On September 9, 2008, the Secretary of Agriculture established the FY 2009 refined sugar tariff-rate quota at 94,575 metric tons raw value for which the sucrose content, by weight in the dry state, must have a polarimeter reading of 99.5 degrees or more. This amount includes the minimum level to which the United States is committed under the WTO Uruguay Round Agreement (22,000 metric tons raw value of which 1,656 metric tons raw value is specialty sugar) and an additional 72,575 metric tons raw value for specialty sugars. USTR is allocating a total of 10,300 metric tons raw value of refined sugar to Canada, 2,954 metric tons raw value of refined sugar to Mexico, and 7,090 metric tons raw value of refined sugar to be administered on a first-come, first-served basis. The 74,231 metric tons raw value specialty sugar TRQ, which includes the additional 72,575 metric tons raw value of specialty sugar and the specialty sugar allocation of 1,656 metric tons raw value included in the 22,000 metric tons raw value WTO minimum, will be administered on a first-come, first-served basis in five tranches. The first tranche of 1,656 metric tons raw value will open October 23, 2008. All types of specialty sugars are eligible for entry under this tranche. The second tranche of 25,682 metric tons raw value will open on November 10, 2008. The third, fourth, and fifth tranches of 15,631 metric tons raw value each will open on January 14, 2009; May 19, 2009 and August 24, 2009 respectively. The second, third, fourth and fifth tranches will be reserved for organic sugar and other specialty sugars not currently produced commercially in the United States or reasonably available from domestic sources.

With respect to the tariff-rate quota of 64,709 metric tons for certain sugar-containing products maintained under Additional U.S. Note 8 to Chapter 17 to the Harmonized Tariff Schedule of the United States, USTR is allocating 59,250 metric tons to Canada. The remainder of the sugar-containing products tariff-rate quota is available for other countries on a first-come, first-served basis.

*Conversion factor: 1 metric ton = 1.10231125 short tons.

Susan C. Schwab,

United States Trade Representative.

[FR Doc. E8–22095 Filed 9–19–08; 8:45 am]

BILLING CODE 3190–W8–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Initiation of a Review To Consider the Designation of the Republic of Kosovo as a Beneficiary Developing Country Under the GSP

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and solicitation of public comment.

SUMMARY: This notice announces the initiation of a review to consider designating the Republic of Kosovo as a beneficiary developing country (BDC) for purposes of the GSP program, and solicits public comments on whether Kosovo meets certain eligibility criteria

for designation as a BDC. Comments are due by Friday, October 17, 2008, and must be submitted in accordance with the requirements set out below.

ADDRESSES: Submit comments by electronic mail (e-mail) to: *FR0711@USTR.EOP.GOV*. (Note: the digit before the number in the e-mail address is the number zero, not a letter.)

FOR FURTHER INFORMATION CONTACT: For assistance, contact Regina Teeter, USTR's GSP Office at 202–395–6971.

SUPPLEMENTARY INFORMATION: The GSP Subcommittee of the Trade Policy Staff Committee (TPSC) has initiated a review in order to make a recommendation to the President as to whether Kosovo meets the eligibility criteria of the GSP statute. After considering the recommendation, the President is authorized to, and may, designate Kosovo as a BDC for purposes of the GSP program.

Interested persons are invited to submit comments on whether Kosovo meets the eligibility criteria set forth below and in section 502(c) of the Trade Act of 1974, as amended (19 U.S.C. 2462(c)) (the ''Act'').

Eligibility Criteria

The trade benefits of the GSP program are available to any country that the President designates as a GSP ''beneficiary developing country.'' In designating countries as GSP beneficiary developing countries, the President must consider the criteria in sections 502(b)(2) and 502(c) of the Trade Act of 1974, as amended (19 U.S.C. 2462(b)(2), 2462(c)) (''the Act''). Section 502(b)(2) provides that a country is ineligible for designation if:

1. Such country is a Communist country, unless—

(a) The products of such country receive nondiscriminatory treatment, (b) Such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and (c) Such country is not dominated or controlled by international communism.

2. Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

(a) To withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and (b) To cause serious disruption of the world economy.

3. Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

4. Such country—

(a) Has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, (b) Has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or (c) Has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) Prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to above, (ii) Good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or (iii) A dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

5. Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

6. Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism or the Secretary of State makes a determination with respect to such country under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. Appx. section 2405(j)(1)(A)) or such country has not taken steps to support the efforts of the United States to combat terrorism.

7. Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

8. Such country has not implemented its commitments to eliminate the worst forms of child labor.

Section 502(c) provides that, in determining whether to designate any country as a GSP beneficiary developing country, the President shall take into account:

1. An expression by such country of its desire to be so designated;

2. The level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

3. Whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

4. The extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

5. The extent to which such country is providing adequate and effective protection of intellectual property rights;

6. The extent to which such country has taken action to—

(a) Reduce trade distorting investment practices and policies (including export performance requirements); and (b) Reduce or eliminate barriers to trade in services; and

7. Whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights. Note that the Trade Act of 2002 amended paragraph (D) of the definition of the term ''internationally recognized worker rights,'' which now includes: (A) The right of association; (B) the right to organize and bargain collectively; (C) a prohibition on the use of any form of forced or compulsory labor; (D) a minimum age for the employment of children and a prohibition on the worst

forms of child labor as defined in paragraph (6) of section 507(4) of the Act; and (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Requirements for Submissions

Comments must be submitted, in English, to the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee (TPSC) as soon as possible, but not later than 5 p.m., Friday, October 17, 2008.

In order to facilitate prompt processing of submissions, USTR strongly recommends that comments be set out in digital files attached to e-mails transmitted to the following address: *FR0711@ustr.eop.gov* (Note: The digit before the number in the e-mail address is the number zero, not a letter). For security reasons, hand-delivered submissions will not be accepted. If you are unable to provide comments by e-mail, please contact Regina Teeter, USTR's GSP Office at (202) 395–6971 to arrange for an alternative method of transmission.

Comments should be provided in a single copy and must not exceed 30 single-spaced standard letter-size pages in 12-point type or a digital file size of three megabytes. E-mails should include the following subject line: ''Designation of the Republic of Kosovo as a GSP Beneficiary Country.'' The transmittal message or cover letter accompanying a submission must be set out exclusively in the digital file attached to the e-mail transmission—not in the message portion of e-mail—and must include the sender's name, organization name, address, telephone number and e-mail address.

Digital files must be submitted in one of the following formats: WordPerfect (.WPD), Adobe (.PDF), MSWord (.DOC), or text (.TXT) files. Comments may not be submitted as electronic image files or contain embedded images, e.g., ''.JPG'', ''.TIF'', ''.BMP'', or ''.GIF''. Spreadsheet data may be submitted as Excel files, formatted for printing on 8½ x 11 inch paper. To the extent possible, any data accompanying the submission should be set out in the same file as the submission itself, and not in a separate file.

If a submission contains business confidential information that the submitter wishes to protect from public disclosure, the confidential submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of each page. In addition, the submission must be accompanied by a non-confidential version that indicates, with asterisks, where confidential information was redacted or deleted. The top and bottom of each page of the non-confidential version must be marked either ''PUBLIC VERSION'' or ''NON–CONFIDENTIAL''. Business confidential comments that are submitted without the required markings or that are not accompanied by a properly marked non-confidential version as set forth above may not be accepted or may be treated as public documents.

The digital file name assigned to any business confidential version of a submission should begin with the characters ''BC-'', and the file name of the public version should begin with the characters ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the person (government, company, union, association, etc.) making the submission.

Public versions of all documents relating to this review will be available for review approximately two weeks after the due date by appointment in the USTR public reading room, 1724 F Street, NW., Washington, DC. Appointments may be made from 9:30 a.m. to noon and 1 p.m. to 4 p.m. Monday through Friday, by calling (202) 395–6186.

Marideth J. Sandler,

Executive Director for the GSP Program, Chairman, GSP Subcommittee of the Trade Policy Staff Committee.

[FR Doc. E8–22103 Filed 9–19–08; 8:45 am]

BILLING CODE 3190–W8–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments on Annual Review of Country Eligibility for Benefits Under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and Request for Comments.

SUMMARY: The African Growth and Opportunity Act Implementation Subcommittee of the Trade Policy Staff Committee (the ''Subcommittee'') is requesting written public comments for the annual review of the eligibility of sub-Saharan African countries to receive the benefits of the African Growth and Opportunity Act (AGOA). The Subcommittee will consider these comments in developing recommendations on AGOA country eligibility for the President. Comments received related to the child labor criteria may also be considered by the Secretary of Labor for the preparation of the Department of Labor's report on child labor as required under section 412(c) of the Trade and Development Act of 2000. This notice identifies the eligibility criteria that must be considered under AGOA, and lists those sub-Saharan African countries that are currently eligible for the benefits of the AGOA, and those that are currently ineligible for such benefits.

DATES: Public comments are due at the Office of the U.S. Trade Representative (USTR) by noon, Monday, October 20, 2008.

ADDRESSES: USTR prefers submission by electronic mail: *FR0811@ustr.eop.gov*. If you are unable to make a submission by e-mail, submissions should be made by facsimile to: Gloria Blue, Executive Secretary, Trade Policy Staff Committee, at (202) 395–6143. The public is strongly encouraged to submit documents electronically rather than by facsimile. See requirements for submissions below.

FOR FURTHER INFORMATION CONTACT: For procedural questions, please contact Gloria Blue, Office of the U.S. Trade Representative, 600 17th Street, NW., Room F516, Washington, DC. 20508, at (202) 395–3475. All other questions should be directed to Constance Hamilton, Deputy Assistant U.S. Trade Representative for Africa, Office of the U.S. Trade Representative, at (202) 395–9514.

SUPPLEMENTARY INFORMATION: The AGOA (Title I of the Trade and Development Act of 2000, Public Law 106–200) (19 U.S.C. 3721 *et seq.*), as amended, authorizes the President to designate sub-Saharan African countries as beneficiary sub-Saharan African countries eligible for duty-free treatment for certain additional products under the Generalized System of Preferences (GSP) (Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*) (the ''1974 Act'')), as well as for the preferential treatment the AGOA provides for certain textile and apparel articles.

The President may designate a country as a beneficiary sub-Saharan African country eligible for both the additional GSP benefits and the textile and apparel benefits of the AGOA for countries meeting certain statutory requirements intended to prevent unlawful transshipment of such articles, if he determines that the country meets the eligibility criteria set forth in: (1) Section 104 of the AGOA; and (2) section 502 of the 1974 Act. For 2008, 41 countries have been designated as beneficiary sub-Saharan African countries. These countries, as well as the 7 countries currently ineligible, are listed below. Section 506A of the 1974

Act provides that the President shall monitor and review annually the progress of each sub-Saharan African country in meeting the foregoing eligibility criteria in order to determine whether each beneficiary sub-Saharan African country should continue to be eligible, and whether each sub-Saharan African country that is currently not a beneficiary sub-Saharan African country, should be designated as such a country. Section 506A of the 1974 Act requires that, if the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the eligibility requirements, he must terminate the designation of the country as a beneficiary sub-Saharan African country.

The Subcommittee is seeking public comments in connection with the annual review of the eligibility of beneficiary sub-Saharan African countries for the AGOA's benefits. The Subcommittee will consider any such comments in developing recommendations on country eligibility for the President. Comments related to the child labor criteria may also be considered by the Secretary of Labor in making the findings required under section 504 of the 1974 Act.

The following sub-Saharan African countries were designated as beneficiary sub-Saharan African countries in 2008:

Angola
Republic of Benin
Republic of Botswana
Burkina Faso
Burundi
Republic of Cape Verde
Republic of Cameroon
Republic of Chad
Federal Islamic Republic of Comoros
Republic of Congo
Democratic Republic of Congo
Republic of Djibouti
Ethiopia
Gabonese Republic
The Gambia
Republic of Ghana
Republic of Guinea
Republic of Guinea-Bissau
Republic of Kenya
Kingdom of Lesotho
Republic of Liberia
Republic of Madagascar
Republic of Malawi
Republic of Mali
Republic of Mauritius
Islamic Republic of Mauritania
Republic of Mozambique
Republic of Namibia
Republic of Niger
Federal Republic of Nigeria
Republic of Rwanda
Sao Tome & Principe
Republic of Senegal
Republic of Seychelles
Republic of Sierra Leone
Republic of South Africa
Kingdom of Swaziland
Republic of Togo
United Republic of Tanzania
Republic of Uganda
Republic of Zambia

The following sub-Saharan African countries were not designated as beneficiary sub-Saharan African countries in 2007:

Central African Republic
Republic of Cote d'Ivoire
Republic of Equatorial Guinea
State of Eritrea
Somalia
Republic of Sudan
Republic of Zimbabwe

Requirements for Submissions: Comments must be submitted in English. In order to facilitate the prompt processing of submissions, USTR strongly recommends that comments be set out in digital files attached to e-mails transmitted to the following address: *FR0811@ustr.eop.gov*. If you are unable to provide comments by e-mail, submissions should be made by facsimile as set forth above. Persons making submissions by e-mail should use the following subject line: ''2008 AGOA Annual Country Review.'' Digital files must be submitted in one of the following formats: WordPerfect (.WPD), Adobe (.PDF), MSWord (.DOC), or text (.TXT) files. Comments may not be submitted as electronic image files or contain embedded images, e.g., ''.JPG'', ''.TIF'', ''.BMP'', or ''.GIF''. Spreadsheet data may be submitted as Excel files, formatted for printing on 8½ x 11 inch paper. To the extent possible, any data accompanying the submission should be included in the same file as the submission itself, and not in a separate file. The transmittal message or cover letter accompanying a submission must be set out exclusively in the digital file attached to the e-mail transmission—not in the message portion of the e-mail—and must include the sender's name, organization name, address, telephone and fax numbers, and e-mail address.

If the submission contains business confidential information that the submitter wishes to protect from public disclosure, the confidential version must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of each page. In addition, the submission must be accompanied by a non-confidential version that indicates, with asterisks, where confidential information was redacted or deleted. The top and bottom of each page of the non-confidential version must be marked either ''PUBLIC VERSION'' or ''NON-CONFIDENTIAL''. Business confidential comments that are submitted without the required markings or are not accompanied by a properly marked non-confidential version as set forth above may not be accepted or may be treated as public documents.

The digital file name assigned to any business confidential version of a submission should begin with the characters ''BC-'', and the file name of the public version should begin with the characters ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the submitter.

Public versions of all documents relating to this review will be available for review approximately two weeks after the due date by appointment in the USTR public reading room, 1724 F Street, NW., Washington, DC. Appointments may be made Monday through Friday, from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., by calling (202) 395–6186. Appointments must be scheduled at least 48 hours in advance.

Carmen Suro-Bredie,

Chairman, Trade Policy Staff Committee.

[FR Doc. E8–22044 Filed 9–19–08; 8:45 am]

BILLING CODE 3190–W8–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS375]

WTO Dispute Settlement Proceeding Regarding European Communities—Tariff Treatment of Certain Information Technology Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on August 18, 2008, in accordance with the World Trade Organization (''WTO'') *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''), the United States, jointly with Japan and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, requested the establishment of a dispute settlement panel regarding the tariff treatment accorded by the European Communities (''EC'') and its member States to set-top boxes with a communication function, flat panel displays, and certain multifunctional digital machines. That request may be found at *www.wto.org* contained in a document designated as WT/DS375/8. USTR invites written comments from

the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute, comments should be submitted on or before October 24, 2008 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0809@ustr.eop.gov,* with ''EC Information Technology Products (DS375)'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the electronic mail address above, in accordance with the requirements for submission set out below.

FOR FURTHER INFORMATION CONTACT: Elissa Alben, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395–3150.

SUPPLEMENTARY INFORMATION: Pursuant to section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), USTR is providing notice that the United States has requested the establishment of a WTO dispute settlement panel pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU'') to review the issues identified below. Such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issues Raised by the United States

The EC and its member States impose duties on set-top boxes with a communication function, flat panel displays, and certain multifunctional digital machines.[1]

- *Set-top boxes with a communication function.* On May 7, 2008, the EC published an amendment to the Explanatory Notes to the EC's Combined Nomenclature (CN), which provides that the duty-free heading CN 8528 71 13 (''set-top boxes with a communication function'') no longer includes set-top boxes with modems of certain types (*e.g.*, Ethernet modems) or set-top boxes which ''incorporate a device performing a recording or reproducing function (for example, a hard disk or DVD drive).'' As a result of this exclusion, the EC and its member States impose a duty on these set-top boxes. In addition, the EC added an explanatory note to CN 8521 90 00 indicating that the subheading includes set-top boxes ''which incorporate a device performing a recording or reproducing function (for example, a hard disk or DVD drive).'' Products classified in CN 8521 90 00 are subject to an MFN duty of 13.9%.
- *Flat panel displays (including LCD, electro luminescence, plasma and other technologies).* On March 31, 2005, the EC published Council Regulation (EC) No 493/2005, stating that certain flat panel displays using LCD technology that are ''capable of reproducing video images from a source other than an automatic data-processing machine'' are not covered by the Information Technology Agreement (ITA) or by the Communication on its implementation (Council Decision 97/359/EC of 24 March 1997). On April 26, 2005, the EC issued Commission Regulation (EC) No 634/2005, stating that flat panel displays with certain attributes, including DVI, would be classified in a dutiable tariff line. On December 29, 2005, the EC published Commission Regulation (EC) No 2171/2005, which also provided that certain flat panel displays would be classified in a dutiable tariff line if they had certain attributes, including DVI. On December 30, 2006, the EC published amendments to the Explanatory Notes to accompany CN 8471 60 80 and 8528 21 90. Like the regulations, the Explanatory Notes provide that flat panel displays with certain attributes, such as DVI, may not be classified in the duty-free tariff line 8471 60 80 and would be classified in a dutiable tariff line. EC member States assess duties on flat panel displays. Furthermore, while the EC has temporarily suspended the collection of duties on some flat panel displays, it appears to fail to accord tariff treatment that is no less favorable than that provided for in its Schedule.
- *Multifunctional digital machines.* In 1999, the EC published Commission Regulation (EC) No 517/99, which provided that certain ''output units'' would be classified in a tariff line with a 6% MFN duty. On March 9, 2006, the EC published Commission Regulation (EC) No 400/2006, which classified certain ''output units'' or facsimile machines, under CN subheading 9009 12 00, as indirect process electrostatic photocopiers. The EC Customs Code Committee also issued a statement indicating that ''if a multifunctional device (fax, printer, scanner, copier) has the capability of photocopying in black and white 12 or more pages per minute (A4 format) this indicates that the product is classifiable in heading 9009 as a photocopying apparatus.'' Consistent with that statement, on October 31, 2006, the EC published Commission Regulation (EC) No 1549/2006, which provides that certain ''output units'' or facsimile machines capable of copying more than 12 monochrome pages per minute are classified in a dutiable tariff line. EC member States assess duties on certain ''input or output units'' and facsimile machines.

These measures appear to USTR to be inconsistent with the EC's obligations under Articles II:1(a) and II:1(b) of the *General Agreement on Tariffs and Trade 1994* (''GATT 1994'') and its Schedule and with the member States' obligations under Articles II:1(a) and II:1(b) of the GATT 1994 and their Schedules, and they appear to nullify or impair benefits accruing to the United States under the GATT 1994.

In addition, with respect to set-top boxes, the Tariff and Statistical Nomenclature Section of the Customs Code Committee delivered favorable opinions with respect to the proposed amendments to the Explanatory Notes contained in 2008/C 112/03 in October 2006 and May 2007, respectively. It did not publish the amended explanatory notes in the EC Official Journal until May 7, 2008. Furthermore, member States were applying duties to set-top boxes using the approach specified in 2008/C 112/03 prior to May 7, 2008. These actions appear to USTR to be inconsistent with the EC's obligations under GATT 1994 Articles X:1 and X:2.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments should be submitted (i) electronically, to *FR0809@ustr.eop.gov,* with ''EC Information Technology Products (DS375)'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the electronic mail address above.

USTR encourages the submission of documents in Adobe PDF format as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the

[1] Machines which perform two or more of the functions of printing, copying, or facsimile transmission, capable of connecting to an automatic data processing machine or to a network (including devices commercially known as MFPs (multifunctional printers), other ''input or output units'' of ''automatic data processing machines'', and facsimile machines).

same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly designated as such and ''BUSINESS CONFIDENTIAL'' must be marked at the top and bottom of the cover page and each succeeding page. Persons who submit confidential business information are encouraged also to provide a non-confidential summary of the information.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body. The USTR Reading Room is open to the public, by appointment only, from 10 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday. An appointment to review the public file (Docket WTO/DS–375, EC Information Technology Products Dispute) may be made by calling the USTR Reading Room at (202) 395–6186.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E8–22101 Filed 9–19–08; 8:45 am]

BILLING CODE 3190–W8–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0017; Form RI 78–11]

Proposed Information Collection; Request for Comments on an Existing Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for review of an existing information collection. This information collection, ''Medicare Part B Certification'' (OMB Control No. 3206–0017; Form RI 78–11), collects information from annuitants, their spouses, and survivor annuitants to determine their eligibility under the Retired Federal Employees Health Benefits Program for a Government contribution toward the cost of Part B of Medicare.

Comments are particularly invited on whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways 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.

Approximately 100 RI 78–11 forms are completed annually. Each form requires approximately 10 minutes to complete. The annual estimated burden is 17 hours.

For copies of this proposal, contact Margaret A. Miller by telephone at (202) 606–2699, by FAX (202) 418–3251, or by e-mail to *Margaret.Miller@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days of the date of this publication.

ADDRESSES: Send or deliver comments to—

Ronald W. Melton, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500.

For Information Regarding Administrative Coordination—

Contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606–0623.

U.S. Office of Personnel Management.

Howard Weizmann,

Deputy Director.

[FR Doc. E8–22111 Filed 9–19–08; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0168; Form RI 20–80]

Proposed Information Collection; Request for Comments on an Existing Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for comments on an existing information collection. This information collection, ''Alternative Annuity Election'' (OMB Control No. 3206–0168; form RI 20–80), is used for individuals who are eligible to elect whether to receive a reduced annuity and a lump-sum payment equal to their retirement contributions (alternative form of annuity) or an unreduced annuity and no lump sum.

Comments are particularly invited on whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways 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.

Approximately 200 RI 20–80 forms are completed annually. The form takes approximately 20 minutes to complete. The annual estimated burden is 67 hours.

For copies of this proposal, contact Margaret A. Miller by telephone at (202) 606–2699, by FAX (202) 418–3251, or by e-mail to *Margaret.Miller@opm.gov*. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days of the date of this publication.

ADDRESSES: Send or deliver comments to Ronald W. Melton, Deputy Assistant Director, Retirement Services Program, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500.

For Information Regarding Administrative Coordination Contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, U.S. Office of Personnel Management, 1900 E Street, NW.,—Room 4H28, Washington, DC 20415, (202) 606–0623.

U.S. Office of Personnel Management.

Howard Weizmann,

Deputy Director.

[FR Doc. E8–22112 Filed 9–19–08; 8:45 am]

BILLING CODE 6325–38–P

RAILROAD RETIREMENT BOARD

Proposed Data Collection(s) Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collections are necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and Purpose of Information Collection

Railroad Unemployment Insurance Act Applications; OMB 3220–0039.

Under Section 2 of the Railroad Unemployment Insurance Act (RUIA), sickness benefits are payable to qualified railroad employees who are unable to work because of illness or injury. In addition, sickness benefits are payable to qualified female employees if they are unable to work, or if working would be injurious, because of pregnancy, miscarriage or childbirth. Under Section 1(k) of the RUIA, a statement of sickness with respect to days of sickness of an employee is to be filed with the RRB within a 10-day period from the first day claimed as a day of sickness. The RRB's authority for requesting supplemental medical information is Section 12(i) and 12(n) of the RUIA. The procedures for claiming sickness benefits and for the RRB to obtain supplemental medical information needed to determine a claimant's eligibility for such benefits are prescribed in 20 CFR Part 335. The forms currently used by the RRB to obtain information needed to determine eligibility for and the amount of sickness benefits due a claimant follows: Form SI–1a, Application for Sickness Benefits; Form SI–1b, Statement of Sickness; Form SI–3, Claim for Sickness Benefits; Form SI–7, Supplemental Doctor's Statement; Form SI–8, Verification of Medical Information; Form ID–7h, Non-Entitlement to Sickness Benefits and Information on Unemployment Benefits; Form ID–11a, Requesting Reason for Late Filing of Sickness Benefit and ID–11b, Notice of Insufficient Medical and Late Filing. Completion is required to obtain or retain benefits. One response is requested of each respondent.

Consistent with requirements of the Health Insurance Portability and Accountability Act (HIPAA), the RRB proposes revisions to Form SI–1b, SI–7, and SI–8 to replace the term ''Tax Identification Number'' with ''National Provider Identifier''. No other changes are proposed.

The estimated annual respondent burden is as follows:

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form #(s)	Annual responses	Time (min)	Burden (hrs)
SI–1a	22,200	10	3,700
SI–1b (Doctor)	22,200	8	2,960
SI–3	145,000	5	12,083
SI–7	22,600	8	3,013
SI–8	50	5	4
ID–7H	50	5	4
ID–11A	800	4	53
ID–11B	1,000	4	67
Total	213,900	....	21,884

2. Title and purpose of information collection

Annual Earnings Questionnaire for Annuitants in Last Pre-Retirement Non-Railroad Employment; OMB 3220–0179

Under section 2(e)(3) of the Railroad Retirement Act (RRA), an annuity is not payable for any month in which a beneficiary works for a railroad. In addition, an annuity is reduced for any month in which the beneficiary works for an employer other than a railroad employer and earns more than a prescribed amount. Under the 1988 amendments to the RRA, the Tier II portion of the regular annuity and any supplemental annuity must be reduced by one dollar for each two dollars of Last Pre-Retirement Non-Railroad Employment (LPE) earnings for each month of such service. However, the reduction cannot exceed fifty percent of the Tier II and supplemental annuity amount for the month to which such deductions apply. LPE generally refers to an annuitant's last employment with a non-railroad person, company, or institution prior to retirement which was performed whether at the same time of, or after an annuitant stopped railroad employment. The collection obtains earnings information needed by the RRB to determine if possible reductions in annuities because of Last Pre-Retirement Non-Railroad Employment Earnings (LPE) are in order. The RRB utilizes Form G–19L to obtain LPE earnings information from annuitants. Companion Form G–19L.1, which serves as an instruction sheet and contains the Paperwork Reduction/ Privacy Act Notice for the collection accompanies each Form G–19L sent to an annuitant. One response is requested of each respondent. Completion is required to retain a benefit. The RRB proposes the addition of a subitem requesting that an annuitant provide an Employer's Identification Number (EIN). Non-burden impacting editorial and reformatting changes are also proposed.

The estimated annual respondent burden is as follows:

Form #(s)	Annual responses	Time (min)	Burden (hrs)
G–19L	300	15	75
Total	300	....	75

Additional Information or Comments: To request more information regarding either of the information collections listed above or to obtain copies of the information collection justifications, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV.* Comments regarding the information collections should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or via an e-mail to *Ronald.Hodapp@RRB.GOV.* Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E8–22076 Filed 9–19–08; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Tuesday, September 23, 2008 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the items listed for the Closed Meeting in closed session, and determined that no earlier notice was possible.

The subject matter of the Closed Meeting scheduled for Tuesday, September 23, 2008 will be:

Formal orders of investigation;
Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings of an enforcement nature; and
Other matters relating to enforcement proceedings.

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: September 17, 2008.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–22081 Filed 9–19–08; 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 a Closed Meeting on Wednesday, September 17, 2008, at 2 p.m.

Commissioners and certain staff members who have an interest in the matter will attend the Closed Meeting.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(8) and (9) and 17 CFR 200.402(a)(8) and (9), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Paredes as duty officer, voted to consider the item listed for the closed meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Wednesday, September 17, 2008, will be: Matters related to the financial markets.

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: September 17, 2008.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–22133 Filed 9–22–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58555; File No. PCAOB–2008–01]

Public Company Accounting Oversight Board; Order Approving Proposed Rule on Auditing Standard No. 6, Evaluating Consistency of Financial Statements, and Conforming Amendments

September 16, 2008.

I. Introduction

On February 1, 2008, the Public Company Accounting Oversight Board (the ''Board'' or the ''PCAOB'') filed with the Securities and Exchange Commission (the ''Commission'') Proposed Auditing Standard No. 6, *Evaluating Consistency of Financial Statements*, (''Auditing Standard No.

6''), and Conforming Amendments, pursuant to Section 107 of the Sarbanes-Oxley Act of 2002 (the ''Act'') and Section 19(b) of the Securities Exchange Act of 1934 (the ''Exchange Act'').

Auditing Standard No. 6 will supersede the PCAOB's interim auditing standard on evaluating consistency, AU section 420, *Consistency of Application of Generally Accepted Accounting Principles*. Auditing Standard No. 6 will establish requirements and provide direction for an auditor's evaluation of the consistency of financial statements, including changes to previously issued financial statements, and the effect of that evaluation on the auditor's report on financial statements.

The Board's proposed conforming amendments affect several of the Board's interim auditing standards. Those standards are: AU section 328, *Auditing Fair Value Measurements and Disclosures*, AU section 410, *Adherence to Generally Accepted Accounting Principles*, AU section 411, *The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles*, AU section 431, *Adequacy of Disclosure in Financial Statements*, AU section 508, *Reports on Audited Financial Statements*, and AU section 561, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*. With the exception of the proposed amendment to AU section 411, the Commission believes the aforementioned amendments are generally technical or conforming in nature, such as updating references in the interim standards to the proposed new standard's paragraph numbers and definitions.

The proposed amendment to AU section 411 will have the effect of removing the hierarchy for accounting principles generally accepted in the United States (the ''U.S. GAAP hierarchy'') from the PCAOB's auditing standards. The Financial Accounting Standards Board (the ''FASB'') recently issued Statement of Financial Accounting Standards (''SFAS'') No. 162, *The Hierarchy of Generally Accepted Accounting Principles*, which will include the current U.S. GAAP hierarchy going forward.[1]

Notice of the proposed standard and the conforming amendments was published in the **Federal Register** on August 5, 2008.[2] The Commission received three comment letters on the proposed rules and amendments. For the reasons discussed below, the Commission is granting approval of the proposed standard and conforming amendments.

II. Description

The Act established the PCAOB to oversee the audits of public companies and related matters, in order to protect the interests of investors and further the public interest in preparation of informative, accurate and independent audit reports. Section 103(a) of the Act directs the PCAOB to establish auditing and related attestation standards, quality control standards, and ethics standards to be used by registered public accounting firms in the preparation and issuance of audit reports as required by the Act or the rules of the Commission.

On January 29, 2008, the Board adopted Auditing Standard No. 6, *Evaluating Consistency of Financial Statements*, and amendments to the Board's interim auditing standards. The Board proposed these changes to its auditing standards in response to two actions of the FASB.

First, in May 2005, the FASB issued SFAS No. 154, *Accounting Changes and Error Corrections*, which superseded Accounting Principles Board (''APB'') Opinion No. 20, *Accounting Changes*. SFAS No. 154 establishes, unless impracticable, retrospective application as the required method for reporting a change in accounting principle in the absence of explicit transition requirements specific to a newly adopted accounting principle. SFAS No. 154 also redefines the term ''restatement'' to refer only to ''the process of revising previously issued financial statements to reflect the correction of an error in those financial statements.''[3] Under SFAS No. 154, therefore, the term ''restatement'' does not refer to changes made to previously issued financial statements to reflect a change in accounting principle.

AU section 420, *Consistency of Application of Generally Accepted Accounting Principles*, the Board's interim standard on the auditor's responsibilities for evaluating the consistency of the application of generally accepted accounting principles (''GAAP''), generally reflected the provisions of APB Opinion No. 20, which was superseded by SFAS No. 154. To better align the Board's standards with the new accounting standard, the Board adopted a new auditing standard on evaluating consistency, which will supersede AU section 420, and conforming amendments to AU section 508, *Reports on Audited Financial Statements*, of its interim auditing standards.

Second, in 2005, the FASB issued an exposure draft of a proposed Statement of Financial Accounting Standards, *The Hierarchy of Generally Accepted Accounting Principles*. The FASB proposed that this standard incorporate the hierarchy found in the current auditing standards into the accounting standards. Historically, a description of the U.S. GAAP hierarchy has resided only in the auditing standards. However, because the current U.S. GAAP hierarchy identifies the sources of accounting principles and the framework for selecting principles to be used in preparing financial statements, the PCAOB and the FASB believed that these requirements are more appropriately located in the FASB's accounting standards. Accordingly, the PCAOB adopted amendments to its auditing standards to remove the U.S. GAAP hierarchy.

In May 2008, the FASB issued in final form, SFAS No. 162, *The Hierarchy of Generally Accepted Accounting Principles*. SFAS No. 162 will become effective 60 days from the date of this order approving Auditing Standard No. 6 and conforming amendments.

In addition to proposing Auditing Standard No. 6 and the amendment to AU section 411, the PCAOB proposed amendments to other interim auditing standards and related interpretations. The Commission believes the amendments to AU section 328, *Auditing Fair Value Measurements and Disclosures*, AU section 410, *Adherence to Generally Accepted Accounting Principles*, AU section 431, *Adequacy of Disclosure in Financial Statements*, AU section 508, *Reports on Audited Financial Statements*, and AU section 561, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*, are technical or conforming in nature.

As discussed further below, one of the proposed amendments to AU section 431, *Adequacy of Disclosure in Financial Statements*, proposes to delete footnote 1 to paragraph 4 of AU section 431, which is an application of the AICPA's *Code of Professional Conduct* regarding the disclosure of confidential client information. In 2003, when the Board adopted certain AICPA rules and ASB standards as interim Board standards, the Board did not adopt Rule 301. Consistent with that action, the proposed amendments would eliminate the reference to Rule 301 that is included in paragraph 4 of AU section Sec. 431.

The proposed Auditing Standard No. 6 and amendments to the Board's

[1] The FASB issued SFAS No. 162 on May 9, 2008. SFAS No. 162 becomes effective 60 days after the date of this approval order.

[2] Release No. 34–58259 (July 30, 2008).

[3] *See* SFAS No. 154, paragraph 2j.

interim standards are intended to update and clarify the auditing standards in light of SFAS No. 154 and SFAS No. 162. In particular, these updates and clarifications are intended to enhance the clarity of auditor reporting on accounting changes and corrections of misstatements by distinguishing between these events.

III. Discussion

The Commission received three comment letters in response to its request for comments on Auditing Standard No. 6 and conforming amendments. The comment letters came from three registered public accounting firms.[4] All three commenters expressed support for the Commission's approval of the proposed standard.

As noted above, the PCAOB's proposed amendment to AU section 431 deletes a reference to Rule 301 of the AICPA's Code of Professional Conduct—a rule the PCAOB did not adopt as part of its original interim standards. Similar to comments made to the PCAOB during its comment period, one commenter believed concerns exist that the Board's action in removing a reference to a rule the PCAOB did not adopt might be construed as minimizing the auditor's responsibilities for maintaining the confidentiality of client information. The commenter requested that the Commission encourage the PCAOB to adopt a rule establishing the auditor's responsibility with respect to maintaining the confidentiality of client information.

In its adopting release, the PCAOB discussed the concerns the comments raised about client confidentiality and noted its awareness of many auditors' legal or professional obligations to maintain the confidentiality of client information, and made reference to the confidentiality requirements included in the provisions of the Uniform Accountancy Act and the provisions of the International Federation of Accountants' Code of Ethics for Professional Accountants. The PCAOB also noted that its decision to omit Rule 301 from its interim standards was based on a determination that incorporation of that rule was not necessary to fulfill the Board's mandate under Section 103(a)(1) and (3) of the Act at that time, and that it did not reflect a decision that auditor confidentiality requirements imposed by other authorities were inappropriate. Similarly, in amending AU section 431, the PCAOB noted that it seeks neither to modify nor detract from existing confidentiality requirements.

The Commission agrees with the Board's proposed action to remove from its interim standards a reference to a rule it did not adopt. However, the Commission encourages the PCAOB to develop and adopt a rule addressing the auditor's responsibility with respect to maintaining the confidentiality of client information.[5]

IV. Conclusion

On the basis of the foregoing, the Commission finds that proposed Auditing Standard No. 6 and the Conforming Amendments are consistent with the requirements of the Act and the securities laws and are necessary and appropriate in the public interest and for the protection of investors.

It is therefore ordered, pursuant to Section 107 of the Act and Section 19(b)(2) of the Exchange Act, that proposed Auditing Standard No. 6, *Evaluating Consistency of Financial Statements*, and Conforming Amendments (File No. PCAOB–2008–01) be and hereby are approved.

By the Commission.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–22015 Filed 9–19–08; 8:45 am]

BILLING CODE 8010–01–P

[4] Deloitte and Touche LLP, Grant Thornton LLP, and PricewaterhouseCoopers LLP.

[5] One commenter also noted that the adoption of Auditing Standard No. 6 would cause existing published PCAOB Staff Questions and Answers to require updating. The Commission encourages the PCAOB to ensure that its guidance is up to date with its current standards and presumes the PCAOB will update these Questions and Answers once these amendments are approved.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58536; File No. 4–566]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Order Approving and Declaring Effective a Plan for the Allocation of Regulatory Responsibilities Among the American Stock Exchange LLC, Boston Stock Exchange, Inc., CBOE Stock Exchange, LLC, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE Arca Inc., NYSE Regulation, Inc., and Philadelphia Stock Exchange, Inc.

September 12, 2008.

On August 12, 2008, the American Stock Exchange LLC (''Amex''), Boston Stock Exchange, Inc. (''BSE''), CBOE Stock Exchange, LLC (''CBOE''), Chicago Stock Exchange, Inc. (''CHX''), Financial Industry Regulatory Authority, Inc. (''FINRA''), International Securities Exchange, LLC (''ISE''), The NASDAQ Stock Market, LLC (''NASDAQ''), National Stock Exchange, Inc. (''NSX''), New York Stock Exchange LLC (''NYSE''), NYSE Arca Inc. (''NYSE Arca''), NYSE Regulation, Inc. (acting under authority delegated to it by NYSE) (''NYSE Regulation''), and Philadelphia Stock Exchange, Inc. (''Phlx'') (collectively, ''Participating Organizations'' or ''Parties'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 17d–2 thereunder,[2] a proposed plan for the allocation of regulatory responsibilities (''Plan''). The Plan was published for comment on August 18, 2008.[3] The Commission received no comments on the Plan. This order approves and declares effective the Plan.

I. Introduction

Section 19(g)(1) of the Act,[4] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)[5] or Section 19(g)(2)[6] of the Act.

Section 17(d)(1) of the Act[7] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication for those broker-dealers that maintain memberships in more than one SRO (''common members'').[8] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] *See* Securities Exchange Act Release No. 58350 (August 13, 2008), 73 FR 48248 (File No. 4–566) (''Notice'').

[4] 15 U.S.C. 78s(g)(1).

[5] 15 U.S.C. 78q(d).

[6] 15 U.S.C. 78s(g)(2).

[7] 15 U.S.C. 78q(d)(1).

[8] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[9] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[10] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce broker dealers' compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[11] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

The proposed Plan is designed to eliminate regulatory duplication by allocating regulatory responsibility over Common NYSE Members[12] or Common FINRA Members,[13] as applicable, (collectively, ''Common Members'') for the surveillance, investigation, and enforcement of common insider trading rules (''Common Rules'').[14] The Plan assigns regulatory responsibility over Common NYSE Members to NYSE Regulation for surveillance, investigation, and enforcement of insider trading by broker-dealers, and their associated persons, with respect to NYSE-listed stocks and NYSE Arca-listed stocks, irrespective of the marketplace(s) maintained by the Participating Organizations on which the relevant trading may occur. The Plan assigns regulatory responsibility over Common FINRA Members to FINRA for surveillance, investigation, and enforcement of insider trading by broker-dealers, and their associated persons, with respect to NASDAQ-listed stocks and Amex-listed stocks, as well as any CHX solely-listed stock, irrespective of the marketplace(s) maintained by the Participating Organizations on which the relevant trading may occur. The full text of the Plan and Exhibits A, B, and C thereto can be found in the Notice.

In addition to the Plan, the Participating Organizations have entered into two regulatory services agreements that address investigation and enforcement in situations that involve trading in equity securities by non-Common Members, as Rule 17d–2 covers only situations involving Common Members. The first agreement is between NYSE Regulation (acting as the regulatory services provider), FINRA, and each of the exchanges (''NYSE Regulation Agreement''). The second agreement is between FINRA (acting as the regulatory services provider), NYSE Regulation, and each of the exchanges (''FINRA Agreement''). The agreements provide for the investigation and enforcement of suspected insider trading against broker-dealers and their associated persons that (i) are not Common Members of NYSE in the case of insider trading in NYSE-listed stocks and NYSE–Arca listed stocks; or (ii) are not Common Members of FINRA in the case of insider trading in NASDAQ-listed stocks, Amex-listed stocks, and any CHX solely-listed stock.

Under the agreements, NYSE Regulation and FINRA, respectively, will provide to the exchanges ''Core Services'' related and limited to the investigation and enforcement activities for non-Common Members where these activities relate to insider trading of equity securities listed on the NYSE or NYSE Arca in the case of the NYSE Regulation Agreement, and to the insider trading of equity securities listed on the Nasdaq or Amex, and any CHX solely-listed security in the case of the FINRA Agreement. The Core Services provided under the agreements are rendered (a) only upon completion of a surveillance review under the 17d–2 Plan, and (b) at the request of the relevant exchange. Pursuant to the Plan, NYSE Regulation and FINRA will conduct surveillance, investigation, and enforcement for insider trading for Common NYSE Members and Common FINRA Members, respectively. Surveillance for non-Common Members is excluded from the Plan and remains the responsibility of the SROs in which such non-Common Members maintain membership. However, due to the nature of insider trading surveillance technology and processes, the surveillance conducted by NYSE Regulation and FINRA will encompass non-Common Members as the surveillance function does not differentiate between Common and non-Common Members. Accordingly, the investigation and enforcement services performed under the agreements will arise from surveillance undertaken by NYSE Regulation and FINRA.

III. Discussion

The Commission finds that the proposed Plan is consistent with the factors set forth in Section 17(d) of the Act[15] and Rule 17d–2 thereunder[16] in that the proposed Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Plan should reduce unnecessary regulatory duplication by allocating regulatory responsibility for the surveillance, investigation, and enforcement of Common Rules over Common NYSE Members, with respect to NYSE-listed stocks and NYSE Arca-listed stocks, to NYSE and over Common FINRA Members, with respect to NASDAQ-listed stocks, Amex-listed stocks, and any CHX solely-listed stock,

[9] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[10] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[11] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[12] Common NYSE Members include members of the NYSE and at least one of the Participating Organizations.

[13] Common FINRA Members are members of FINRA and at least one of the Participating Organizations.

[14] Common Rules are defined as: (i) Federal securities laws and rules promulgated by the Commission pertaining to insider trading, and (ii) the rules of the Participating Organizations that are related to insider trading. *See* Exhibit A to the Plan.

[15] 15 U.S.C. 78q(d).

[16] 17 CFR 240.17d–2.

to FINRA. Accordingly, the proposed Plan promotes efficiency by consolidating these regulatory functions in a single SRO based on the listing market for a stock, with regard to Common NYSE Members and Common FINRA Members.

In addition, the Commission notes that the Plan provides that the costs for insider trading surveillance would be shared among the Participating Organizations based on their relative trade volume, subject to certain minimum payment amounts for smaller markets. Modifications to the fees assessed the Participating Organizations pursuant to the cost allocation methodologies established in the Plan do not require an amendment to the Plan; however, any modifications to the cost allocation methodologies would require approval by the Commission. The Commission believes that the Plan provides a reasonable method to allocate among the Parties expenses reasonably incurred by the SRO having regulatory responsibilities under the Plan.[17]

The Commission also notes that because under Rule 17d–2 regulatory responsibility may be allocated from one SRO to another SRO only for Common Members, the Participating Organizations have entered into two regulatory services agreements with NYSE Regulation and FINRA, respectively, to address investigation and enforcement of suspected insider trading involving members who are neither Common NYSE Members nor Common FINRA Members.[18] The Commission is neither approving nor disapproving the terms of the regulatory services agreements. However, the Commission does note that under these regulatory services agreements the ultimate responsibility and primary liability for self-regulatory obligations would remain with each exchange and association, rather than the SRO retained to perform such functions.

IV. Conclusion

This Order gives effect to the Plan filed with the Commission in File No. 4–566. The Parties shall notify all members affected by the Plan of their rights and obligations under the Plan.

It is therefore ordered, pursuant to Section 17(d) of the Act,[19] that the Plan in File No. 4–566 by and among Amex, BSE, CBOE, CHX, FINRA, ISE, NASDAQ, NSX, NYSE, NYSE Arca, NYSE Regulation, and Phlx filed pursuant to Rule 17d–2 is hereby approved and declared effective.

It is further ordered that the Participating Organizations are relieved of those regulatory responsibilities allocated to NYSE and FINRA under the Plan in File No. 4–566.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Florence E. Harmon,

Acting Secretary.

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[17] 17 CFR 240.17d–2(b).

[18] Members only of the NYSE would be the responsibility of NYSE; members only of FINRA would be the responsibility of FINRA.

[19] 15 U.S.C. 78q(d).

[20] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58547; File No. SR–BSE–2008–45]

Self-Regulatory Organizations; Boston Stock Exchange, Incorporated; Notice of Filing of Proposed Rule Change To Amend By-Laws

September 15, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 5, 2008, the Boston Stock Exchange (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its by-laws to make certain changes that the Exchange committed to make in SR–BSE–2008–23.[3] The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room, and is also available at *http://nasdaqtrader.com/Trader.aspx?id=Boston_Stock_Exchange.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 58324 (August 7, 2008), 73 FR 46936 (August 12, 2008); Securities Exchange Act Release No. 57757 (May 1, 2008), 73 FR 26159 (May 8, 2008) (SR–BSE–2008–23).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 29, 2008, the Exchange was acquired by The NASDAQ OMX Group, Inc. (''NASDAQ OMX''). In SR–BSE–2008–23, the Exchange's filing seeking approval of this acquisition, the Exchange committed that it would, immediately following closing of the acquisition, seek Board of Directors and Commission approval for several changes to its By-Laws. The changes, which were requested by Commission staff, could not be included in SR–BSE–2008–23 because Article XX of the Exchange's former Constitution, which was replaced by the new By-Laws at the closing, provided that the Exchange's members must approve amendments to the Exchange's Constitution. The Exchange's members voted, on December 7, 2007, to approve the By-Laws as originally submitted in SR–BSE–2008–23, and it would have been impracticable and unduly expensive to seek a second member vote for approval of these additional changes prior to closing. The changes in question are as follows:

• In Article I, the Exchange is amending the definition of ''Voting Date'' to make it clear that the Exchange Board of Directors must annually select a Voting Date for the selection of Member Representative Directors, although a vote will actually occur on that date only if members have nominated candidates for election other than those nominated by the Exchange's Member Nominating Committee. Accordingly, the amended definition reads: '' 'Voting Date' means the date selected by the Board on an annual basis, on which Exchange Members may vote with respect to Member Representative Directors in the event of a Contested Vote.''

• In order to limit the influence that a single affiliated group of members might exercise over the Exchange, Section 4.4 of the By-Laws is being amended to provide that in a contested election for Member Representative Directors, an Exchange Member, either alone or together with its affiliates, may not cast votes representing more than 20% of the votes cast for a candidate, and any votes cast by the Exchange Member, either alone or together with its affiliates, in excess of such 20% limitation shall be disregarded.

• The Exchange is amending Section 4.14 of the By-Laws to make it clear that the Exchange's Nominating Committee must nominate the person nominated by Boston Options Exchange Regulation LLC's Nominating Committee for service on the Exchange Board as a representative of participants in the Boston Options Exchange unless that person is not eligible for service under Section 4.3 of the By-Laws (as would be the case, for example, if the nominee was subject to a statutory disqualification). Similarly, the Exchange is amending Section 3.1 of the By-Laws to make it clear that NASDAQ OMX, as the sole stockholder of the Exchange, shall vote for the election of the director candidates nominated or voted on through the processes established by Article IV of the By-Laws, except in the case of a person not eligible for service under Section 4.3 of the By-Laws.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(1) and (b)(5) of the Act,[5] in particular, in that the proposal enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply with and enforce compliance by Exchange Members and persons associated with Exchange Members with provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange; and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(1), (5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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–BSE–2008–45 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BSE–2008–45. 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 self-regulatory organization. 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–2008–45 and should be submitted on or before October 14, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Florence E. Harmon,

Acting Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58532; File No. SR–NASD–2007–041]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc. (f/k/a National Association of Securities Dealers, Inc.); Order Approving Proposed Rule Change, as Modified by Amendment No. 2, To Amend the Minimum Price-Improvement Standards Set Forth in NASD Interpretive Material (''IM'') 2110–2

September 12, 2008.

I. Introduction

On June 27, 2007, the National Association of Securities Dealers, Inc. (''NASD'') (n/k/a Financial Industry Regulatory Authority, Inc. (''FINRA''))[1]

[6] 17 CFR 200.30–3(a)(12).

[1] On July 26, 2007, the Commission approved a proposed rule change filed by the NASD to amend the NASD's Certificate of Incorporation to reflect its name change to Financial Industry Regulatory Authority, Inc., or FINRA, in connection with the

Continued

filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend the minimum price-improvement standards set forth in NASD Interpretive Material (''IM'') 2110–2. The proposed rule change was published for comment in the **Federal Register**.[4] The Commission received one commenter letter on the original proposal,[5] to which FINRA responded in a letter to the Commission, dated November 1, 2007.[6]

On June 26, 2008, FINRA filed Amendment No. 2 to the proposed rule change to address an inconsistency in the application of the proposed minimum price-improvement provisions identified by the commenter.[7] Amendment No. 2 was published for comment in the **Federal Register** on July 14, 2008.[8] The Commission received one additional comment letter on the proposed rule change.[9] This order approves the proposed rule change, as modified by Amendment No. 2.

II. Description of the Proposed Rule Change

A. Background

On February 26, 2007, the Commission approved the NASD's proposed rule change [10] that expanded the scope of IM–2110–2 [11] (referred to as the Manning Rule) to apply to over-the-counter (''OTC'') equity securities.[12] In Release No. 34–55351, the Commission also approved, for both National Market System (''NMS'') and OTC equity securities, the minimum level of price-improvement that a member must provide to trade ahead of an unexecuted customer limit order (''price-improvement standards'').

In Release No. 34–55351, the price-improvement standards were modified so that for customer limit orders priced greater than or equal to $1.00 that are at or inside the best inside market, the minimum amount of price improvement required is $0.01. For customer limit orders priced less than $1.00 that are at or inside the best inside market, the minimum amount of price improvement required is the lesser of $0.01 or one-half (½) of the current inside spread. For customer limit orders priced outside the best inside market, the member is required to execute the incoming order at a price at or inside the best inside market for the security. For customer limit orders in securities for which there is no published inside market, the minimum amount of price improvement required is $0.01.

The rule changes adopted in Release No. 34–55351 initially were scheduled to become effective on July 26, 2007.[13] However, following the filing of the instant proposed rule change, SR–NASD–2007–041, FINRA filed a proposed rule change to delay implementation of the application of IM–2110–2 to OTC equity securities, until 60 days after Commission approval of SR–NASD–2007–041.[14]

B. NASD 2007–041

In SR–NASD–2007–041, FINRA proposed to amend the minimum price-improvement standards set forth in IM–2110–2 to include new tiered standards that vary according to the price of the customer limit order. FINRA proposed to revise the minimum price-improvement standards to address three issues. First, because the minimum price improvement standards are determined based on the lesser of a specified amount ($.01) or one-half (½) of the inside spread, the specified amount acts as an ''upper limit'' on the minimum price improvement requirement. FINRA believed that the specified amount or upper limit on the minimum price improvement requirement (*i.e.*, $.01) is disproportionately high for securities trading below $.01 and that it should vary proportionately with the amount of the limit order price. FINRA proposed that, for customer limit orders priced less than $.01 but greater than or equal to $0.001, the minimum amount of price improvement required would be the lesser of $0.001 or one-half (½) of the current inside spread. For customer limit orders priced less than $.001 but greater than or equal to $0.0001, the minimum amount of price improvement required would be the lesser of $0.0001 or one-half (½) of the current inside spread. For customer limit orders priced less than $.0001 but greater than or equal to $0.00001, the minimum amount of price improvement required would be the lesser of $0.00001 or one-half (½) of the current inside spread.[15] Finally, for customer limit orders priced less than $.00001, the minimum amount of price improvement required would be the lesser of $0.00001 or one-half (½) of the current inside spread.[16]

In addition, FINRA proposed that the current minimum price improvement standard for limit orders priced greater than or equal to $1.00 would be $.01, and this standard would apply uniformly to NMS stocks [17] and OTC equity securities. However, given that subpenny quoting and trading is permissible in OTC equity securities

consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. *See* Securities Exchange Act Release No. 56146 (July 26, 2007), 72 FR 42190 (August 1, 2007) (SR–NASD–2007–053).

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 56297 (August 21, 2007), 72 FR 49337 (August 28, 2007) (notice of filing of SR–NASD–2007–041) (''Release No. 34–56297'').

[5] *See* Letter to Secretary, Commission, from Jess Haberman, Compliance Director, Fidessa Corp., dated September 5, 2007 (''Fidessa Corp. Letter'').

[6] *See* Letter from Andrea Orr, FINRA, to Nancy M. Morris, Secretary, Commission, dated November 1, 2007 (''FINRA Response Letter'').

[7] On May 20, 2008, FINRA filed Amendment No. 1 to the proposed rule change. Amendment No. 2 superseded and replaced Amendment No. 1.

[8] *See* Securities Exchange Act Release No. 58114 (July 7, 2008), 73 FR 40407 (''Release No. 34–58114'').

[9] *See* Letter from R. Cromwell Coulson, Chief Executive Officer, Pink OTC Markets Inc. (''Pink OTC''), to Secretary, Commission, dated September 3, 2008. (''Pink OTC Letter'').

[10] *See* Securities Exchange Act Release No. 55351 (February 26, 2007), 72 FR 9810 (March 5, 2007) (order approving SR–NASD–2005–146) (''Release No. 34–55351'').

[11] Currently, IM–2110–2 generally prohibits a member from trading for its own account in an exchange-listed security at a price that is equal to or better than an unexecuted customer limit order in that security, unless the member immediately thereafter executes the customer limit order at the price at which it traded for its own account or better.

[12] *See* NASD Rule 6610(d) for definition of ''OTC equity security.''

[13] *See* NASD Notice to Members 07–19 (April 2007).

[14] *See* Securities Exchange Act Release No. 56103 (July 19, 2007), 72 FR 40918 (July 25, 2007) (notice of filing and immediate effectiveness of SR–NASD–2007–039). *See also* Securities Exchange Act Release No. 56822 (November 20, 2007), 72 FR 67326 (November 28, 2007) (notice of filing and immediate effectiveness of SR–FINRA–2007–023); and Securities Exchange Act Release No. 57133 (January 11, 2008), 73 FR 3500 (January 18, 2008) (notice of filing and immediate effectiveness of SR–FINRA–2007–038). Modifications to the price-improvement standards applicable to NMS stocks approved in Release No. 34–55351 became effective on July 26, 2007. *See* FINRA Member Alert dated June 20, 2007.

[15] The proposed minimum price-improvement provisions in this proposed rule change do not supersede, alter or otherwise affect any of the minimum pricing increment restrictions under Rule 612 of Regulation NMS. Rule 612 of Regulation NMS prohibits market participants from displaying, ranking, or accepting bids or offers, orders, or indications of interest in any NMS stock priced in an increment smaller than $0.01 if the bid or offer, order, or indication of interest is priced equal to or greater than $1.00 per share. If the bid or offer, order, or indication of interest in any NMS stock is priced less than $1.00 per share, the minimum pricing increment is $0.0001. *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (Regulation NMS Adopting Release).

[16] For customer limit orders in securities for which there is no published inside market, the minimum amount of price improvement required would default to the same tiered minimum price improvement standards.

[17] *See* Rule 600(b)(47) of Regulation NMS for definition of ''NMS stock.'' 17 CFR 242.600(b)(47).

priced at or over $1.00 (and therefore subpenny spreads are possible), FINRA believed that the minimum price improvement standard should be adjusted to also include a measure based on the inside spread, consistent with the standards for customer limit orders priced below $1.00. Accordingly, FINRA proposed that for customer limit orders in OTC equity securities priced greater than or equal to $1.00, the minimum amount of price improvement required should be the lesser of $0.01 or one-half (½) of the current inside spread.[18]

Finally, FINRA proposed to change the minimum price-improvement standard for limit orders priced outside the inside market. According to FINRA, although trades typically occur at or inside the best inside market, firms may trade proprietarily outside the best inside market for a variety of reasons, such as where there is little or no depth at the inside market or the inside market is manual or not easily accessible. Under current requirements, such trades could trigger execution obligations with respect to all limit orders priced outside the inside market, no matter how far outside the inside market the limit order is priced. FINRA provided an example that assumed that the best inside market for a security is $.50 to $.51. The member displays a quote to buy at $.49 and also holds a customer limit order to buy priced at $.45. The member's quotation is accessed by another broker-dealer and the member buys at $.49. Under current requirements, the member would be required to fill the customer's purchase order at $.45 because it had not purchased at the inside market of $.50. Stating that it did not believe that this was an appropriate result, FINRA proposed that, where the limit order is priced outside the inside market for the security, the minimum amount of price improvement required must either meet the same tiered minimum price improvement standards set forth above or the member must trade at a price at or inside the best inside market for the security. FINRA believed that this would continue to require an appropriate amount of price improvement for a member to trade ahead of a customer limit order, irrespective of whether the limit order is priced inside or outside the best inside market.

The Commission received one comment letter in response to Release No. 34–56297.[19] The Fidessa Corp. Letter supported the proposed rule change, although the commenter suggested modifying and clarifying the proposal. In this regard, the commenter noted an inconsistency in the application of the proposed minimum price-improvement standards in low-priced securities when the customer limit order and the proprietary trade fall into different minimum price improvement tiers (*e.g.*, a customer limit order to sell is priced at $1.00 and the proprietary trade is at $.998). The commenter provided an example that assumed that the best inside market for an NMS stock is $.996 to $1.00 and a firm is holding customer limit orders to sell at prices of $.998 and $1.00. If the firm sells for its own account at $.996, only customer limit orders to sell priced below $.998 and from $1.00 up to, but not including, $1.006 would be protected due to the firm's $.996 triggering proprietary trade. As a result, the firm would not have an obligation under IM–2110–2 to protect the more aggressively priced $.998 customer limit order to sell (*i.e.*, the minimum price improvement standard applicable to that order is the lesser of $.01 or one-half (½) of the current inside spread ($.002 (½ of $.004)), such that the $.996 proprietary trade would only trigger customer limit orders priced less than $.998), but would have an obligation to protect the $1.00 customer limit order to sell (*i.e.*, the minimum price improvement standard applicable to that order is $.01 such that a $.996 proprietary trade would trigger customer limit orders priced at $1.00 up to, but not including, $1.006). The commenter suggested instead that FINRA base the minimum price-improvement standard on the trade price rather than the customer limit order price.

FINRA responded that the commenter's suggested approach could have unintended consequences in its application and would require significant reprogramming by member firms to implement, and therefore initially did not propose any revisions to the proposal.[20] FINRA explained that member firms could choose to provide protection voluntarily for more aggressively priced customer limit orders that fall within gaps.[21]

Subsequently, however, FINRA proposed in Amendment No. 2. to require, and codify, as part of IM–2110–2, that any more aggressively priced customer limit orders also must receive limit order protection. Under Amendment No. 2, firms would be required to protect any more aggressively priced customer limit orders triggered under IM–2110–2, even if those limit orders were not directly triggered by the minimum price improvement standards of IM–2110–2.[22] FINRA explained, however, that it would not mandate any particular order handling procedures or execution priorities among protected orders. Rather, a firm could choose any reasonable methodology for the way in which it executes multiple orders triggered by IM–2110–2, provided that the firm ensures that such methodology is applied consistently and complies with applicable rules and regulations.[23]

Using the example above, once the limit order priced at $1.00 is activated upon the execution of the firm's trade at $.996 (*i.e.*, it is activated because it is within .01 of the price of the firm's trade), a firm may implement a methodology that executes all more aggressively priced customer limit orders first (*i.e.*, the limit order priced at $.998) before executing the limit order priced at $1.00. The proposed requirements would only apply in the limited circumstance where a firm has a limit order that is protected by IM–2110–2, but more aggressively priced customer limit orders are not protected. Therefore, in the above example, if the firm was only holding a customer limit order to sell of $.998 (and not a customer limit order of $1.00), the $.998 order would not be triggered by the proposed requirements.

The Commission received one comment letter in response to Release No. 34–58114.[24] The Pink OTC Letter supported the proposed rule change, as modified by Amendment No. 2, stating that it was necessary to correct the anomalous situation where inferior

[18] Other than the proposed distinction to address permissible subpenny quoting and trading in OTC equity securities priced over $1.00, the proposed price-improvement standards would apply uniformly to NMS stocks and OTC equity securities. *See supra* note 14.

[19] *See* Fidessa Corp. letter, *supra* note 5.

[20] *See* FINRA Response Letter, *supra* note 6.

[21] *Id.*

[22] The Fidessa Corp. Letter also sought clarification on the required price-improvement when the limit order is priced outside the inside market for the security, to which FINRA responded in the FINRA Response Letter that the minimum amount of price improvement required must either meet the same tiered minimum price improvement standards or the member must trade at a price at or inside the best inside market for the security. FINRA stated that firms need only to meet one of the minimum price-improvement options provided for limit orders priced outside the inside market and may do so on a trade-by-trade basis.

[23] FINRA further clarified that this statement refers to the firm's methodology for executing multiple orders triggered by IM–2110–2 when their size exceeds the size of the firm's proprietary order that triggered the customer limit order protection obligation. Telephone conference, September 11, 2008, between Stephanie Dumont, Vice President and Director of Capital Markets Policy, FINRA, and Nancy Sanow, Assistant Director, Division of Trading and Markets, Commission.

[24] *See* Pink OTC Letter, *supra* note 9.

priced customer limit orders are protected over superior priced limit orders, and that ''adoption of SR–NASD–2007–041 without correction of this anomalous situation would disrupt the orderly functioning of the market for OTC Equity Securities.''

The Pink OTC Letter also recommended more broadly that the minimum increments of IM–2110–2 be considered as part of an amendment that would mandate minimum quote increment tier sizes for OTC equity securities.[25] The Pink OTC Letter urged that minimum increments for price improvement should mirror minimum quote increment tier sizes established on the Pink Quote interdealer quotation system to create ''a level playing field for all market participants and improve investor confidence in the market.''

III. Discussion and Commission's Findings

The Commission has reviewed carefully the proposed rule change, as modified by Amendment No. 2, and the two comment letters it received, and finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act and the rules and regulations thereunder applicable to a national securities association, including the provisions of Section 15A(b)(6) of the Act,[26] which requires, among other things, that FINRA rules be designed to promote just and equitable principles of trade, to foster cooperation and coordination with the persons engaged in regulating, clearing, settling, processing transactions in securities, and, in general, to protect investors and the public interest.[27]

The Commission previously approved revisions to IM–2110–2 to apply the Manning Rule to OTC equity securities,[28] and notes that FINRA delayed its implementation pending Commission approval of the instant proposed rule change, as amended.[29]

FINRA's proposal would revise the current price-improvement standards by adding a number of tiers to the minimum price-improvement standard for customer limit orders priced below $.01; adjusting the price-improvement standards to also include a measure based on one-half of the current inside spread for customer limit orders in OTC equity securities when such limit orders are priced greater than or equal to $1.00; and changing the price improvement standards for limit orders priced outside the inside market. The Commission believes that these revisions to IM–2110–2 are appropriate and reasonably designed to protect customer limit orders in both NMS stocks and OTC equity securities.

Fidessa Corp. suggested that the minimum price-improvement standards should be based on the security's trade price rather than the limit order price of the customer limit order. The commenter observed that anomalies can occur at the periphery of the minimum price improvement tiers for low-priced securities when the minimum price-improvement requirement is based on the order's price.

In the FINRA Response Letter, FINRA responded that Fidessa Corp.'s proposed alternative approach would address some of the potential anomalies in the application of the proposed rule, but could have unintended consequences in its application and would require significant reprogramming by the firms to implement. Instead, FINRA revised its proposal, in Amendment No. 2, to require firms to institute written policies and procedures to fill those more aggressively priced customer limit orders ahead of other less aggressively priced limit orders covered by the Rule. This approach was supported by Pink OTC.

The Commission believes that the revisions in Amendment No. 2 are reasonably designed to eliminate the anomalies that can occur in the case of limit orders with prices that straddle the proposed minimum price-improvement tiers. Although Pink OTC urged that amendments to IM–2110–2 should be complemented by additional provisions mandating minimum quote increment tier sizes for OTC equity securities, the Commission considers this recommendation to be beyond the scope of the proposed rule change before it.

Accordingly, the Commission believes that the proposed rule change strikes a reasonable balance between protecting customer limit orders and enhancing the opportunity for investors to receive superior-priced limit order executions in OTC equity securities.

For the reasons described above, the Commission believes that the proposed rule change is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NASD–2007–041), as modified by Amendment No. 2, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–22011 Filed 9–19–08; 8:45 am]

BILLING CODE 8010–01–P

[25] Pink OTC attached a study of its 2006 Minimum Quote Increment Tier Pilot Program. (''Pink OTC Pilot Program'') According to Pink OTC, the study showed that minimum tier sizes implemented during the Pink OTC Pilot Program did not result in artificial widening of spreads or degradation of market quality.

[26] *See* 15 U.S.C. 78*o*–3(b)(6).

[27] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[28] *See* Release No. 34–55351, *supra* note 10.

[29] *See supra* note 13.

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58533; File No. SR–FINRA–2008–036]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change Relating to Incorporated NYSE Rules

September 12, 2008

I. Introduction

On July 3, 2008, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend certain rules of the New York Stock Exchange LLC (''NYSE'') that relate to member firm conduct, and that have been incorporated into the FINRA rulebook (''Incorporated NYSE Rules''). The proposed rule change was published for comment in the **Federal Register** on July 14, 2008.[3] The Commission received one comment letter regarding the proposal.[4] This order approves the proposed rule change.

II. Description of the Proposed Rule Change

Currently, the FINRA rulebook consists of rules of the National Association of Securities Dealers, Inc. (''NASD Rules''), and the Incorporated NYSE Rules. The Incorporated NYSE Rules apply only to firms that are members of FINRA and the NYSE (''Dual Members''). FINRA is currently developing a consolidated rulebook which will consist only of FINRA rules. In the interim period, FINRA proposes

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 58103 (July 3, 2008), 73 FR 40403.

[4] *See* letter from Amal Aly, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (''SIFMA''), to Florence E. Harmon, Acting Secretary, Commission, dated August 4, 2008 (''SIFMA letter'').

several amendments to the Incorporated NYSE Rules.

In some instances, FINRA proposes to harmonize inconsistencies between the Incorporated NYSE Rules and the NASD Rules. For example, FINRA proposes to delete the term ''allied member'' from the Incorporated NYSE Rules, as that concept has no direct FINRA analogue.[5] Similarly, FINRA proposes to re-position the Incorporated NYSE Rules governing the closing-out of securities contracts (''Buy-In Rules''), combining NYSE Rules 283, 285, 286, 287, 288, 289, and 290 in NYSE Rule 282. This proposed change would consolidate the NYSE Buy-In Rules into one rule, and would make NYSE Rule 282 more similar in format to the corresponding NASD rule.

In other instances, FINRA proposes to rescind provisions of the Incorporated NYSE Rules that are substantively addressed by NASD Rules. For example, FINRA proposes to rescind NYSE Rule 404, which regulates the carrying of accounts for customers by members, as that rule is duplicative of the FINRA Letter of Approval. Similarly, FINRA proposes to rescind NYSE Rule 446, which relates to business continuity and contingency plans, as that rule is nearly identical to NASD Rules 3510 and 3520.

FINRA also proposes to delete certain NYSE Rules that are outdated, and that have no equivalent NASD rules. For example, FINRA proposes to rescind NYSE Rule 311(h), which prescribes the number of partners a member organization must have in order for that member to conduct business. There is no comparable NASD rule, and, according to FINRA, this rule no longer applies to members' current business models.

III. Summary of Comments

The Commission received one comment letter in response to the proposed rule change.[6] That commenter supported the proposed rule change, and urged that the Commission approve it as expeditiously as possible.[7] However, that commenter also requested that the Commission, upon approving the proposed rule change, take steps to ensure that NYSE adopts conforming changes to its rulebook.[8] According to the commenter, until the NYSE rulebook is conformed to the Incorporated NYSE Rules, Dual Members will be subject to the Incorporated NYSE Rules, the legacy NASD rules that currently form part of the FINRA rulebook, and the NYSE rules.[9] The commenter stated that this would be ''entirely inconsistent with one of the key benefits in the creation of FINRA.'' [10]

IV. Discussion and Commission Findings

The Commission has reviewed the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association [11] and, in particular, Section 15A(b)(6) of the Act,[12] which requires that FINRA have rules 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's proposal provides greater harmonization between the Incorporated NYSE Rules and the NASD Rules. The amendments to the Incorporated NYSE Rules will reduce regulatory disparities, and will lessen the regulatory burden on Dual Members. Additionally, the concern articulated by the commenter has been effectively addressed by a recent NYSE filing.[13] In SR–NYSE–2008–80, NYSE proposes to amend its rulebook to conform its rules to the Incorporated NYSE Rules.[14]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–FINRA–2008–036) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–22012 Filed 9–19–08; 8:45 am]

BILLING CODE 8010–01–P

[5] Where the use of the term ''allied member'' in the Incorporated NYSE Rules denotes an individual's status as a ''control person'' of a member organization, FINRA proposes to substitute ''allied member'' with the newly-created category of ''principal executive.''

[6] *Supra* note 4.

[7] *Id.* at 1.

[8] *Id.* at 2.

[9] *Id.*

[10] *Id.*

[11] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78o–3(b)(6).

[13] *See* SR–NYSE–2008–80 (filed September 5, 2008).

[14] *Id.*

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11418 and #11419]

Louisiana Disaster Number LA–00019

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 Louisiana (FEMA–1786–DR), dated 09/02/2008.

Incident: Hurricane Gustav.

Incident Period: 09/01/2008 and continuing.

Effective Date: 09/11/2008.

Physical Loan Application Deadline Date: 11/03/2008.

EIDL Loan Application Deadline Date: 06/02/2009.

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 Louisiana, dated 09/02/2008 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Parishes: (Physical Damage and Economic Injury Loans): Calcasieu.

All other parishes contiguous to the above named primary parish have previously been declared.

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. E8–22023 Filed 9–19–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Disaster Declaration #11418 and #11419

Louisiana Disaster Number LA–00019

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 Louisiana (FEMA–1786–DR), dated 09/02/2008.

Incident: Hurricane Gustav.

Incident Period: 09/01/2008 and continuing through 09/11/2008.

Effective Date: 09/11/2008.

Physical Loan Application Deadline Date: 11/03/2008.

EIDL Loan Application Deadline Date: 06/02/2009.

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 President's major disaster declaration for the State of Louisiana, dated 09/02/2008 is hereby amended to establish the incident period for this disaster as beginning 09/01/2008 and continuing through 09/11/2008.

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. E8–22024 Filed 9–19–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11432 and #11433]

Louisiana Disaster #LA–00021

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–1792–DR), dated 09/13/2008.

Incident: Hurricane Ike.

Incident Period: 09/11/2008 and continuing.

Effective Date: 09/13/2008.

Physical Loan Application Deadline Date: 11/12/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 06/15/2009.

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: Notice is hereby given that as a result of the President's major disaster declaration on 09/13/2008, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Parishes (Physical Damage and Economic Injury Loans):

Acadia, Beauregard, Calcasieu, Cameron, Iberia, Jefferson, Jefferson Davis, Lafourche, Plaquemines, Sabine, Saint Mary, Terrebonne, Vermilion, Vernon.

Contiguous Parishes/Counties (Economic Injury Loans Only):

Louisiana: Allen, Assumption, De Soto, Evangeline, Iberville, Lafayette, Natchitoches, Orleans, Rapides, Saint Bernard, Saint Charles, Saint James, Saint Landry, Saint Martin, Saint Tammany, St. John the Baptist, Tangipahoa.

Texas: Jefferson, Newton, Orange, Sabine, Shelby.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.750
Homeowners Without Credit Available Elsewhere	2.875
Businesses With Credit Available Elsewhere	8.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 114328 and for economic injury is 114330.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–22026 Filed 9–19–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11418 and #11419]

Louisiana Disaster Number LA–00019

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–1786–DR), dated 09/02/2008.

Incident: Hurricane Gustav.

Incident Period: 09/01/2008 and continuing.

Effective Date: 09/10/2008.

Physical Loan Application Deadline Date: 11/03/2008.

EIDL Loan Application Deadline Date: 06/02/2009.

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 Louisiana, dated 09/02/2008 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Parishes: (Physical Damage and Economic Injury Loans):

Catahoula, Franklin, Grant, La Salle, Saint Helena, Washington.

Contiguous Parishes/Counties: (*Economic Injury Loans Only*):

Louisiana: Caldwell, Madison, Richland, Tensas, Winn.

Mississippi: Marion, Walthall.

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. E8–22027 Filed 9–19–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11430 and #11431]

Texas Disaster #TX–00308

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–1791–DR), dated 09/13/2008.

Incident: Hurricane Ike.

Incident Period: 09/07/2008 and continuing.

Effective Date: 09/13/2008.

Physical Loan Application Deadline Date: 11/12/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 06/15/2009.

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: Notice is hereby given that as a result of the President's major disaster declaration on 09/13/2008, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):

Angelina, Austin, Brazoria, Chambers, Cherokee, Fort Bend, Galveston, Grimes, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Madison, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, Washington.

Contiguous Counties/Parishes (Economic Injury Loans Only):

Texas: Anderson, Brazos, Burleson, Calhoun, Colorado, Fayette, Henderson, Jackson, Lee, Leon, Robertson, Rusk, Shelby, Smith, Wharton.

Louisiana: Beauregard, Calcasieu, Cameron, Sabine, Vernon.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.750
Homeowners Without Credit Available Elsewhere	2.875
Businesses With Credit Available Elsewhere	8.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 114308 and for economic injury is 114310.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–22025 Filed 9–19–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 6310]

Announcement of a Meeting of the International Telecommunication Advisory Committee

SUMMARY: This notice announces a meeting of the International Telecommunication Advisory Committee (ITAC) to prepare for the International Telecommunication Union (ITU) Council Meeting.

The ITAC will meet on October 8, 2008, from 10 a.m. to 12 p.m., at 1120 20th Street, NW., 10th floor, Washington, DC 20036. The purpose of the meeting is to prepare advice for the U.S. government on the annual ITU Council Meeting, which will be held from November 12–21, 2008 at ITU headquarters in Geneva, Switzerland.

This meeting is open to the public as seating capacity allows. The public will have an opportunity to provide comments at this meeting. People desiring further information on these meeting may contact the Secretariat at *jillsonad@state.gov* or 202–647–5872.

Dated: September 15, 2008.

Richard C. Beaird,

International Communications & Information Policy, Department of State.

[FR Doc. E8–22104 Filed 9–19–08; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Twenty-First Meeting—RTCA Special Committee 202: Portable Electronic Devices

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 202 Meeting: Portable Electronic Devices.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 202: Portable Electronic Devices.

DATES: The meeting will be held on October 7–9, 2008, from 9:00 a.m. to 4:30 p.m. (unless stated otherwise).

ADDRESSES: The meeting will be held at Conference Rooms, 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036-5133; telephone (202) 833-9339; fax (202) 833-9434; Web site *http://www.rtca.org.*

PRIMARY PURPOSE OF MEETING: The plenary is to develop consensus on FRAC comment disposition and recommendation to publish updated DO-294B and Change I to DO-307.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 202 Portable Electronic Devices meeting. The agenda will include:

October 7

- Opening Plenary Session (Welcome and Introductory Remarks, Agenda Overview).
- Approval of Summary of the Twentieth Meeting held August 5–7, 2008, RTCA Paper No. 181–08/SC202–143 dated August 12, 2008.
- Update from Regulatory Agencies (FAA, UK-CAA, Canadian TSB, FCC, Japanese-CAB, NCAA-Brazil, or others present).
- Update on EUROCAE Working Group WGS8 status.
- Update on CEA activities, including the CEA Bulletin—Recommended Practice for T–PEDs.
- Update on inputs to SC–202 from TIA.
- Update on inputs to SC–202 from WiFi Alliance/IEEE 802.18.
- Status of Change 1 to DO–307: FRAC comments received, initial recommendations on disposition, plan to complete comment disposition, plan for consensus on final draft document recommendation to publish.
- Status of proposed update DO–294B document: FRAC comments received, initial recommendations on disposition, plan to complete comment disposition, plan for consensus on final draft document recommendation to publish.
- BREAK-OUT Session for work on FRAC comment disposition and document final Drafts.

October 8

- Chairmen's Plenary Day 2 Opening Remarks and Process Check.
- Status of Change 1 to DO–307: Recommendations on disposition of review comments, plan to complete comment disposition, plan for consensus on final draft document recommendation to publish.
- Status of proposed update DO–294B document: Recommendations on

disposition of review comments, plan to complete comment disposition, plan for consensus on final draft document recommendation to publish.

• Committee discussions on final drafts work plan and schedule for completion.

• BREAK-OUT Session for work on FRAC comment disposition and document final drafts.

October 9

• Chairmen's Plenary Day 3 Opening Remarks and Process Check

• Review draft document completion status:

• FRAC comment disposition status

• TOR compliance determination

• Plan for closure of any remaining open issues

• Plenary consensus on:

• Open Action items

• Plan for completion of open action items:

• final action items to disposition FRAC comments and

• format materials for PMC concurrence on publication recommendation

• Recommend publication of Change 1 to DO–307

• Recommend publication of update to DO–294B

• Other Business

• Concluding Remarks

• Closing Plenary Session (Other Business, Confirm Date and purpose of Upcoming Meetings)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 10, 2008.

Ed Harris,

RTCA Advisory Committee.

[FR Doc. E8–21810 Filed 9–19–08; 8:45 am]

BILLING CODE 4910–13–

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fiftieth Meeting, RTCA Special Committee 135: Environmental Conditions and Test Procedures for Airborne Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 135 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 135: Environmental Conditions and Test Procedures for Airborne Equipment.

DATES: The meeting will be held October 22–23, 2008, starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, 1828 L Street, NW., Suite 805, RTCA Conference Rooms, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 135 meeting. The agenda will include:

October 22–23

• Opening Session (Welcome, Chairman's Opening Remarks, Introductions).

• Approval of Summary from the Fifty-First Meeting. RTCA Paper No. 091 08/SC 135–668.

• Status of Revision of AC.

• Update from Section 16 & 21 Working Group Meetings.

• Review Change Proposals for DO–160G/ED–14G.

• Closing Plenary Session (New/Unfinished Business, Date and Place of Next Meeting).

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 10, 2008.

Ed Harris,

Acting RTCA Advisory Committee.

[FR Doc. E8–21811 Filed 9–19–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation; Finding of No Significant Impact

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

ACTIONS: Finding of No Significant Impact.

SUMMARY: The Federal Aviation Administration (FAA), in cooperation with the United States Air Force (USAF), prepared an Environmental Assessment (EA) to evaluate Space Florida's proposal to operate a commercial launch site at Launch Complex 46 (LC–46) at Cape Canaveral Air Force Station (CCAFS) in Florida. The EA evaluated the potential environmental impacts associated with the Proposed Action and alternatives regarding the issuance of a Launch Site Operator License to Space Florida for LC–46 at CCAFS. After reviewing and analyzing currently available data and information on existing conditions and project impacts, the FAA has determined that issuing a Launch Site Operator License to Space Florida for the operation of a commercial launch site at LC–46 would not significantly impact the quality of the human environment within the meaning of the National Environmental Policy Act. Therefore, the preparation of an Environmental Impact Statement is not required, and the FAA is issuing a Finding of No Significant Impact. The FAA made this determination in accordance with all applicable environmental laws.

For a Copy of the Environmental Assessment: Visit the following Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ast/licenses_permits/launch_site/environmental/* or contact Ms. Stacey M. Zee, FAA Environmental Specialist, 800 Independence Avenue, SW., Room 331, Washington, DC 20591. You may also send e-mail requests to *Stacey.Zee@faa.gov* or via telephone to (202) 267–9305.

Purpose and Need: The purpose of the FAA's action in issuing the Launch Site Operator License is to ensure compliance with international obligations of the United States and to protect the public health and safety, safety of property, and national security and foreign policy interest of the United States during commercial launch or reentry activities; to encourage, facilitate, and promote commercial space launches and re-entries by the private sector; and to facilitate the strengthening and expansion of the United States space transportation infrastructure, in accordance with the requirements of the Commercial Space Launch Amendments Act of 2004, the Commercial Space Transportation Act of 2000, Executive Order (EO) 12465, 14 Code of Federal Regulations (CFR) Parts 400–450, the National Space Transportation Policy, and the National Space Policy.

The Proposed Action is needed to meet the demand for lower cost access to space. Less expensive space launch capability is necessary to support rising industries, such as more cost-effective commercial, governmental, and scientific satellite launches. Given the infrastructure and development costs associated with constructing launch facilities, the Federal government has been the owner/operator or has leased/sold unused or excess infrastructure and provided expertise to commercial launch operators for the majority of commercial launches. The Secretary of Transportation has assigned the FAA Office of Commercial Space Transportation responsibility, under the Commercial Space Launch Amendment Acts and EO 12465, for oversight of commercial space launch activities, including licensing of launch and reentry sites.

Proposed Action: Under the Proposed Action, the FAA would issue a Launch Site Operator License for LC–46 to Space Florida. LC–46 is owned by the USAF's 45th Space Wing. Space Florida and the 45th Space Wing have a Memorandum of Agreement and Joint Operating Procedures, which allow Space Florida to conduct launch activities at the site. A Launch Site Operator License, which is valid for five years, would allow Space Florida to offer the site for launches of solid- and liquid-propellant launch vehicles. Potential commercial launch vehicle operators would be required to obtain a Launch License from the FAA to conduct launch operations at LC–46 on CCAFS.

Under the Proposed Action, Space Florida would offer the launch site to launch operators for several types of vertical launch vehicles, including Athena-1 and Athena-2, Minotaur, Taurus, Falcon 1, Alliant Techsystems small launch vehicles and launches of other Castor® 120-based or Minuteman-derivative booster vehicles. Space Florida proposes to support a maximum of 24 annual launches, including 12 solid propellant launches and 12 liquid propellant launches. The proposed launch vehicles and their payloads would be launched into low earth orbit or geostationary orbit. All vehicles are expected to carry payloads, including satellites.

The Proposed Action does not include any construction or modification to the site. Launches would be conducted using existing infrastructure. Periodic maintenance, such as mowing or repairs, would occur on the site to ensure launch safety. To ensure the safety of all launch activities, the site would require minor repairs.

Alternatives Considered: Alternatives analyzed in the EA include (1) the Proposed Action and (2) the No Action Alternative. Under the No Action Alternative, the FAA would not issue the Launch Site Operator License to Space Florida. Launch operators may be able to conduct launch activities at LC–46; however, operations would be controlled by the 45th Space Wing of the USAF. Other activities, such as military exercises at CCAFS would not be impacted.

Environmental Impacts

Air Quality

Emissions of any criteria pollutants associated with the Proposed Action would be well below Federal *de minimis* levels and would not be expected to cause exceedances of the National Ambient Air Quality Standards or Florida Ambient Air Quality Standards. Emissions of carbon dioxide (CO_2) to the stratosphere under the Proposed Action would be negligible in comparison with U.S. annual emissions of CO_2, and therefore would not have a significant impact on global climate change. Emissions of water vapor (H_2O) to the stratosphere under the Proposed Action would not have a significant impact on global climate change due to the large number of natural and anthropogenic sources of H_2O. Carbon monoxide (CO) and nitrogen oxides (NO_X) emissions in the stratosphere would be extremely small relative to U.S. annual emissions; therefore, the presence of these chemicals in rocket emissions associated with the Proposed Action would have a negligible impact on global climate change. Significant impacts to ozone from particulate (aluminum oxide) emissions and hydrochloric acid are not anticipated under the Proposed Action.

Biological Resources—Fish, Wildlife, Plants, and Special Status Species

The Proposed Action would not have a significant impact on terrestrial vegetation and wildlife. Localized foliar scorching and spotting would not be expected to cause long-term damage to vegetation. Birds and terrestrial mammals in the immediate area could suffer startle responses during launch activities. However, it is expected that birds and terrestrial mammals would return to pre-launch conditions soon after the launch. Terrestrial mammals could also experience temporary threshold shift effects. However, these effects would be temporary and would not have significant impacts on local populations.

Acidification of nearby surface water due to launch emissions would not be expected to adversely affect aquatic habitats since the area is subjected to wind-blown salt spray and mixing with the open ocean. In the unlikely event of a launch failure, remaining propellant would be quickly diluted within the ocean. Direct strikes on aquatic species, such as marine mammal, turtle, or fish, due to a launch failure or an aborted launch relating to the Proposed Action are very unlikely. Sonic booms would not be expected to negatively impact the survival of any marine species because of their low frequency, the low density of marine species in the ocean's surface water, and the distance of the sonic boom footprint from CCAFS.

Minimal impacts on endangered, threatened, and special status species are anticipated under the Proposed Action. No native habitats would be cleared or directly impacted. Lights from launch activities may adversely affect the sea turtle population along the Atlantic coastline. Light management plans would be developed to minimize these impacts. The majority of effects from launch activities would be short-term, of relatively low intensity, and would occur relatively infrequently due to the launch rate.

Water Resources (Surface Water, Ground Water, Floodplains, and Wetlands)

Short-term and long-term adverse impacts to surface water quality resulting from the launch exhaust cloud would not be significant due to the relatively high salinities and predictable pH stabilities of estuarine and ocean waters. The pH level of near-field surface water may decline for a period of time. However, pre-launch conditions are expected to return within several hours. Short-term impacts to near shore environments could occur as a result of contamination from rocket propellant associated with a launch anomaly. However, long-term impacts would not be significant due to the buffering capacity of the Atlantic Ocean and Banana River. Release of residual propellant from the Falcon 1's recoverable first stage upon impact with the ocean would not significantly affect water quality because of the small volume of this release into the open ocean. Emergency response and clean-up procedures would reduce the magnitude and duration of any impacts to ground water from an on-pad accidental or emergency propellant release.

Ground water is not expected to be impacted by the Proposed Action. The proposed launches are not expected to interfere with the current remedial action occurring on the site. Additionally, potential emission deposition of hydrochloric acid from the launches is expected to be relatively minor. Leaching acid storm water would be diluted quickly in the ground water system.

Major short-term and long-term impacts to floodplains and wetlands from the launch exhaust cloud would not be expected due to the low probability of a storm event after a launch. Emergency response and clean-up procedures would reduce the magnitude and duration of any impacts to floodplains and wetlands from accidental propellant releases.

Noise

The annual Day Night Average Sound Level (DNL) of the Proposed Action at the City of Cape Canaveral would be substantially lower than 65 DNL. The Proposed Action is not expected to have a significant noise impact on the surrounding areas. The annual C-weighted DNL (CDNL) of the Proposed Action at the City of Cape Canaveral would be substantially lower than 61 CDNL. Sonic booms associated with the Proposed Action are not expected to have a significant impact on the surrounding areas. The magnitude of sonic booms associated with the Proposed Action would be well below 10 pounds per square foot and would occur over the ocean; therefore, no structural damage impacts are expected. Additionally, sonic booms would not have a significant impact on marine animals.

Compatible Land Use (Section 4(f) Lands, Light Emissions, and Visual Resources, and Coastal Resources)

Implementation of the Proposed Action would not change any planned or existing land use designations. There are no Section 4(f) lands located at LC–46. The nearest site is located five miles southwest of the launch site. Launch activities and effects would be contained within the boundaries of LC–46; therefore, no impacts are expected on Section 4(f) lands. The Proposed Action does not involve construction or development, and is similar to existing activities at LC–46; therefore, there would not be any new or additional visual resource impacts, or any coastal resource impacts. Light emissions would be minimized through the use of low-pressure sodium light fixtures, shielding of lights, and special light management steps where lights are visible from the beach.

Socioeconomic Resources

Additional personnel for launch-related activities would not increase the demand for existing services, including housing, hotels, restaurants, and transportation, in Brevard County. The Proposed Action would not necessitate the relocation of local residents or businesses. Traffic would not be significantly affected during pre- and post-launch activities. Launches may increase tourism in the region, and there may be a slight short-term positive impact on socioeconomic resources from additional tourism.

Hazardous Materials, Solid Waste, and Pollution Prevention

The primary hazardous materials used under the Proposed Action would be propellants. In addition to the propellants, other hazardous materials (e.g., various composites, synthetics, and metals) may be used for rocket operation, including solvents, oils, and paints. All hazardous materials and hazardous waste would be handled and disposed of in accordance with the CCAFS Environmental Standards and Safety Standards and Space Florida's Hazardous Waste Management Plan. Hazardous waste streams anticipated to be generated by the Proposed Action are typical of other hazardous waste streams in Florida. The Proposed Action would not be expected to generate more hazardous waste than can be safely handled by CCAFS and existing hazardous waste management plans would not be expected to change.

Solid waste would be expected to increase slightly with the increase in launches. The amount of solid waste generated would be handled under existing collection and disposal operations.

Space Florida would develop a Pollution Prevention Management Plan, in coordination with CCAFS' pollution prevention plans and goals, to comply with all local, State, and Federal regulations.

Cumulative Impacts

Cumulative impacts are ''the incremental impact of the actions when added to other past, present, and reasonably foreseeable future action regardless of what agency (Federal or non-Federal) or person undertakes such other actions'' (40 CFR 1508.7). For this analysis, cumulative impacts include impacts from the vehicles that would be launched under Space Florida's license and the past, present, and reasonably foreseeable future activities that would affect the resources impacted by the Proposed Action. The following summary discusses the cumulative impacts from present and reasonably foreseeable actions at CCAFS and in the surrounding areas, including Kennedy Space Center and the Merritt Island National Wildlife Refuge. These activities may potentially affect the same resources as the Proposed Action within the life of the Proposed Action (2008–2013).

Air Quality

The Proposed Action, in addition to the past, present, and reasonably foreseeable actions in the project area, would result in a minor, temporary increase in air emissions in an area that is currently in attainment for all criteria pollutants. The emissions of greenhouse gases and ozone depleting substances would be extremely small in the context of national and global emissions. Because these impacts would be minor and temporary, the incremental contribution to cumulative air quality impacts from the Proposed Action would not be significant.

Biological Resources (Fish, Wildlife, Plants, and Special Status Species)

The impacts from the Proposed Action would likely be less than at other launch pads since the vehicles are relatively small, resulting in less noise, air emissions, and scorching, and would only be launched approximately twice per month. Because the Proposed Action would create minimal artificial light at night, it would not significantly impact nearby sea turtle hatchlings. The impacts to biological resources would be temporary and relatively infrequent; therefore, the incremental contribution to cumulative biological impacts from the Proposed Action would not be significant.

Water Resources (Surface Water, Ground Water, Floodplains, and Wetlands)

The Proposed Action's water requirements would not affect operating requirements of other programs in the project's vicinity, and would have a minimal effect on cumulative water supply. Because the Proposed Action would have a minor and temporary impact on the water resources of the affected region, the incremental contribution to cumulative water resource impacts from the Proposed Action would not be significant.

Noise

The area surrounding the project has a long history of commercial space rocket and NASA space shuttle launches resulting launch-related noise. Noise impacts associated with launch activities in the area would be brief and temporary. Because these projects have minor and temporary noise impacts, the incremental contribution to cumulative noise impacts from the Proposed Action would not be significant.

Land Use (Section 4(f), Visual Resources, and Coastal Resources)

The area surrounding the project has historically been used for launching rockets and NASA space shuttles and contains launch infrastructure and associated facilities for those past and present actions. The Proposed Action would have no effect on coastal resources, Section 4(f) resources, or compatible land use; therefore, the incremental contribution to cumulative land use impacts from the Proposed Action would not be significant.

Socioeconomic Resources

The project area has long been used by the commercial space industry and NASA for space shuttle launches. All projects in the Proposed Action area would have small, positive socioeconomic impacts. The incremental contribution to cumulative socioeconomic impacts from the Proposed Action would not be significant.

Hazardous Materials, Solid Waste, and Pollution Prevention

The area surrounding the project has a long history of commercial space rocket and NASA space shuttle launches, and past and present actions have required the use and handling of hazardous materials. Cumulative impacts from hazardous materials and hazardous waste management could occur on the portions of CCAFS with historic soil and ground water contamination, including LC–46. However, significant cumulative impacts are not expected due to the remediation activities that have been completed at the site.

Relationship between Short-Term Uses and Long-Term Productivity

Under the Proposed Action, there would be short-term impacts to the environment; however, none of these impacts would be long-term or significant. As a result, the Proposed Action is not expected to narrow the range of beneficial uses of the environment in the long-term or pose a long-term risk to human health or safety.

Irreversible and Irretrievable Commitment of Resources

Under the Proposed Action, no irreversible or irretrievable commitment of resources is expected to occur in any of the environmental resource areas analyzed in this EA. The Proposed Action would expend solid and liquid propellants; however, the amounts of propellants and other materials that would be expended as part of the Proposed Action are negligible compared to the quantities routinely produced. No construction activities would occur and launches at the site would be of a small-scale and would occur relatively infrequently. As a result, no significant irreversible or irretrievable commitment of resources is expected.

Determination: An analysis of the Proposed Action has concluded that there are no significant short-term, long-term, or cumulative effects to the environment or surrounding populations. After careful and thorough consideration of the facts herein, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives set forth in Section 101(a) of the National Environmental Policy Act of 1969 and that it will not significantly affect the quality of the human environment or otherwise include any condition requiring additional consultation pursuant to Section 102(2)(c) of the National Environmental Policy Act. Therefore, an Environmental Impact Statement for the Proposed Action is not required.

Issued in Washington, DC on September 2, 2008.

George Nield,

Associate Administrator for Commercial Space Transportation.

[FR Doc. E8–22020 Filed 9–19–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Submission Deadline for Schedule Information for O'Hare International, John F. Kennedy International, and Newark Liberty International Airport for the Summer 2009 Scheduling Season

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

ACTION: Notice of submission deadline.

SUMMARY: Under this notice, the FAA announces that Chicago's O'Hare International Airport (ORD) has been designated a Level 2 Schedules Facilitated Airport for the Summer 2009 scheduling season in accordance with the International Air Transport Association (IATA) Worldwide Scheduling Guidelines. Accordingly, the FAA announces October 9, 2008, as the deadline for submitting schedule information for all planned flights at ORD between the hours of 7 a.m. and 9 p.m. Central time, or 1200 and 0200 UTC.

The FAA also announces October 9, 2008, as the deadline for submitting schedule information for John F. Kennedy International Airport (JFK) and Newark Liberty International Airport (EWR) for the Summer 2009 scheduling season. The FAA previously designated these airports as Level 3 Coordinated Airports under the IATA Worldwide Scheduling Guidelines. The FAA requests schedule information for all planned flights at JFK and EWR between the hours of 6 a.m. and 11 p.m. Eastern time, or 1000 UTC and 0300 UTC. The FAA deadline coincides with the submission deadline established by IATA for the Summer 2009 Schedules Conference.

The U.S. summer scheduling season is from March 29, 2009, through October 24, 2009, in recognition of the IATA scheduling dates. The FAA understands there may be differences in schedule times due to the U.S. daylight savings time dates, and these will be accommodated to the extent possible.

SUPPLEMENTARY INFORMATION: On October 31, 2008, the provisions of Title 14 of the Code of Federal Regulations, Part 93, Subpart B—Congestion and Delay Reduction at Chicago O'Hare International Airport terminate. This subpart prescribed rules and procedures for the scheduled operations and the assignment, transfer, sale, lease, and withdrawal of Arrival Authorizations at ORD. These rules sunset in recognition of the planned opening of a new runway at the airport shortly after the rule expires. The FAA finds it unnecessary to continue those requirements for scheduled operations because the new runway results in increased capacity. As the airport adjusts to this new capacity and as the O'Hare Modernization Plan continues, the FAA concludes that the Level 2 designation is necessary to facilitate the scheduling of operations so that the airport does not suffer from periods of overscheduling.

Although there appears to be sufficient capacity at ORD to meet demand in the near term, excessive demand in peak hours could cause delays. A Level 2 designation allows some schedule review to mitigate delays. The FAA intends to focus its review primarily on arrival operations similar to the process under the current rule. Carriers should submit schedule information in sufficient detail including, at minimum, the operating carrier, flight number, scheduled time of operation, frequency, and effective dates. IATA standard schedule information format and data elements also may be used because many carriers use automated systems to develop and publish schedule information.

DATES: Schedules must be submitted no later than October 9, 2008.

ADDRESSES: Schedules may be submitted by mail to the Slot Administration Office, AGC–240, Office of the Chief Counsel, 800 Independence Ave., SW., Washington, DC 20591; facsimile: 202–267–7277; ARINC: DCAYAXD; or by e-mail to: *7–AWA–slotadmin@faa.gov*.

FOR FURTHER INFORMATION CONTACT: Robert Hawks, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number: 202–267–7143; fax number: 202–267–7971; e-mail: *rob.hawks@faa.gov*.

Issued in Washington, DC on September 16, 2008.

James W. Whitlow,

Deputy Chief Counsel.

[FR Doc. E8–22073 Filed 9–19–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2008–0152]

Think Technology AS; Receipt of Application for a Temporary Exemption From the Advanced Air Bag Requirements of FMVSS No. 208

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

ACTION: Notice of receipt of petition for temporary exemption from certain provisions of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection.*

SUMMARY: In accordance with the procedures in 49 CFR Part 555, Think Technology AS has petitioned the agency for a temporary exemption from certain advanced air bag requirements of FMVSS No. 208. The basis for the application is that the exemption would make the development or field evaluation of a low-emission vehicle easier and would not unreasonably lower the safety or impact protection level of the vehicle.[1]

This notice of receipt of an application for temporary exemption is published in accordance with the applicable statutory provisions. NHTSA has not made any judgment on the merits of the application.

DATES: You should submit your comments not later than October 22, 2008.

FOR FURTHER INFORMATION CONTACT: Ari Scott, Office of the Chief Counsel, NCC–112, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building 4th Floor, Room W41–326, Washington, DC 20590. *Telephone:* (202) 366–2992; *Fax:* (202) 366–3820.

Comments: We invite you to submit comments on the application described above. You may submit comments identified by docket number at the heading of this notice by any of the following methods:

- *Web Site: http://www.regulations.gov.* Follow the instructions for submitting comments on the electronic docket site by clicking on ''Help and Information'' or ''Help/Info.''
- *Fax:* 1–202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, Room W12–140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 am and 5 pm, Monday through Friday, except Federal Holidays. *Telephone:* (202) 366–9826.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or you may visit *http://www.dot.gov/privacy.html.*

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 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. 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).

We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we shall also consider comments filed after the closing date.

I. Advanced Air Bag Requirements

In 2000, NHTSA upgraded the requirements for air bags in passenger cars and light trucks, requiring what are commonly known as ''advanced air bags.'' [2] The upgrade was designed to meet the goals of improving protection for occupants of all sizes, belted and unbelted, in moderate-to-high-speed crashes, and of minimizing the risks posed by air bags to infants, children, and other occupants, especially in low-speed crashes.

The advanced air bag requirements were a culmination of a comprehensive plan that the agency announced in 1996 to address the adverse effects of air bags. This plan also included an extensive consumer education program to encourage the placement of children in rear seats. The new requirements were phased in beginning with the 2004 model year.

[1] To view the application, go to *http://www.regulations.gov* and enter the docket number set forth in the heading of this document.

[2] *See* 65 FR 30680 (May 12, 2000).

The agency has carefully tracked occupant fatalities resulting from air bag deployment. Our data indicate that the agency's efforts in the area of consumer education and manufacturers' providing depowered air bags were successful in reducing air bag fatalities even before advanced air bag requirements were implemented.

As always, we are concerned about the potential safety implication of any temporary exemptions granted by this agency. In the present case, we are seeking comments on a petition for a temporary exemption from the advanced air bag requirements submitted by Think Technology AS, a Norwegian manufacturer of battery electric vehicles, which utilize chemical energy stored in rechargeable battery packs and electric motors instead of internal combustion engines. The vehicle at issue is entitled the Think City EV, a zero-emissions vehicle.

II. Background of Manufacturer

The Think City EV originally began as a project started in 1998 by PIVCO AS in Norway. According to the petitioner, in 2000, the PIVCO project was acquired by Ford Motor Company, a major U.S. automobile manufacturer, as part of an effort to comply with the State of California's Zero Emissions Vehicle mandate. Ford created a project called Think, which produced 350 Think City EV cars based on the PIVCO project in 2000, which were leased as part of a demonstration and testing project. However, in light of the California Air Resources Board's decision in 2003 to essentially end the requirement for ''pure'' electric cars, Ford sold the Think project to KamKorp, a company based in Switzerland. In 2006, a new ownership occurred creating Think Global AS.

Think Technology AS is a wholly-owned subsidiary of Think Global AS, a holding company that possesses the intellectual property rights to the Think City EV. The current owners of Think Global AS include the founders of the PIVCO project, the precursor to the Think City EV, as well as various other entities in Norway and other countries. Neither Think Global AS nor Think Technology AS (hereinafter, ''Think'') has sold any vehicles in the U.S. to date.

III. Statutory Basis for Requested Part 555 Exemption

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR Part 555, Think has petitioned the agency for a temporary exemption from certain advanced air bag requirements of FMVSS No. 208. The basis for the application is that the exemption would make the development or field evaluation of a low-emission vehicle easier and would not unreasonably lower the safety or impact protection level of the vehicle. A copy of the petition is available for review and has been placed in the docket for this notice. Specifically, Think has requested an exemption for a period of two years upon the grant of the petition. This requested exemption includes the advanced air bag requirements in S14.5.2 of FMVSS No. 208, the rigid barrier test requirement using the 5th percentile adult female test dummy (belted and unbelted, S15), the offset deformable barrier test requirement using the 5th percentile adult female test dummy (S17), the requirements to provide protection for infants and children (S19, S21, and S23) and the requirement using an out-of-position 5th percentile adult female test dummy at the driver position (S25). The petitioner stated that the vehicle will be equipped with standard air bags and will comply with the rigid barrier belted test requirement using the 50th percentile adult male test dummy set forth in S14.5.1(a) of FMVSS No. 208.

IV. Summary of Information Provided by Petitioner and Supporting Arguments

A petitioner must provide specified information in submitting a petition for exemption. These requirements are specified in 49 CFR 555.5, and include a number of items. Foremost among them are that the petitioner must set forth the basis of the application under § 555.6, and the reasons why the exemption would be in the public interest and consistent with the objectives of 49 U.S.C. Chapter 301.

This section summarizes the information provided by the petitioner and its supporting arguments. In this case, the basis of the application is to facilitate the development and evaluation of a low emission vehicle, the requirements of which are given in § 555.6(c). The main requirements of this section include: (1) Substantiation that the vehicle is a low-emission vehicle; (2) documentation establishing that a temporary exemption would not unreasonably degrade the safety of the vehicle; (3) substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle; (4) a statement of whether the petitioner intends to conform to the standard at the end of the exemption period; and (5) a statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted.

a. Petitioner's Statement That the Think City EV Is a Low-Emission Vehicle

Think asserts that the Think City EV is a low-emission vehicle. It states that 49 U.S.C. 30113(a) defines a low-emission vehicle as one that conforms to the applicable standards for new vehicles contained in section 202 of the Clean Air Act (42 U.S.C. 7521), and whose emissions are significantly below on of those standards. Section 202 of the Clear Air Act currently controls hydrocarbons, carbon monoxide, oxides of nitrogen, and particulate matter. Think asserts that the Think City EV emits none of the listed pollutants. It also asserts that the vehicle has no additional systems installed that could produce the named pollutants, e.g., a fuel-fired heating system.

b. Petitioner's Statement That a Temporary Exemption Would Not Unreasonably Degrade Safety

This portion of the regulation requires that the petitioner provide four items of information. The first is a detailed description of how the low-emission vehicle would differ from one that complies with the standard. The second, required only of manufacturers currently producing a vehicle conforming to the standard, is the results of tests conducted to substantiate certification with the standard. The third requirement is for the petitioner to provide the results of any tests that demonstrate the vehicle's failure to meet the standard, expressed in as comparative performance levels. Finally, the fourth requirement is for the petitioner to provide reasons why the failure to meet the standard does not unreasonably degrade the safety or impact protection of the vehicle.

i. Petitioner's Description of How the Think City Would Differ From a Vehicle That Complies With FMVSS No. 208

Think is applying for an exemption from the advanced air bag requirements of Standard No. 208. However, the Think City EV is not without air bags. Think states that the Think City EV will comply with the pre-advanced air bag requirements of FMVSS No. 208. As stated in the petition, the only differences between a compliant vehicle and the Think City EV are the items discussed above in the requested exemption. Namely, these are limited to the provisions in requirements in S14.5.2 of FMVSS No. 208, the rigid barrier test requirement using the 5th percentile adult female test dummy (belted and unbelted, S15), the offset deformable barrier test requirement using the 5th percentile adult female test dummy (S17), the requirements to provide protection for infants and children (S19, S21, and S23) and the requirement using an out-of-position 5th percentile adult female test dummy at the driver position (S25).

ii. Testing Results Substantiating Certification With the Standard

As Think has not designed vehicles that conform to FMVSS No. 208, it is not required nor able to show testing results substantiating certification with the standard.

iii. Any Testing Results Demonstrating the Vehicle's Failure To Meet the Standard

Think has not provided the results of testing demonstrating that the Think City EV has specifically failed the advanced air bag requirement. We note that generally a manufacturer would only be able to meet those requirements by installing an air bag system specifically designed to meet those requirements.

iv. Petitioner's Reasons as to Why the Vehicle Does Not Unreasonably Degrade Safety or Impact Protection

Think argues that safety and impact protection are not unreasonably degraded by the requested exemption. The petitioner claimed that the vehicle was designed, engineered and tested by Ford to meet all 2003 NHTSA requirements. It states further that the Think City EV will:

- Meet the new belted test requirements of S14.5.1(a), which imposes more stringent limits for head injury criteria, chest, and neck deflection than the old version to which the vehicle was originally designed;
- Meet the new, more stringent criteria for injury prevention under S13, with regard to the unbelted sled test;
- Have FMVSS No. 209 and 210 compliant belts and anchorages, together with pretensioners and load limiters;
- Have a passenger air bag on-off switch permitted by FMVSS No. 208; and
- Meet all other requirements of the FMVSSs.

Therefore, the petitioner argues that the Think City EV will not unreasonably degrade safety or impact protection.

c. Petitioner's Statement That a Temporary Exemption Would Facilitate the Development or Evaluation of the Think City EV

Think states that the temporary exemption it seeks would facilitate the evaluation and development of the Think City EV. The petitioner claims that it currently does not have the ability to design or acquire an air bag system that meets the advanced air bag requirements of Standard No. 208. While the Think City EV air bag's system is a dual stage system, it is currently designed with a fixed phase delay as Think does not yet have an electrical control unit or hardware, such as seat position sensing, that can meet all of the advanced air bag requirements. Think also asserts that off-the-shelf systems that meet the requirements are not currently available, and that the sourcing of a custom designed system is not straightforward or financially viable at this time.

The requested exemption will facilitate the development of the Think City EV by allowing Think to enter the U.S. market, a key target market for the vehicle at issue. Think states that this will enable the company to evaluate the vehicle, and based on this evaluation, continue development, including successive models. Specifically, Think claims that the two year exemption will permit:

- Evaluation and further development of alternative battery concepts;
- Evaluation and further development of vehicle systems based on real-world usage under U.S.-specific driving and storage conditions;
- Product evaluation through U.S. warranty analysis and customer feedback;
- Further evaluation of the company's plan to establish a U.S. manufacturing operation; and
- Development of a compliant advanced air bag system.

d. Petitioner's Statement of Intent To Comply or Cease Production Upon Expiration of the Temporary Exemption

On the third page of its petition, Think states, ''[a]t the end of the exemption period, Think intends to conform with all advanced air bag requirements.''

e. Petitioner's Statement as to the Number of Vehicles To Be Produced in Any 12–Month Period Covered by the Temporary Exemption

Think has provided figures for the projected U.S. vehicle sales of the Think City EV during the period of the requested exemption. For the first year, Think projects that it will sell 500 Think City EVs. For the second year, the company projects that it will sell 2500 Think City EVs. Think stated that if the petition is granted, it undertakes not to sell in the U.S. in excess of 2500 Think City exempted vehicles during any 12-month period during the duration of the exemption.

f. Petitioner's Statement Regarding Public Interest Considerations for Granting a Temporary Exemption

Under § 555.5(b)(7), a petitioner must set forth reasons why the granting of the petition would be in the public interest and consistent with the objectives of 49 U.S.C. Chapter 301. We are providing a summary of the petitioner's arguments and note that more detailed arguments can be found by examining the petition.

Think argued that the risk to safety is de minimis. Among other things, it stated, as indicated above, that the Think City will be equipped with a standard air bag system, and will also meet all other FMVSSs.

Think also argued that the Think City is a major step forward in transportation that will help the environment, and that granting the exemption will protect U.S. consumer choice and will benefit the environment.

Think provided the following reasons battery electric vehicles (BEVs) are important:

- BEVs can reduce dependence on oil since electric power can be generated in environmentally friendly ways, including from wind, solar rays, waves, or geothermal power, and not just from fossil fuel.
- BEVs can be far more energy efficient compared to Internal Combustion Engine (ICE) powered cars. Think's analysis indicates that urban driving of a Think City compared with other fuel efficient cars reduces CO2 emissions per driver kilometer by about 96% in Norway (where electricity is generated from hydroelectric sources) and 30% in the UK, where electricity is generated primarily from fossil fuels.
- BEVs are themselves zero-emissions vehicles and are not a source of air pollution.
- BEVs recharging costs are more predictable than gasoline prices, and not as subject to volatile international incidents.

V. Issuance of Notice of Final Action

We are providing a 30-day comment period. After considering public comments and other available information, we will publish a notice of final action on the application in the **Federal Register**.

Issued on: September 16, 2008.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E8–22082 Filed 9–19–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

United States Mint

Citizens Coinage Advisory Committee September 2008 Public Meeting

ACTION: Notification of Citizens Coinage Advisory Committee September 2008 Public Meeting.

SUMMARY: Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for September 24, 2008.

Date: September 24, 2008.

Time: 9 a.m. to 10 a.m.

Location: United States Mint, 801 9th Street, NW., 2nd Floor, Conference Room A, Washington, DC 20220.

Subject: Review reverse candidate designs for the President George W. Bush Second Term Medal, and other business as appropriate.

Interested persons should call 202–354–7502 for the latest update on meeting time and room location.

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Makes recommendations with respect to the mintage level for any commemorative coin recommended.

FOR FURTHER INFORMATION CONTACT: Cliff Northup, United States Mint Liaison to the CCAC; 801 9th Street, NW., Washington, DC 20220; or call 202–354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202–756–6830.

Authority: 31 U.S.C. 5135(b)(8)(C).

Edmund C. Moy,

Director, United States Mint.

[FR Doc. E8–22056 Filed 9–19–08; 8:45 am]

BILLING CODE 4810–02–P

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CFR PARTS AFFECTED DURING SEPTEMBER

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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 SEPTEMBER 22, 2008

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Industry and Security Bureau

Additions of Certain Persons to Entity List:

Removal of General Order from Export Administration Regulations; published 9-22-08

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Marine Mammals:

Subsistence Taking of Northern Fur Seals; Harvest Estimates; published 8-22-08

CONSUMER PRODUCT SAFETY COMMISSION

Standard for the Flammability of Clothing Textiles; published 3-25-08

ENVIRONMENTAL PROTECTION AGENCY

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List; published 7-22-08

FEDERAL COMMUNICATIONS COMMISSION

Commercial Mobile Alert System; published 7-24-08

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Supplemental Applications Proposing Labeling Changes for Approved Drugs, Biologics, and Medical Devices; published 8-22-08

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act; published 8-21-08

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments; published 9-22-08

COMMENTS DUE NEXT WEEK

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Agricultural Marketing Service

Mandatory Country of Origin Labeling of Beef, Pork, Lamb, Chicken, Goat Meat, Perishable Agricultural Commodities, Peanuts, Pecans, Ginseng, and Macadamia N; comments due by 9-30-08; published 8-1-08 [FR E8-17562]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Citrus Canker; Movement of Fruit From a Quarantined Area; Bag Markings; comments due by 9-29-08; published 7-31-08 [FR E8-17592]

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Competitive and Noncompetitive Non-formula Grant Programs, General Grant Administrative Provisions, etc.; comments due by 9-30-08; published 8-1-08 [FR E8-17594]

AGRICULTURE DEPARTMENT

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Sale and Disposal of National Forest Service System Timber; Timber Sale Contracts:

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Requirements for the Disposition of Cattle that Become Non-Ambulatory Disabled Following Ante-Mortem Inspection; comments due by 9-29-08; published 8-29-08 [FR E8-20159]

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Water Code and Comprehensive Plan to Implement a Revised Water Audit Approach to Identify and Control Water Loss; comments due by 10-3-08; published 8-1-08 [FR E8-17661]

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Approval and Promulgation of Air Quality Implementation Plans:

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Florida and South Carolina; Open for comments until further notice; published 2-11-08 [FR 08-00596]

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Public Interest Spectrum Coalition, Petition for Rulemaking Regarding Low Power Auxiliary Stations, etc.; comments due by 10-3-08; published 9-3-08 [FR E8-20502]

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GSAR Case 2008-G502; Improper Personal Conflicts of Interest; comments due by 10-3-08; published 8-4-08 [FR E8-17790]

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Christmas Holiday Boat Parade Fireworks Event, Appomattox River, Hopewell, VA; comments due by 9-29-08; published 8-28-08 [FR E8-19988]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html.*

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S. 2837/P.L. 110–319

To designate the United States courthouse located at 225 Cadman Plaza East, Brooklyn, New York, as the "Theodore Roosevelt United States Courthouse". (Sept. 17, 2008; 122 Stat. 3533)

S. 2403/P.L. 110–320

To designate the United States courthouse located in the 700 block of East Broad Street, Richmond, Virginia, as the "Spottswood W. Robinson III and Robert R. Merhige, Jr., United States Courthouse". (Sept. 18, 2008; 122 Stat. 3534)

Last List September 17, 2008

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1	(869–064–00001–7)	5.00	[4] Jan. 1, 2008
2	(869–064–00002–5)	8.00	Jan. 1, 2008
3 (2006 Compilation and Parts 100 and 102)	(869–064–00003–3)	35.00	[1] Jan. 1, 2008
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1700–End	(869–064–00078–5)	33.00	Apr. 1, 2008
25	(869–064–00079–3)	67.00	Apr. 1, 2008
26 Parts:			
§§ 1.0–1–1.60	(869–064–00080–7)	52.00	Apr. 1, 2008
§§ 1.61–1.169	(869–064–00081–5)	66.00	Apr. 1, 2008
§§ 1.170–1.300	(869–064–00082–3)	63.00	Apr. 1, 2008
§§ 1.301–1.400	(869–064–00083–1)	50.00	Apr. 1, 2008
§§ 1.401–1.440	(869–064–00084–0)	59.00	Apr. 1, 2008
§§ 1.441–1.500	(869–064–00085–8)	61.00	Apr. 1, 2008
§§ 1.501–1.640	(869–064–00086–6)	52.00	Apr. 1, 2008
§§ 1.641–1.850	(869–064–00087–4)	64.00	Apr. 1, 2008
§§ 1.851–1.907	(869–064–00088–2)	64.00	Apr. 1, 2008
§§ 1.908–1.1000	(869–064–00089–1)	63.00	Apr. 1, 2008
§§ 1.1001–1.1400	(869–064–00090–4)	64.00	Apr. 1, 2008
§§ 1.1401–1.1550	(869–064–00091–2)	61.00	Apr. 1, 2008
§§ 1.1551–End	(869–064–00092–1)	53.00	Apr. 1, 2008
2–29	(869–064–00093–9)	63.00	Apr. 1, 2008
30–39	(869–064–00094–7)	44.00	Apr. 1, 2008
40–49	(869–064–00095–5)	31.00	[6] Apr. 1, 2008
50–299	(869–064–00096–3)	45.00	Apr. 1, 2008

Title	Stock Number	Price	Revision Date
300–499	(869–064–00097–1)	64.00	Apr. 1, 2008
500–599	(869–064–00098–0)	12.00	[5] Apr. 1, 2008
600–End	(869–064–00099–8)	20.00	Apr. 1, 2008
27 Parts:			
1–39	(869–064–00100–5)	35.00	Apr. 1, 2008
40–399	(869–064–00101–3)	67.00	Apr. 1, 2008
400–End	(869–064–00102–1)	21.00	Apr. 1, 2008
28 Parts:			
0–42	(869–064–00103–0)	64.00	July 1, 2008
43–End	(869–064–00104–8)	63.00	July 1, 2008
29 Parts:			
0–99	(869–062–00105–3)	50.00	[7] July 1, 2007
100–499	(869–062–00106–1)	23.00	July 1, 2007
500–899	(869–062–00107–0)	61.00	[7] July 1, 2007
900–1899	(869–064–00108–1)	39.00	July 1, 2008
1900–1910 (§§ 1900 to 1910.999)	(869–062–00109–6)	61.00	July 1, 2007
1910 (§§ 1910.1000 to end)	(869–062–00110–0)	46.00	July 1, 2007
1911–1925	(869–062–00111–8)	30.00	July 1, 2007
*1926	(869–064–00112–9)	53.00	July 1, 2008
1927–End	(869–062–00113–4)	62.00	July 1, 2007
30 Parts:			
1–199	(869–062–00114–2)	57.00	July 1, 2007
200–699	(869–062–00115–1)	50.00	July 1, 2007
700–End	(869–062–00116–9)	58.00	July 1, 2007
31 Parts:			
0–199	(869–062–00117–7)	41.00	July 1, 2007
200–499	(869–062–00118–5)	46.00	July 1, 2007
500–End	(869–064–00119–6)	65.00	July 1, 2008
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
*1–190	(869–064–00120–0)	64.00	July 1, 2008
191–399	(869–064–00121–8)	66.00	July 1, 2008
400–629	(869–064–00122–6)	53.00	July 1, 2008
630–699	(869–064–00123–4)	40.00	July 1, 2008
*700–799	(869–064–00124–2)	49.00	July 1, 2008
*800–End	(869–064–00125–1)	50.00	July 1, 2008
33 Parts:			
1–124	(869–062–00126–6)	57.00	July 1, 2007
125–199	(869–062–00127–4)	61.00	July 1, 2007
200–End	(869–062–00128–2)	57.00	July 1, 2007
34 Parts:			
1–299	(869–064–00129–3)	53.00	July 1, 2008
300–399	(869–064–00130–7)	43.00	July 1, 2008
400–End & 35	(869–062–00131–2)	61.00	July 1, 2007
36 Parts:			
1–199	(869–062–00132–1)	37.00	July 1, 2007
200–299	(869–062–00133–9)	37.00	July 1, 2007
*300–End	(869–064–00134–0)	64.00	July 1, 2008
37	(869–062–00135–5)	58.00	July 1, 2007
38 Parts:			
0–17	(869–062–00136–3)	60.00	July 1, 2007
18–End	(869–062–00137–1)	62.00	July 1, 2007
39	(869–064–00138–2)	45.00	July 1, 2008
40 Parts:			
1–49	(869–062–00139–8)	60.00	July 1, 2007
50–51	(869–064–00140–4)	48.00	July 1, 2008
*52 (52.01–52.1018)	(869–064–00141–2)	61.00	July 1, 2008
52 (52.1019–End)	(869–062–00142–8)	64.00	July 1, 2007
53–59	(869–064–00143–9)	34.00	July 1, 2008
60 (60.1–End)	(869–062–00144–4)	58.00	July 1, 2007
60 (Apps)	(869–062–00145–2)	57.00	July 1, 2007
*61–62	(869–064–00146–3)	48.00	July 1, 2008
63 (63.1–63.599)	(869–064–00147–1)	61.00	July 1, 2008
63 (63.600–63.1199)	(869–062–00148–7)	50.00	July 1, 2007
63 (63.1200–63.1439)	(869–064–00149–8)	53.00	July 1, 2008
63 (63.1440–63.6175)	(869–062–00150–9)	32.00	July 1, 2007
63 (63.6580–63.8830)	(869–062–00151–7)	32.00	July 1, 2007
63 (63.8980–End)	(869–064–00152–8)	38.00	July 1, 2008
64–71	(869–064–00153–6)	32.00	July 1, 2008
72–80	(869–062–00154–1)	62.00	July 1, 2007
81–84	(869–064–00155–2)	53.00	July 1, 2008
85–86 (85–86.599–99)	(869–064–00156–1)	64.00	July 1, 2008
*86 (86.600–1–End)	(869–064–00157–9)	53.00	July 1, 2008
87–99	(869–062–00158–4)	60.00	July 1, 2007
100–135	(869–064–00159–5)	48.00	July 1, 2008
136–149	(869–062–00160–6)	61.00	July 1, 2007
150–189	(869–062–00161–4)	50.00	July 1, 2007
*190–259	(869–064–00162–5)	42.00	July 1, 2008
260–265	(869–064–00163–3)	53.00	July 1, 2008
266–299	(869–062–00164–9)	50.00	July 1, 2007
300–399	(869–062–00165–7)	42.00	July 1, 2007
400–424	(869–062–00166–5)	56.00	[7] July 1, 2007
425–699	(869–062–00167–3)	61.00	July 1, 2007
700–789	(869–062–00168–1)	61.00	July 1, 2007
790–End	(869–062–00169–0)	61.00	July 1, 2007
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
*1–100	(869–064–00170–6)	27.00	July 1, 2008
101	(869–062–00171–1)	21.00	July 1, 2007
102–200	(869–064–00172–2)	56.00	July 1, 2008
201–End	(869–062–00173–8)	24.00	July 1, 2007
42 Parts:			
1–399	(869–062–00174–6)	61.00	Oct. 1, 2007
400–413	(869–062–00175–4)	32.00	Oct. 1, 2007
414–429	(869–062–00176–2)	32.00	Oct. 1, 2007
430–End	(869–062–00177–1)	64.00	Oct. 1, 2007
43 Parts:			
1–999	(869–062–00178–9)	56.00	Oct. 1, 2007
1000–end	(869–062–00179–7)	62.00	Oct. 1, 2007
44	(869–062–00180–1)	50.00	Oct. 1, 2007
45 Parts:			
1–199	(869–062–00181–9)	60.00	Oct. 1, 2007
200–499	(869–060–00182–7)	34.00	[9] Oct. 1, 2007
500–1199	(869–062–00183–5)	56.00	Oct. 1, 2007
1200–End	(869–062–00184–3)	61.00	Oct. 1, 2007
46 Parts:			
1–40	(869–062–00185–1)	46.00	Oct. 1, 2007
41–69	(869–062–00186–0)	39.00	Oct. 1, 2007
70–89	(869–062–00187–8)	14.00	Oct. 1, 2007
90–139	(869–062–00188–6)	44.00	Oct. 1, 2007
140–155	(869–062–00189–4)	25.00	Oct. 1, 2007
156–165	(869–062–00190–8)	34.00	Oct. 1, 2007
166–199	(869–062–00191–6)	46.00	Oct. 1, 2007
200–499	(869–062–00192–4)	40.00	Oct. 1, 2007
500–End	(869–062–00193–2)	25.00	Oct. 1, 2007
47 Parts:			
0–19	(869–062–00194–1)	61.00	Oct. 1, 2007
20–39	(869–062–00195–9)	46.00	Oct. 1, 2007
40–69	(869–062–00196–7)	40.00	Oct. 1, 2007
70–79	(869–062–00197–5)	61.00	Oct. 1, 2007
80–End	(869–062–00198–3)	61.00	Oct. 1, 2007
48 Chapters:			
1 (Parts 1–51)	(869–062–00199–1)	63.00	Oct. 1, 2007
1 (Parts 52–99)	(869–062–00200–9)	49.00	Oct. 1, 2007
2 (Parts 201–299)	(869–062–00201–7)	50.00	Oct. 1, 2007
3–6	(869–062–00202–5)	34.00	Oct. 1, 2007

Title	Stock Number	Price	Revision Date
7–14	(869–062–00203–3)	56.00	Oct. 1, 2007
15–28	(869–062–00204–1)	47.00	Oct. 1, 2007
29–End	(869–062–00205–0)	47.00	Oct. 1, 2007
49 Parts:			
1–99	(869–062–00206–8)	60.00	Oct. 1, 2007
100–185	(869–062–00207–6)	63.00	Oct. 1, 2007
186–199	(869–062–00208–4)	23.00	Oct. 1, 2007
200–299	(869–062–00208–1)	32.00	Oct. 1, 2007
300–399	(869–062–00210–6)	32.00	Oct. 1, 2007
400–599	(869–062–00210–3)	64.00	Oct. 1, 2007
600–999	(869–062–00212–2)	19.00	Oct. 1, 2007
1000–1199	(869–062–00213–1)	28.00	Oct. 1, 2007
1200–End	(869–062–00214–9)	34.00	Oct. 1, 2007
50 Parts:			
1–16	(869–062–00215–7)	11.00	Oct. 1, 2007
17.1–17.95(b)	(869–062–00216–5)	32.00	Oct. 1, 2007
17.95(c)–end	(869–062–00217–3)	32.00	Oct. 1, 2007
17.96–17.99(h)	(869–062–00218–1)	61.00	Oct. 1, 2007
17.99(i)–end and 17.100–end	(869–062–00219–0)	47.00	[8] Oct. 1, 2007
18–199	(869–062–00226–3)	50.00	Oct. 1, 2007
200–599	(869–062–00221–1)	45.00	Oct. 1, 2007
600–659	(869–062–00222–0)	31.00	Oct. 1, 2007
660–End	(869–062–00223–8)	31.00	Oct. 1, 2007
CFR Index and Findings Aids	(869–064–00050–5)	65.00	Jan. 1, 2008
Complete 2008 CFR set		1,499.00	2008
Microfiche CFR Edition:			
Subscription (mailed as issued)		406.00	2008
Individual copies		4.00	2008
Complete set (one-time mailing)		332.00	2007
Complete set (one-time mailing)		332.00	2006

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2007. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2007. The CFR volume issued as of October 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2006, through October 1, 2007. The CFR volume issued as of October 1, 2006 should be retained.